

4. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10125.2. Vocational Rehabilitation Additional Living Expenses. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5 and 4641, Labor Code.

History: 1. New section filed 8-26-98; operative 9-25-98 (Register 98, No. 35).

2. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10125.3. Entitlement to Vocational Rehabilitation Temporary Disability or Vocational Rehabilitation Maintenance Allowance. [Repealed]

Note: Authority cited: Sections 133, 138.4, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5, 4642 and 4644, Labor Code.

History: 1. New section filed 8-26-98; operative 9-25-98 (Register 98, No. 35).

2. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10126. Vocational Rehabilitation; Plans and Offers of Modified or Alternative Work. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5, 4638 and 4644, Labor Code.

History: 1. New section filed 1-18-90; operative 1-18-90 (Register 90, No. 4). New section is exempt from review by OAL pursuant to Government Code section 11351.

2. Change without regulatory effect amending section filed 1-22-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).

3. Amendment of section heading and section filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

4. Change without regulatory effect amending subsections (c)(c) and (c) filed 3-14-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 11).

5. Amendment of section heading, amendment of subsections (a)(2), (b)(1) and (h), new subsection (i), subsection relettering, amendment of newly designated subsections (j) and (k) and new subsection (l) filed 8-26-98; operative 9-25-98 (Register 98, No. 35).

6. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10127. Dispute Resolution. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Section 139.5, Labor Code; *Godinez v. Buffets, Inc.* (2004, Significant Panel Decision) 69 Cal. Comp. Cases 1311; and *Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346.

History: 1. New section filed 1-18-90; operative 1-18-90 (Register 90, No. 4). New section is exempt from review by OAL pursuant to Government Code Section 11351.

2. Change without regulatory effect amending section filed 1-22-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).

3. Amendment of first paragraph and subsection (a), new subsection (b) and subsection relettering, and amendment of newly designated subsection (c), (d) and (e) filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

4. Amendment of subsections (d)(2)-(e), new subsection (f) and amendment of Note filed 8-26-98; operative 9-25-98 (Register 98, No. 35).

5. Amendment of section and new Note filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

6. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10127.1. Conferences. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Section 139.5, Labor Code; *Godinez v. Buffets, Inc.* (2004, Significant Panel Decision) 69 Cal. Comp. Cases 1311; and *Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346.

History: 1. Change without regulatory effect renumbering and amending former section 10124 to section 10127.1 filed 1-22-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10). For prior history see Register 90, No. 4.

2. Amendment of subsection (c) and Note filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

3. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10127.2. Independent Vocational Evaluator. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 4635 and 4639, Labor Code.

History: 1. New section filed 1-18-90; operative 1-18-90 (Register 90, No. 4). New section is exempt from review by OAL pursuant to Government Code section 11351.

2. Change without regulatory effect amending section filed 1-22-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).

3. Renumbering of former section 10125 to section 10127.2 and amendment of subsections (d)-(f)(1) filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

4. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10127.3. Qualified Rehabilitation Representative (QRR). [Repealed]

Note: Authority cited: Sections 133, 138.4, 139.5 and 5307.3, Labor Code. Reference: Sections 4635, 4637 and 4640, Labor Code.

History: 1. New section filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5).

2. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10128. Request for Order of Rehabilitation Services. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Section 139.5, Labor Code; *Godinez v. Buffets, Inc.* (2004, Significant Panel Decision) 69 Cal. Comp. Cases 1311; and *Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346.

History: 1. Change without regulatory effect renumbering and amending former section 10128 to section 10131.1 and former section 10130 to section 10128 filed 1-22-91; operative 1-22-91 (Register 91, No. 10). For prior history, see Register 90, No. 4.

2. Amendment filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

3. Amendment of section and Note filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

4. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10129. Interruption/Deferral of Services for Injuries Occurring Prior to 1/1/94. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5 and 4644, Labor Code.

History: 1. Change without regulatory effect renumbering and amending former section 10129 to section 10132 and former section 10131 to section 10129 filed 1-22-91; operative 1-22-91 (Register 91, No. 10). For prior history, see Register 90, No. 4.

2. Amendment of section heading, subsections (a)-(c), new subsection (d) filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

3. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10129.1. Interruption/Deferral of Services for Injuries Occurring on or After 1/1/94. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5 and 4644, Labor Code.

History: 1. New section filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

2. New subsection (c) filed 2-25-99; operative 2-25-99 pursuant to Government Code section 11343.3(d) (Register 99, No. 9).

3. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10130. Request for Reinstatement of Vocational Rehabilitation Services. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Section 4644, Labor Code.

History: 1. Change without regulatory effect renumbering and amending former section 10130 to section 10128 and former section 10132 to section 10130 filed 1-22-91; operative 1-22-91 (Register 91, No. 10). For prior history, see Register 90, No. 4.

2. Amendment filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

3. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10131. Termination of Vocational Rehabilitation Services. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5, 4644 and 4646, Labor Code.

- History:** 1. Change without regulatory effect renumbering and amending former section 10131 to section 10129 and former section 10133 to section 10131 filed 1-22-91; operative 1-22-91 (Register 91, No. 10). For prior history, see Register 90, No. 4.
2. Amendment of section heading and section filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).
3. Amendment filed 12-27-96; operative 12-27-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 52).
4. Amendment of subsection (a), new subsections (d)-(f) and amendment of Note filed 3-25-2003; operative 3-25-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 13).
5. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10131.1. Declination of Rehabilitation. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 4641 and 4644, Labor Code.

- History:** 1. Change without regulatory effect renumbering and amending former section 10128 to section 10131.1 filed 1-22-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).
2. Amendment filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).
3. Change without regulatory effect amending subsection (b)(2) filed 3-14-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 11).
4. Amendment filed 12-27-96; operative 12-27-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 52).
5. Amendment of subsection (d) filed 8-26-98; operative 9-25-98 (Register 98, No. 35).
6. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10131.2. Settlement of Prospective Vocational Rehabilitation. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5, 4644 and 4646, Labor Code.

- History:** 1. New section filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5). For prior history, see Register 96, No. 13.
2. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10132. Fee Schedule. [Repealed]

Note: Authority cited: Sections 129, 129.5, 133, 139.5 and 5307.3, Labor Code. Reference: Sections 4635, 4636, 4638 and 4639, Labor Code.

- History:** 1. Change without regulatory effect renumbering and amending former section 10132 to section 10130 and new section 10132 filed 1-22-91; operative 1-22-91 (Register 91, No. 10). For prior history, see Register 90, No. 4.
2. Amendment filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).
3. New subsection (c) and subsection relettering filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).
4. Amendment of subsections (a)-(c), new subsection (d), subsection relettering and amendment of newly designated subsection (f) filed 8-26-98; operative 9-25-98 (Register 98, No. 35).
5. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10132.1. Reasonable Fee Schedule. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 4635, 4636, 4638 and 4639, Labor Code.

- History:** 1. Change without regulatory effect adding new section filed 1-22-91; operative 1-22-91 (Register 91, No. 10). For prior history, see Register 90, No. 4.
2. Amendment filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).
3. Amendment filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).
4. Amendment of fee schedule filed 3-26-96; operative 3-26-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 13).

5. Amendment of fee schedule filed 8-26-98; operative 9-25-98 (Register 98, No. 35).

6. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10133. Forms, Form Filing Instructions & Notices. [Repealed]

Note: Authority cited: Sections 133, 138.4, 139.5 and 5307.3, Labor Code. Reference: Sections 139.5, 4635, 4636, 4637, 4638, 4641, 4644 and 4646, Labor Code.

History: 1. Change without regulatory effect renumbering and amending former section 10133 to section 10131 and new section 10133 filed 1-22-91; operative 1-22-91 (Register 91, No. 10). For prior history, see Register 90, No. 4.

2. New Form RU-94, repealer and new Forms RU-102, RU-105 and RU-107, and repealer of Forms RU-104, RU-105-W, RU-500-W.1, RU-500-X, RU-500-Y and RU-500-Z filed 12-31-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 53).

3. Amendment of forms RU-91 and RU-103 filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

4. Amendment of Forms RU-102 and RU-105 filed 8-26-98; operative 9-25-98 (Register 98, No. 35).

5. Repealer and new forms RU-94 and RU-103 filed 2-25-99; operative 2-25-99 pursuant to Government Code section 11343.3(d) (Register 99, No. 9).

6. Relocation of Forms RU-90, RU-91, RU-94, RU-102, RU-103, RU-105 and RU-107A to sections 10133.10, 10133.11, 10133.12, 10133.13, 10133.14, 10133.16 and 10133.19 filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5).

7. Amendment of section heading, new section text, and amendment of Note filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 13.)

8. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10133.2. Pamphlets. [Repealed]

Note: Authority cited: Sections 133, 139.5, 139.6 and 5307.3, Labor Code. Reference: Sections 139.5, 4636 and 4646, Labor Code.

History: 1. New section filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

2. Amendment of section and Note filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5).

3. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10133.3. Rehabilitation Unit File Retention. [Repealed]

Note: Authority cited: Sections 133, 138.4, 139.5 and 5307.3, Labor Code. Reference: Section 139.5, Labor Code.

History: 1. Renumbering and amendment of former section 10019 to section 10134 filed 2-16-95; operative 2-16-95. Submitted to OAL for printing only pursuant to Government Code §11351 (Register 95, No. 7).

2. Amendment of section number filed 8-8-95; operative 8-8-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 32).

3. Amendment of subsection (a) and relocation of forms RU-120 and RU-121 from section 10133.3 to section 10133.1 filed 8-26-98; operative 9-25-98 (Register 98, No. 35).

4. Repealer filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10133.4. Rehabilitation of Industrially Injured Inmates. [Repealed]

Note: Authority cited: Sections 133, 138.4, 139.5 and 5307.3, Labor Code. Reference: Sections 3351 and 3370, Labor Code; and Section 5069, Penal Code.

History: 1. Renumbering of former section 10021 to new section 10133.4 and amendment of section and Note filed 12-27-96; operative 12-27-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 52).

2. Change without regulatory effect repealing section filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10133.10. Form RU-90 "Treating Physician's Report of Disability Status" and Form Filing Instructions. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 4636 and 4637, Labor Code.

History: 1. New section, relocation of Form RU-90 from section 10133 to section 10133.10, and new form filing instructions filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5).

2. Change without regulatory effect repealing section (Form RU-90 and form filing instructions) filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10133.11. Form RU–91 “Description of Employee’s Job Duties” and Form Filing Instructions. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 4636 and 4637, Labor Code.

History: 1. New section, relocation and amendment of Form RU-91 from section 10133 to section 10133.11, and new form filing instructions filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5).

2. Change without regulatory effect repealing section (Form RU-91 and form filing instructions) filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10133.12. Form RU–94 “Notice of Offer of Modified or Alternative Work” and Form Filing Instructions. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 4636 and 4637, Labor Code.

History: 1. New section, relocation and amendment of Form RU-94 from section 10133 to section 10133.12, and new form filing instructions filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5).

2. Change without regulatory effect repealing section (Form RU-94 and form filing instructions) filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10133.13. Form RU–102 “Vocational Rehabilitation Plan” and Form Filing Instructions. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Section 139.5, Labor Code; *Godinez v. Buffets, Inc.* (2004, Significant Panel Decision) 69 Cal. Comp. Cases 1311; and *Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346.

History: 1. New section, relocation and amendment of Form RU-102 from section 10133 to section 10133.13, and new form filing instructions filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5).

2. Repealer and new form and amendment of Note filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

3. Change without regulatory effect repealing section (Form RU-102 and form filing instructions) filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10133.14. Form RU–103 “Request for Dispute Resolution” and Form Filing Instructions. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Section 139.5, Labor Code; *Godinez v. Buffets, Inc.* (2004, Significant Panel Decision) 69 Cal. Comp. Cases 1311; and *Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346.

History: 1. New section, relocation and amendment of Form RU-103 from section 10133 to section 10133.14, and new form filing instructions filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5).

2. Repealer and new form and amendment of Note filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

3. Change without regulatory effect repealing section (Form RU-103 and form filing instructions) filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10133.15. Form RB–105 “Request for Conclusion of Rehabilitation Benefits” and Form Filing Instructions. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 4637, 4643 and 4644, Labor Code.

History: 1. New section and new Form RB-105 and form filing instructions filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5).

2. Change without regulatory effect repealing Form RB-105 and adopting new Form RB-105 filed 5-1-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 18).

3. Editorial correction replacing erroneously printed form RU-105 with correct form RB-105 (Register 2008, No. 47).

4. Change without regulatory effect repealing section (Form RB-105 and form filing instructions) filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10133.16. Form RU–105 “Notice of Termination of Vocational Rehabilitation Services” and Form Filing Instructions. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Section 139.5, Labor

Code; *Godinez v. Buffets, Inc.* (2004, Significant Panel Decision) 69 Cal. Comp. Cases 1311; and *Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346.

History: 1. New section, relocation and amendment of Form RU-105 from section 10133 to section 10133.16, and new form filing instructions filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5).

2. Change without regulatory effect repealing Form RU-105 and adopting new Form RU-105 filed 5-1-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 18).

3. Repealer and new form and amendment of Note filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

4. Change without regulatory effect repealing section (Form RU-105 and form filing instructions) filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10133.17. Form RB-107 “Statement of Decline of Vocational Rehabilitation Benefits” and Form Filing Instructions. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 4641 and 4644, Labor Code.

History: 1. New section and new Form RB-107 and form filing instructions filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5).

2. Change without regulatory effect repealing section (Form RB-107 and form filing instructions) filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10133.18. Form RU-107 “Employee Statement of Declination of Vocational Rehabilitation Services” and Form Filing Instructions. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 4641 and 4644, Labor Code.

History: 1. New section and new Form RU-107 and form filing instructions filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5).

2. Change without regulatory effect repealing section (Form RU-107 and form filing instructions) filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10133.19. Form RU-107A “Statement of Declination of Vocational Rehabilitation Services” and Form Filing Instructions. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Sections 4641 and 4644, Labor Code.

History: 1. New section, relocation and amendment of Form RU-107-A from section 10133 to section 10133.19, and new form filing instructions filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5).

2. Change without regulatory effect repealing section (Form RU-107A and form filing instructions) filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10133.20. Form RU-120 “Initial Evaluation Summary” and Form Filing Instructions. [Repealed]

Note: Authority cited: Sections 133, 138.4, 139.5 and 5307.3, Labor Code. Reference: Section 139.5, Labor Code.

History: 1. New section, relocation and amendment of; Form RU-120 from section 10133 to section 10133.20, and new form filing instructions filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5).

2. Change without regulatory effect repealing section (Form RU-120 and form filing instructions) filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10133.21. Form RU-121 “Vocational Rehabilitation Progress Report” and Form Filing Instructions. [Repealed]

Note: Authority cited: Sections 133, 138.4, 139.5 and 5307.3, Labor Code. Reference: Section 139.5, Labor Code.

History: 1. New section and new Form RU-121 and form filing instructions filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5).

2. Change without regulatory effect repealing section (Form RU-121 and form filing instructions) filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

§10133.22. Form RU-122 “Settlement of Prospective Vocational Rehabilitation Services” and Form Filing Instructions. [Repealed]

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code. Reference: Section 139.5, Labor Code; *Godinez v. Buffets, Inc.* (2004, Significant Panel

Decision) 69 Cal. Comp. Cases 1311; and *Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346.

History: 1. New section and new Form RU-122 and form filing instructions filed 1-29-2003; operative 1-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 5).

2. Repealer and new form and amendment of Note filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

3. Change without regulatory effect repealing section (Form RU-122 and form filing instructions) filed 2-25-2009 pursuant to section 100, title 1, California Code of Regulations (Register 2009, No. 9).

ARTICLE 7.5 Supplemental Job Displacement Benefit

§10133.50. Definitions. [Repealed]

Note: Authority cited: Sections 133, 4658.5 and 5307.3, Labor Code. Reference: Sections 124, 4658.1, 4658.5 and 4658.6, Labor Code.

History: 1. New article 7.5 (sections 10133.50-10133.60) and section filed 6-6-2005; operative 8-1-2005 (Register 2005, No. 23).

2. Repealer filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10133.53. Form DWC-AD 10133.53
"Notice of Offer of Modified or
Alternative Work."

State of California
Division of Workers' Compensation
Retraining and Return to Work Unit



NOTICE OF OFFER OF MODIFIED OR ALTERNATIVE WORK
For injuries occurring on or after 1/1/04
DWC - AD 10133.53

THIS SECTION COMPLETED BY CLAIMS ADMINISTRATOR (All information in this section must be completed):

Claims Administrator Type: (Please Choose One)

Insurance Company Third Party Administrator Employer

Employer (name of firm)

is offering you (Employee name)

the position of a Name of Job

You may contact

concerning this offer. Phone No.: Date of offer: Date job starts:

Claims Administrator

Claim Number :

NOTICE TO EMPLOYEE (All information in this section must be completed)

Name of employee: First Name Last Name

(Choose only one)

a specific injury on MM/DD/YYYY

a cumulative trauma injury which began on and ended on (START DATE: MM/DD/YYYY) (END DATE: MM/DD/YYYY)

Date offer received: MM/DD/YYYY Date of Birth: MM/DD/YYYY

You have 30 calendar days from receipt to accept or reject the attached offer of modified or alternative work. Regardless of whether you accept or reject this offer, the remainder of your permanent disability payments may be decreased by 15%. However, if you fail to respond in 30 days or reject this job offer, you will not be entitled to the supplemental job displacement benefit unless:

Modified Work or Alternative Work

- A. You cannot perform the essential functions of the job; or
B. The job is not a regular position lasting at least 12 months; or
C. Wages and compensation offered are less than 85% paid at the time of injury; or
D. The job is beyond a reasonable commuting distance from residence at time of injury.

POSITION REQUIREMENTS (All information in this section must be completed)

Actual job title: _____

Wages: \$ _____ Per hour Week Month

Is salary of modified/alternative work the same as pre-injury job? Yes No

Is salary of modified/alternative work at least 85% of pre-injury job? Yes No

Will job last at least 12 months? Yes No

Is the job a regular position required by the employer's business? Yes No

Work location: _____

Duties required of the position:

Description of activities to be performed (if not stated in job description):



Physical requirements for performing work activities (include modifications to usual and customary job):

Name of doctor who approved job restrictions (optional):

Date of report: _____
MM/DD/YYYY

Date of last payment of Temporary Total Disability: _____
MM/DD/YYYY

Preparer's Name: _____

Preparer's Signature: _____

Date: _____
MM/DD/YYYY

THIS SECTION TO BE COMPLETED BY EMPLOYEE (All information in this section must be completed)

- I accept this offer of Modified or Alternative work.
- I reject this offer of Modified or Alternative work and understand that I am not entitled to the Supplemental Job Displacement Benefit.

I understand that if I voluntarily quit prior to working in this position for 12 months, I may not be entitled to the Supplemental Job Displacement Benefit.

Signature: _____ Date: _____
MM/DD/YYYY

I feel I cannot accept this offer because:

NOTICE TO THE PARTIES

If the offer is not accepted or rejected within 30 days of the offer, the offer is deemed to be rejected by the employee.

The employer or claims administrator must forward a completed copy of this agreement to the Administrative Director within 30 days of acceptance or rejection. (Retraining and Return to Work, Division of Workers' Compensation, P.O. Box #20603, S.F., CA 94142-0603)

If a dispute occurs regarding the above offer or agreement, either party may request the Administrative Director to resolve the dispute by filing a Request for Dispute Resolution (Form DWC-AD 10133.55) with the Administrative Director.

Note: Authority cited: Sections 133, 4658 and 5307.3, Labor Code. Reference: Sections 4658, 4658.1, 4658.5 and 4658.6, Labor Code.

History: 1. New section filed 6-6-2005; operative 8-1-2005 (Register 2005, No. 23).
2. Amendment filed 7-19-2006; operative 8-18-2006

(Register 2006, No. 29). For prior history, see Register 96, No. 52.

3. Repealer and new form filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10133.54. Dispute Resolution.

(a) This section and section 10133.55 shall only apply to injuries occurring on or after January 1, 2004.

(b) When there is a dispute regarding the Supplemental Job Displacement Benefit, the employee, or claims administrator may request the administrative director to resolve the dispute.

(c) The party requesting the administrative director to resolve the dispute shall:

(1) Complete Form DWC-AD 10133.55 "Request for Dispute Resolution before the Administrative Director;"

(2) Clearly state the issue(s) and identify supporting information for each issue and position;

(3) Attach all pertinent documents;

(4) Submit a copy of the request and all attached documents to the administrative director and serve a copy of the request and all attached documents on all parties; and

(5) Attach a signed and dated proof of service to the Form DWC-AD 10133.55 "Request for Dispute Resolution before the Administrative Director."

(d) The opposing party shall have twenty (20) calendar days from the date of the proof of service of the Request to submit the original response and all attached documents to the administrative director and serve a copy of the response and all attached documents on all parties.

(e) The administrative director or his or her designee may request additional information from the parties.

(f) The administrative director or his or her designee shall issue a written determination and order based solely on the request, response, and any attached documents within thirty (30) calendar days of the date the opposing party's response and supporting information is due. If the administrative director or his or her designee requests additional information, the written determination shall be issued within thirty (30) calendar days from the receipt of the additional information. In the event no decision is issued within sixty (60) calendar days of the date the opposing party's response is due or within sixty (60) calendar days of the administrative director's receipt of the requested additional information, whichever is later, the request shall be deemed to be denied.

(g) Either party may appeal the determination and order of the administrative director by filing a written petition together with a declaration of readiness to proceed pursuant to section 10250 within twenty calendar days of the issuance of the decision or within twenty days after a request is deemed denied pursuant to subdivision (f). The petition shall set forth the specific factual and/or legal reason(s) for the appeal as set forth in section 10294.5 of title 8 of the California Code of Regulations.

Note: Authority cited: Sections 133, 4658.5 and 5307.3, Labor Code. Reference: Sections 4658.5 and 4658.6, Labor Code.

History: 1. New section filed 6-6-2005; operative 8-1-2005 (Register 2005, No. 23).

2. Amendment filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

**§10133.55. Form DWC-AD 10133.55
"Request for Dispute Resolution Before
the Administrative Director."**



State of California
Division of Workers' Compensation
Retraining and Return to Work Unit

**REQUEST FOR DISPUTE RESOLUTION
BEFORE ADMINISTRATIVE DIRECTOR
DWC - AD 10133.55**

Original Response

- Employer Accepted Claim
- Liability found by WCAB
- More than 60 Days Since TTD Ended
- Has PPD been stipulated, issued/ approved

Claim Number _____

SSN (Numbers Only) _____

Case Number _____

Employee (All information in this section must be completed)

First Name _____ MI _____

Last Name _____

Street Address /PO Box (Please leave blank spaces between numbers, names or words) _____

City _____ State _____ Zip Code _____

Phone _____ DOB _____
MM/DD/YYYY

(Choose only one)

a specific injury on _____
MM/DD/YYYY

a cumulative trauma injury which began on _____ and ended on _____
(START DATE: MM/DD/YYYY) (END DATE: MM/DD/YYYY)

Employee Representative (If Applicable)

Name _____

Address/PO Box (Please leave blank spaces between numbers, names or words) _____

City _____

State _____

Zip Code _____

Phone _____

Employer (All information in this section must be completed)

Insured

Self-Insured

Legally Uninsured

Uninsured

Name _____

Employer Street Address/PO Box (Please leave blank spaces between numbers, names or words) _____

City _____

State _____

Zip Code _____

Phone _____

Employer Representative (if known and if applicable)

Name _____

Address/PO Box (Please leave blank spaces between numbers, names or words) _____

City _____

State _____

Zip Code _____

Phone _____

Claims Administrator Information (if known and if applicable)

Name (Please leave blank spaces between numbers, names or words) _____

Street Address/PO Box (Please leave blank spaces between numbers, names or words) _____

City _____

State _____

Zip Code _____

Vocational & Return to Work Counselor (if applicable)

Name

Firm Name

Address/PO Box (Please leave blank spaces between numbers, names or words)

City State Zip Code

Phone

Administrative Director Requested to resolve the following dispute because the parties disagree on (All information in this section must be completed):

- Employee's entitlement to a voucher.
- The parties dispute the amount of the voucher.
- The insurer has failed to pay training provider per title 8, California Code of Regulations sections 10133.57 and 10133.58, and/or the VRTWC per title 8 California Code of Regulations sections 10133.57 and 10133.59.
- The employee objects to the new job duties provided by the employer.
- The employer objects to the amount of reimbursement approved or denied.
- Other

Summary of informal efforts to resolve dispute

Requester Name

Signature

Date _____
MM/DD/YYYY

Note: Authority cited: Sections 133, 4658.5 and 5307.3, Labor Code. Reference: Section 4658.5, Labor Code.

History: 1. New section filed 6-6-2005; operative 8-1-2005 (Register 2005, No. 23).
2. Amendment filed 7-19-2006; operative 8-18-2006

(Register 2006, No. 29). For prior history, see Register 96, No. 52.

3. Repealer and new form filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10133.56. Requirement to Issue Supplemental Job Displacement Nontransferable Training Voucher.

(a) This section and section 10133.57 shall only apply to injuries occurring on or after January 1, 2004.

(b) The employee shall be eligible for the Supplemental Job Displacement Benefit when:

(1) the injury causes permanent partial disability; and

(2) within 30 days of the termination of temporary disability indemnity payments, the claims administrator does not offer modified or alternative work in accordance with Labor Code section 4658.6; and

(3) either the injured employee does not return to work for the employer within 60 days of the termination of temporary disability benefits; or

(4) in the case of a seasonal employee, where the employee is unable to return to work within 60 days of the termination of temporary disability benefits because the work season has ended, the injured employee does not return to work on the next available work date of the next work season.

(c) When the requirements under subdivision (b) have been met, the claims administrator shall provide a nontransferable voucher for education-related retraining or skill enhancement or both to the employee within 25 calendar days from the issuance of the permanent partial disability award by the workers' compensation administrative law judge or the appeals board.

(d) The voucher shall be issued to the employee allowing direct reimbursement to the employee upon the employee's presentation to the claims administrator of documentation and receipts or as a direct payment to the provider of the education related training or skill enhancement and/or to the VRTWC.

(e) The voucher must indicate the appropriate level of money available to the employee in compliance with Labor Code section 4658.5.

(f) The mandatory voucher form is set forth in Section 10133.57.

(g) The voucher shall certify that the school is approved by one of the Regional Associations of Schools and Colleges authorized by the United States Department of Education or has approval from a California State agency that has an agreement with the United States Department of Education or Regional Associations of School and Colleges for the regulation and oversight of non-degree granting private post secondary providers.

(h) The claims administrator shall issue the reimbursement payments to the employee or direct payments to the VRTWC and the training providers within 45 calendar days from receipt of the completed voucher, receipts and documentation.

Note: Authority cited: Sections 133, 4658.5, 4658.6 and 5307.3, Labor Code. Reference: Sections 4658.5 and 4658.6, Labor Code.

History: 1. New section filed 6-6-2005; operative 8-1-2005 (Register 2005, No. 23).

2. Amendment of subsections (c) and (g) filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

**§10133.57. Form DWC-AD 10133.57
“Supplemental Job Displacement
Nontransferable Training Voucher
Form.”**

State of California
Division of Workers' Compensation
Retraining and Return to Work Unit



**SUPPLEMENTAL JOB DISPLACEMENT
NONTRANSFERABLE TRAINING VOUCHER FORM
DWC - AD 10133.57**

Injured Employee (To Be Completed By The Employer or Claims Administrator) (All information in this section must be completed)

First Name _____ MI _____

Last Name _____

Address/PO Box (Please leave blank spaces between numbers, names or words) _____

City _____ State _____ Zip Code _____

Claim Number _____ Date of Birth: MM/DD/YYYY _____

Phone _____

Claims Administrator (To Be Completed By The Employer or Claims Administrator) (All information in this section must be completed)

Name (Please leave blank spaces between numbers, names or words) _____

Claims Mailing Address (Please leave blank spaces between numbers, names or words) _____

City _____ State _____ Zip Code _____

Claims Representative _____ Phone _____

\$ _____ is available to the injured employee based on _____ % of Permanent Partial Disability Award

Vocational Return to Work Counselor (if any) (To Be Completed By Employee) (All information in this section must be completed)

First Name _____ MI _____

Last Name _____

Address/PO Box (Please leave blank spaces between numbers, names or words) _____

City _____ State _____ Zip Code _____

Phone _____ Funds used for vocational and return to work counseling \$ _____ (10% maximum of voucher value)

Training Provider Details (To Be Completed By Employee - Attach additional pages for each provider) (All information in this section must be completed) (Institutions must list their names in the first name box)

First Name _____

Last Name _____

Address/PO Box (Please leave blank spaces between numbers, names or words) _____

City _____ State _____ Zip Code _____

Phone _____ Expiration Date _____ MM/DD/YYYY

Provider Approval Number _____

Provider Contact Name _____

Training Cost _____

The Injured Employee Must Sign and Date this Voucher Form

Injured Employee Signature _____

Date _____ MM/DD/YYYY

Note to Claims Administrator: Upon receipt of voucher, receipts and documentation from the employee, reimbursement payments to the employee or direct payments to VRTWC and training providers must be made within 45 calendar days.

You have been determined eligible for this nontransferable, Supplemental Job Displacement Voucher. This voucher may be used for the payment of tuition, fees, books, and other expenses required by a state approved or accredited school that you enroll in for the purpose of education related retraining or skill enhancement, or both. The school will be directly reimbursed upon receipt of a documented invoice by the claims administrator of the costs outlined above.

If you pay for the eligible expenses, you may be reimbursed for these expenses upon submission of documented receipts to the claims administrator for immediate reimbursement. If you decide, however, to voluntarily withdraw from a program, you may not be entitled to a full refund of the voucher. If you choose to use the services of a vocational counselor, no more than 10 percent of the voucher may be used for vocational or return to work counseling.

In order to initiate your training or return to work counseling present the voucher to the school or the vocational and return to work counselor of your choice, chosen from the list developed by the Division of Workers' Compensation's Administrative Director.

A list of vocational and return to work counselors is available on the Division of Workers' Compensation's website www.dir.ca.gov or upon request. The school and/or counselor should contact me regarding direct payment from your supplemental job displacement benefit.

Note: Authority cited: Sections 133, 4658.5 and 5307.3, Labor Code. Reference: Section 4658.5, Labor Code.

History: 1. New section filed 6-6-2005; operative 8-1-2005 (Register 2005, No. 23).

2. Repealer and new form filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10133.58. State Approved or Accredited Schools.

(a) This section shall only apply to injuries occurring on or after January 1, 2004.

(b) Private providers of education-related retraining or skill enhancement selected to provide training as part of a supplemental job displacement benefit shall be:

(1) accredited by one of the Regional Associations of Schools and Colleges authorized by the United States Department of Education; or

(2) has approval from a California State agency that has an agreement with the United States Department of Education or Regional Associations of School and Colleges for the regulation and oversight of non-degree granting private post secondary providers; or

(3) certified by the Federal Aviation Administration.

Note: Authority cited: Sections 133, 4658.5 and 5307.3, Labor Code. Reference: Section 4658.5, Labor Code.

History: 1. New section filed 6-6-2005; operative 8-1-2005 (Register 2005, No. 23).

2. Amendment filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

SUBCHAPTER 1.6 PERMANENT DISABILITY RATING DETERMINATION

§10150. Disability Evaluation Unit.

The Disability Evaluation Unit, under the direction and authority of the administrative director, will issue permanent disability ratings as required under this subchapter utilizing the Schedule for Rating Permanent Disabilities adopted by the administrative director. The Disability Evaluation Unit will prepare the following kinds of rating determinations:

- (a) Formal rating determinations
- (b) Summary rating determinations
- (c) Consultative rating determinations
- (d) Informal rating determinations.

Note: Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Sections 124, 4061, 4660, 4662, 4663 and 4664, Labor Code.

History: 1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt

from review by OAL pursuant to Government Code section 11351.

2. Amendment of subchapter 1.6 heading filed 12-27-96; operative 12-27-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 52).

3. Amendment of section heading, section and Note filed 12-31-2004 as an emergency; operative 1-1-2005 (Register 2004, No. 53). A Certificate of Compliance must be transmitted to OAL by 5-2-2005 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 12-31-2004 order transmitted to OAL 4-29-2005 and filed 6-10-2005 (Register 2005, No. 23).

5. Amendment of first paragraph filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10150.1. Signature Disputes and the Signatures of Consultants.

(a) Anyone who disputes the authenticity of any signature must file with the Manager of the Disability Evaluation Unit an objection to the pleading or other document within ten (10) days of the filing of that document. The objection shall contain a complete explanation of the basis for the objection.

(b) The filing of a document, signed with a "/s/ name" or an electronic image of the signature filed with the login and password of the Division of Workers' Compensation consultant assigned to the case shall constitute an original signature for all purposes.

Note: Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Sections 124, 4061, 4062, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10150.2. Technical Unavailability of EAMS.

Technical problems with filing documents shall be governed by section 10225 of title 8 of the California Code of Regulation.

Note: Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Sections 5502 and 5700, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10150.3. Disability Evaluation Unit File Retention.

(a) Following a period of fifty (50) years after the filing of a document used to open a case or file, the Division of Workers' Compensation may destroy the electronic and/or paper file in each case maintained by the Disability Evaluation Unit.

(b) The Division of Workers' Compensation, at any time, may convert a paper file to an electronic file. The Division of Workers' Compensation shall inform the parties when a paper file is converted. If a paper case file has been converted to electronic form, the paper case file may be destroyed no less than 30 business days after the parties have been informed of the conversion.

Note: Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Sections 124, 4061, 4062, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10150.4. Misfiled or Misdirected Documents.

(a) A request to move or substitute a corrected document shall be made in conformity with section 10223 of title 8 of the California Code of Regulation, except that a written request to substitute with the proposed document for substitution appended shall be made in lieu of a petition to substitute as allowed under section 10223(b). The authority to approve moving a document from one file to another file shall reside with the Manager of the Disability Evaluation Unit or his or her designee.

(b) If a document is not filed in compliance with sections 10217, 10228 and 10232 of title 8 of the California Code of Regulations and these regulations, the administrative director may in his or her discretion take the actions set forth in section 10222 of title 8 of the California Code of Regulations.

Note: Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Sections 124, 4061, 4062, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10151. Filing Requirements.

(a) "Electronic Adjudication Management System" or "EAMS" means the computer case management system used by the Division of Workers' Compensation to electronically store and maintain the Division of Workers' Compensation or the appeals board's case files and to perform other case management functions.

(b) All forms or correspondence submitted to the Disability Evaluation Unit shall be stored in the EAMS:

(1) Except for documents or forms which open a Disability Evaluation Unit file, all documents and forms shall contain a case number assigned by the Division of Workers' Compensation. The case number shall be preceded by the prefix "DEU". Case opening document shall be assigned a case number by the Division of Workers' Compensation after filing. Documents or forms filed without a case number will be returned to the sender with instructions for proper filing.

(2) All documents presented for filing shall conform to the requirements of sections 10217, 10228 and 10232 of title 8 of the California Code of Regulations.

(3) All filed paper documents and forms shall be scanned into the EAMS and then will be destroyed. A properly filed paper document or form shall be deemed a legal filing for all purposes.

(4) The service of all documents and forms shall conform to the receiving party's designated preferred method of service described in section 10218 of title 8 of the California Code of Regulation.

Note: Authority cited: Sections 133, 4061, 4660, 5307.3 and 5307.4, Labor Code. Reference: Sections 124 and 4061, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47). For prior history, see Register 2005, No. 23.

§10151.1. Electronic Filing Exemption.

If a document is filed with EAMS as part of the electronic filing trial, that document does not need to be filed in compliance with sections 10228 and 10232 of title 8 of the California Code of Regulation.

Note: Authority cited: Sections 111, 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124 and 4061, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10160. Summary Rating Determinations, Comprehensive Medical Evaluation of Unrepresented Employee.

(a) The Disability Evaluation Unit will prepare a summary rating determination upon receipt of a properly prepared request. A properly prepared request shall consist of:

(1) A completed Request for Summary Rating Determination, DWC AD Form 101 (DEU);

(2) A completed Employee's Disability Questionnaire, DWC AD Form 100 (DEU);

(3) A comprehensive medical evaluation of an unrepresented employee from a Qualified Medical Evaluator.

(b) The insurance carrier or self-insured employer shall provide the employee with an Employee's Disability Questionnaire prior to the appointment scheduled with the Qualified Medical Evaluator. The employee will be instructed in the form and manner prescribed by the administrative director to complete the questionnaire and provide it to the Qualified Evaluator at the time of the examination.

(c) The insurance carrier, self-insured employer or injured worker shall complete a Request for Summary Rating Determination of Qualified Medical Evaluator's Report, a copy of which shall be served on the opposing party. The requesting party shall send the request, including proof of service of the request on the opposing party, to the Qualified Medical Evaluator together with all medical reports and medical records relating to the case prior to the scheduled examination with the Qualified Medical Evaluator. The request shall include the appropriate address of the Disability Evaluation Unit. A listing of all of the offices of the Disability Evaluation Unit, with each office's area of jurisdiction, will be provided, upon request, by any office of the Disability Evaluation Unit or any Information and Assistance Office.

(d) When a summary rating determination has been requested, the Qualified Medical Evaluator shall submit all of the following docu-

ments to the Disability Evaluation Unit at the location indicated on the DWC AD Form 101 (DEU) and shall concurrently serve copies on the employee and claims administrator:

(1) Request for Summary Rating Determination of Qualified Medical Evaluator's Report as a cover sheet to the evaluation report;

(2) Employee's Disability Questionnaire;

(3) Comprehensive medical evaluation by the Qualified Medical Evaluator, including the Qualified Medical Evaluator's Findings Summary Form (QME Form 111).

(4) A document cover sheet and separator sheet pursuant to section 10232(b) of title 8 of the California Code of Regulation, which shall only be served on the Disability Evaluation Unit.

(e) No request for a summary rating determination shall be considered to be received until the Employee's Disability Questionnaire, the Request for Summary Rating Determination of Qualified Medical Evaluator's Report, and the comprehensive medical evaluation have been received by the office of the Disability Evaluation Unit having jurisdiction over the employee's area of residence. In the event an employee does not have a completed Employee's Disability Questionnaire at the time of his or her appointment with a Qualified Medical Evaluator, the medical evaluator shall provide this form to the employee for completion prior to the evaluation. Any requests received on or after April 1, 1994 without all the required documents will be returned to the sender.

(f) Any request for the rating of a supplemental comprehensive medical evaluation report shall be made no later than twenty days from the receipt of the report and shall be accompanied by a copy of the correspondence to the evaluator soliciting the supplemental evaluation, together with proof of service of the correspondence on the opposing party.

Note: Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Sections 124, 4061, 4062, 4062.01, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.

History: 1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.

2. Amendment of section filed 1-28-94; operative 1-28-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 94, No. 4).

3. Amendment of section heading and text filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

4. Amendment of subsections (c)-(d) and (f) and amendment of Note filed 12-31-2004 as an emergency; operative 1-1-2005 (Register 2004, No. 53). A Certificate of Compliance must be transmitted to OAL by 5-2-2005 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 12-31-2004 order, including amendment of subsections (a)(2), (b), (d) and (e), transmitted to OAL 4-29-2005 and filed 6-10-2005 (Register 2005, No. 23).

6. Amendment filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10160.1. Summary Rating Determinations, Report of Primary Treating Physician for Unrepresented Employee.

(a) For injuries on or after January 1, 1994, the insurance carrier, self-insured employer or the employee may request a summary rating of the primary treating physician's report prepared in accordance with Section 9785.

(b) The request may be made by completing a Request for Summary Rating Determination of Primary Treating Physician's Report (DWC AD Form 102 (DEU)) and filing the request with the Disability Evaluation Unit together with a copy of the primary treating physician's report, if the report has not already been filed in EAMS.

(c) A filed copy of the request form and a copy of the primary treating physician's report shall be served immediately after filing on the non-requesting party, with a proof of service on the non-requesting party.

Note: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124, 4061, 4061.5, 4062, 4062.1, 4062.2, 4062.5, 4064 and 4067, Labor Code.

History: 1. New section filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

2. Amendment filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10160.5. Summary Rating Determinations, Represented Employees.

(a) For injuries on or after January 1, 1991 and before January 1, 1994, the Disability Evaluation Unit will prepare a summary rating determination in cases where the injured worker is represented only if requested by a party. A summary rating determination will be prepared only upon receipt of a properly prepared request. A properly prepared request shall consist of:

(1) A completed Request for Summary Rating Determination DWC AD Form 101 (DEU);

(2) An evaluation by a Qualified Medical Evaluator or Agreed Medical Evaluator.

(b) The requesting party shall complete a Request for Summary Rating Determination of Qualified Medical Evaluator's Report and submit it together with all medical reports and medical records concerning the case to the medical evaluator. The medical evaluator shall send the completed medical evaluation report together with the Request for Summary Rating Determination to the office of the Disability Evaluation Unit designated by the administrative director and specific on the Request for Summary Rating Determination of Qualified Medical Evaluator's Report and shall simultaneously serve the party or parties requesting the evaluation.

(c) Notwithstanding the provisions of subdivision (b), a party may request a summary rating determination following receipt of a medical report prepared by a Qualified Medical Evaluator or Agreed Medical Evaluator on a represented case. The party shall file the Request for Summary Rating Determination of Qualified Medical Evaluator's Report and the medical report with the DEU office designated by the administrative director and shall immediately serve a filed copy of the Summary Rating Determination on the other party.

(d) If a case is settled prior to receipt of a summary rating which has been requested, the requesting party shall notify the DEU office of the settlement.

Note: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124, 4061, 4062, 4062.1, 4062.2, 4062.5, 4064 and 4067, Labor Code.

History: 1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt

from review by OAL pursuant to Government Code section 11351.

2. Amendment of section filed 1-28-94; operative 1-28-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 94, No. 4).

3. Amendment of section heading and subsections (a)-(c), repealer of subsection (d), subsection relettering, and amendment of redesignated subsection (d) filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

4. Amendment filed 11-17-2008; operative 11-17-

2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10161. Forms.

(a) Employee's Disability Questionnaire (DWC AD Form 100 (DEU)).

(b) Request for Summary Determination of Qualified Medical Evaluator's Report (DWC AD Form 101 (DEU)).

(c) Request for Summary Determination of Primary Treating Physician's Report (DWC AD Form 102 (DEU)).



STATE OF CALIFORNIA
Division of Workers' Compensation
Disability Evaluation Unit



EMPLOYEE'S DISABILITY QUESTIONNAIRE

DEU Use Only

This form will aid the doctor in determining your permanent impairment or disability. Please complete this form and give it to the physician who will be performing the evaluation. The doctor will include this form with his or her report and submit it to the Disability Evaluation Unit, with a copy to you and your claims administrator.

Employee

First Name _____ MI _____

Last Name _____

SSN (Numbers Only) _____

Street Address 1/PO Box (Please leave blank spaces between numbers, names or words) _____

Street Address 2/PO Box (Please leave blank spaces between numbers, names or words) _____

International Address (Please leave blank spaces between numbers, names or words) _____

City _____ State _____ Zip Code _____

Date of Birth _____
MM/DD/YYYY

Date of Injury _____
MM/DD/YYYY

Employer _____

Nature of Employers Business _____

Claim Number 1 _____



Claim Number 2	
Claim Number 3	
Claim Number 4	
Claim Number 5	

PLEASE ANSWER THE FOLLOWING QUESTIONS FULLY:

How was your evaluating doctor selected? (check one)

- From a list of doctors provided by the State of California, Division of Workers' Compensation.
- Other (explain) _____

What is the name of the doctor who will be doing the evaluation? _____

When is your examination scheduled? _____

What were your job duties at the time of your injury?

What is the disability resulting from your injury?

How does this injury affect you in your work?

Have you ever had a disability as a result of another injury or illness? _____

If so, when? _____

Please describe the disability?

Date _____
MM/DD/YYYY

Signature _____



State of California
Division of Workers' Compensation
Disability Evaluation Unit



DEU Use Only

REQUEST FOR SUMMARY RATING DETERMINATION
of Qualified Medical Evaluator's Report



INSTRUCTIONS TO THE CLAIMS ADMINISTRATOR:

1. Use this form if employee is unrepresented and has not filed an application for adjudication.
2. Complete this form and forward it along with a complete copy of all medical reports and medical records concerning this case to the physician scheduled to evaluate the existence and extent of permanent impairment or disability.
3. Send the EMPLOYEE'S DISABILITY QUESTIONNAIRE, DEU FORM 100 to the employee in time for the medical evaluation.
4. **This form must be served on the employee prior to the evaluation. Be sure to complete the proof of service.**

INSTRUCTIONS TO THE PHYSICIAN:

1. If the employee is unrepresented, review and comment upon the Employee's Disability Questionnaire, (DEU Form 100), in your report. (If the employee does not have a completed Form 100 at the time of the appointment, please provide the form to the employee.)
2. Submit your completed medical evaluation and, if the employee is unrepresented, the DEU Form 100, to the Disability Evaluation Unit district office listed below. **PLEASE USE THIS FORM AS A COVER SHEET FOR SUBMISSION TO THE DISABILITY EVALUATION UNIT.**
3. Serve a copy of your report and the Form 100 upon the claims administrator and the employee.

Date of first medical report indicating the existence of permanent impairment or disability: _____
MM/DD/YYYY

Last date for which temporary disability indemnity was paid: _____
MM/DD/YYYY

Submit To: Disability Evaluation Unit

Address/PO Box (Please leave blank spaces between numbers, names or words) _____

City _____ State CA Zip Code _____

Physician _____

Exam Date _____
MM/DD/YYYY



Claims Administrator

Company Name

Street Address1/PO Box (Please leave blank spaces between numbers, names or words)

Street Address2/PO Box (Please leave blank spaces between numbers, names or words)

City

State

Zip Code

Claim Number 1

Claim Number 2

Claim Number 3

Claim Number 4

Claim Number 5

Phone No.

Adjustor

Employer

Employee

First Name

MI

Last Name

Street Address 1/PO Box (Please leave blank spaces between numbers, names or words)

Street Address 2/PO Box (Please leave blank spaces between numbers, names or words)

International Address (Please leave blank spaces between numbers, names or words)

_____		_____	_____
City		State	Zip Code
Date of Injury _____		Date of Birth _____	
	MM/DD/YYYY		MM/DD/YYYY
SSN (Numbers Only) _____			
Case No (if any) _____			

OCCUPATION _____
 (Please attach job description or job analysis, if available)

WEEKLY GROSS EARNINGS _____

(Attach a wage statement/DLSR 5020 if earnings are less than maximum. Include the value of additional advantages provided such as meals, lodging, etc. If earnings are irregular or for less than 30 hours per week, include a detailed description of all earnings of the employee from all sources, including other employers, for one year prior to the date of injury. Benefits will be calculated at MAXIMUM RATE unless a complete and detailed statement of earnings is attached.)



PROOF OF SERVICE BY MAIL

On _____, I served a copy of this Request for Summary Rating Determination on

Name of Employee _____

Address _____

City _____ State _____ Zip _____

by placing a true copy enclosed in a sealed envelope with postage fully prepaid, and deposited in the U.S. Mail. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature





State of California
Division of Workers' Compensation
Disability Evaluation Unit



REQUEST FOR SUMMARY RATING DETERMINATION
of Primary Treating Physician Report

DEU Use Only



To be used for injuries which occur on or after January 1, 1994.

INSTRUCTIONS :

1. Complete this form and send it to the Disability Evaluation Unit along with a copy of the primary treating physician's report.
2. This form and any attachments including a copy of the primary treating physician's report must be served on the other party .
3. If you receive the completed form from the other party and you disagree with the description of the occupation or earnings, please attach the correct information to a copy of this form and send it to the Disability Evaluation Unit. You must also send a copy of your objection to the other party.

REQUEST IS MADE BY: Employee Claims Administrator

PHYSICIAN _____

EXAM DATE _____
MM/DD/YYYY

Claims Administrator Information (if known and if applicable)

Name (Please leave blank spaces between numbers, names or words)

Street Address 1/PO Box (Please leave blank spaces between numbers, names or words)

Street Address 2/PO Box (Please leave blank spaces between numbers, names or words)

City State Zip Code

Claim No.

Phone Number

Adjustor



Employee

Mr. Ms. Mrs.



First Name _____ MI _____

Last Name _____

Street Address 1/PO Box (Please leave blank spaces between numbers, names or words) _____

Street Address 2/PO Box (Please leave blank spaces between numbers, names or words) _____

International Address (Please leave blank spaces between numbers, names or words) _____

City _____ State _____ Zip Code _____

Date of Injury _____
MM/DD/YYYY

Date of Birth _____
MM/DD/YYYY

SSN (Numbers Only) _____

Case No. _____

Employer _____

Nature of Employers Business _____

Job Title _____

DESCRIBE THE GENERAL DUTIES OF THE JOB (Attach job description or job analysis, if available):

WEEKLY GROSS EARNINGS: \$ _____ . Attach a wage statement/DLSR 5020 if earnings are less than maximum. Include the value of additional advantages provided such as meals, lodging, etc. If earnings are irregular or for less than 30 hours per week, include a detailed description of all earnings of the employee from all sources, including other employers, for one year prior to the date of injury. Benefits will be calculated at MAXIMUM RATE unless a complete and detailed statement of earnings is received.

PROOF OF SERVICE BY MAIL



On _____, I served a copy of this Request for Summary Rating Determination on

Name of Employee _____

Address _____

City _____ State _____ Zip Code _____

by placing a true copy enclosed in a sealed envelope with postage fully prepaid, and deposited in the U.S. Mail. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature



Note: Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Sections 124, 4061, 4062, 4062.01, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.

History: 1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.

2. Repealer and new DEU Form 100 filed 1-28-94; operative 1-28-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 94, No. 4).

3. Editorial correction restoring inadvertently omitted subsection (b) (Register 95, No. 8).

4. Amendment of subsections (a), (b) and forms 100 and 101; and new subsection (c) and form 102 filed

2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

5. Certificate of Compliance as to 12-31-2004 order, including further amendment of section and forms and amendment of Note, transmitted to OAL 4-29-2005 and filed 6-10-2005 (Register 2005, No. 23).

6. Amendment of section, including repealer and new DEU Form 100, DEU Form 101 and DEU Form 102, filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10161.1. Reproduction of Forms.

The Request for Summary Rating Determination of Qualified Medical Evaluator's Report, the Employee's Disability Questionnaire, and the Request for Summary Rating Determination of the Primary Treating Physician's Report may be reproduced by automated office equipment or other means as long as the printed content and layout of the form are identical to the specified form.

Note: Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Sections 124, 4061, 4062, 4062.01, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.

History: 1. New section filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

2. Amendment of section number filed 8-8-95; operative 8-8-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 32).

3. Amendment of section and new Note filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10162. Summary Rating Determinations, Apportionment.

(a) In cases where the injured worker is not represented and a Qualified Medical Evaluator's formal medical evaluation indicates apportionment of the permanent disability, a summary rating determination will not be made until a workers' compensation administrative law judge has reviewed the medical evaluation to determine if the apportionment is inconsistent with the law. The determination of the workers' compensation administrative law judge will not be admissible in any judicial proceeding.

(b) Upon receipt of a formal medical evaluation which apportions the disability, the Disability Evaluation Unit will transmit the medical

evaluation to the presiding workers' compensation administrative law judge of the office of the appeals board designated by the Disability Evaluation Unit, with a request to review the apportionment to determine whether it is inconsistent with the law. The workers' compensation administrative law judge shall make the determination and respond to the Disability Evaluation Unit within 45 days.

(c) If the workers' compensation administrative law judge refers the medical report back to the Qualified Medical Evaluator for correction or clarification, the Qualified Medical Evaluator shall provide a response to the workers' compensation administrative law judge within 30 days of the referral. If no response is received, the workers' compensation administrative law judge shall make a determination whether the apportionment is inconsistent with the law, and a summary rating determination will be made.

(d) In cases where the injured worker is represented and an Agreed Medical Evaluator or Qualified Medical Evaluator apportions the permanent disability, the Disability Evaluation Unit will issue a summary rating determination "Before Apportionment."

Note: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124 and 4061, Labor Code.

History: 1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.

2. Amendment filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10164. Summary Rating Determinations, Reconsideration if Employee is Unrepresented.

(a) Requests for reconsideration of the summary rating determination shall be filed with the administrative director in writing within 30 days of receipt of the summary rating determination. The request shall clearly specify the reasons the summary rating determination should be reconsidered and shall include a proof of service on the other party and any other information necessary to support the request. Reconsideration of a summary rating may be granted by the administrative director for one or more of the following reasons:

(1) the summary rating was incorrectly calculated;

(2) the comprehensive medical evaluation failed to address one or more issues;

(3) the comprehensive medical evaluation failed to completely address one or more issues;

(4) the comprehensive medical evaluation was not prepared in accordance with required procedures, including the procedures of the administrative director promulgated under paragraph (2) or (3) of subdivision (j) of Section 139.2.

Requests for reconsideration which are not based on one of the above reasons will be denied.

(b) The administrative director shall not accept or consider, as a basis for a request for reconsideration, a supplemental or follow-up evaluation which was requested by a party after a summary rating determination has already been issued to the parties.

(c) If the administrative director determines that an additional evaluation from another Qualified Medical Evaluator is necessary, the matter shall be referred to the Medical Director of the Medical Unit for the provision of another Qualified Medical Evaluator.

Note: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124 and 4061, Labor Code.

History: 1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.

2. Amendment of section filed 1-28-94; operative 1-28-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 94, No. 4).

3. Amendment of section heading, repealer of subsection (a), subsection relettering, amendment of redesignated subsection (a), new subsections (a)(1)-(4) and (b) and amendment of subsection (c) filed 2-21-95; operative 2-21-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 8).

4. Amendment filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10165. Service of Summary Rating Determination and Notice of Options Following Permanent Disability Rating.

Within the time specified in Labor Code section 4061(e), the Disability Evaluation Unit

shall serve the permanent disability rating determination and the Notice of Options Following Permanent Disability Rating on the employee and employer by the method of service described in section of 10218 of title 8 of the California Code of Regulation.

Note: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 124 and 4061, Labor Code.

History: 1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.

2. Amendment filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10166. Consultative Ratings Determinations.

(a) The Disability Evaluation Unit will prepare consultative rating determinations upon request of the appeals board, workers' compensation administrative law judges, settlement conference referees, arbitrators, workers' compensation judges pro tempore and information & assistance officers.

(b) Consultative rating determinations may be requested for the purpose of determining the ratable significance of factors, reviewing proposed compromise and release agreements for adequacy, determining commuted values, resolving occupational questions or any other matters within the expertise of the disability evaluators. Consultative Rating Determinations will not be admissible in judicial proceedings.

(c) The Disability Evaluation Unit may also prepare consultative rating determinations upon receipt of reasonable requests from employers, injured workers or their respective representatives. A request is not considered reasonable where an insurance carrier or self-insurer seeks a consultative rating determination for the purpose of terminating its liability or for negotiating a compromise and release settlement where the injured worker has no representative. Consultative rating determinations shall not be used as a substitute for summary rating determinations.

(d) In all cases the person making a request for a consultative rating determination will provide the Disability Evaluation Unit with the occupation and age of the injured worker at the time of injury.

(e) No consultative rating determination will be provided on cases in which an application for adjudication of claim has been filed with the appeals board without prior written authorization of the Appeals Board, a workers' compensation administrative law judge, settlement conference referee, arbitrator, workers' compensation judge pro tempore, or information & assistance officer. In cases where an application has been filed, the disability evaluator may require that any request for consultative rating determination be accompanied by the appeals board file.

Note: Authority cited: Sections 133, 5307.3 and

5307.4, Labor Code. Reference: Sections 123.6, 123.7, 124, 5275, 5451, 5502, 5701 and 5703.5, Labor Code.

History: 1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.

2. Amendment of section filed 1-28-94; operative 1-28-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 94, No. 4).

3. Amendment of section heading and section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10166.1. Form (Request for Consultative Rating).

DWC-AD Form 104 (DEU)



**State of California
Division of Workers' Compensation
Disability Evaluation Unit**

REQUEST FOR CONSULTATIVE RATING

DEU Use Only

Indicate type of request:

 Mail-in Walk-in

INSTRUCTIONS FOR MAIL-IN'S:

1. Attach a photocopy of the medical report(s) for which a rating is being requested, if not previously on file. Do not send original reports.
2. Serve a copy of this request on the representative for the opposing party

INSTRUCTIONS FOR WALK-IN'S:

1. Attach this request form to copies of the medical reports that you wish to have rated.
2. List below the doctor's names and dates of reports to be rated.
3. If a deposition is to be rated, mark or list the pages to be reviewed by the rater.

_____	Date of Birth	_____
SSN (Numbers Only)		MM/DD/YYYY
_____	Date of Injury 1	_____
Case Number 1		MM/DD/YYYY
_____	Date of Injury 2	_____
Case Number 2		MM/DD/YYYY
_____	Date of Injury 3	_____
Case Number 3		MM/DD/YYYY
_____	Date of Injury 4	_____
Case Number 4		MM/DD/YYYY
_____	Date of Injury 5	_____
Case Number 5		MM/DD/YYYY

Injured worker

First Name _____ MI _____

Last Name _____ Suffix (Jr, Sr, etc) _____

Occupation (attach description if unclear) _____

Insurance Claim Number _____
Date of report(s) to be rated and doctor's name: _____

_____ MM/DD/YYYY _____

_____ MM/DD/YYYY _____

_____ MM/DD/YYYY _____

This case has been set on for: _____ MM/DD/YYYY for the type of hearing checked below:

- Rating MSC
- Trial
- Conference

Rating requested by:

Name of firm

Representing the

- Employee
- Employer

A copy of this request has been served on

Firm Name

Firm Address 1/PO Box (Please leave blank spaces between numbers, names or words)

Firm Address 2/PO Box (Please leave blank spaces between numbers, names or words)

City State Zip Code

Note: Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code. Reference: Sections 123.6, 123.7, 124, 5275, 5451, 5502, 5701 and 5703.5, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10167. Informal Ratings.

(a) An informal rating will be prepared by the Disability Evaluation Unit upon the request of the employee and/or his/her representative and the employer, or at the request of an Information and Assistance Officer providing

the necessary information. Such requests shall be submitted on forms and in a manner prescribed by the administrative director. Informal ratings shall be issued only in those instances where an Application for Adjudication of Claim has not been filed with the appeals board. All medical reports pertaining to the case must be submitted with the request.

(b) The Disability Evaluation Unit will issue the informal rating, which will contain a statement that the informal rating is not: a) a finding, award, order or decision of the appeals board, and b) evidence as to the existence of the factors of disability.

(c) Where the informal rating indicates a life pension, or provision for future medical treatment appears indicated, the Disability Evaluation Unit will forward a copy of the rating to an Information and Assistance Officer for the purpose of obtaining a stipulated award, or other action as may be appropriate.

(d) Self-ratings prepared by the employer are not acceptable substitutes for informal ratings prepared by the Disability Evaluation Unit.

Note: Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Section 4061, Labor Code.

History: 1. New section filed 12-27-96; operative 12-27-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 52).

2. Amendment filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10168. Records, Destruction of. [Repealed]

Note: Authority cited: Sections 133, 135 and 5307.3, Labor Code. Reference: Sections 135 and 4061, Labor Code; and Section 14755, Government Code.

History: 1. New section filed 4-25-91; operative 4-25-91 (Register 91, No. 26). New section is exempt from review by OAL pursuant to Government Code section 11351.

2. Amendment filed 3-27-95; operative 3-27-95. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 95, No. 13).

3. Amendment of section and Note filed 12-27-96; operative 12-27-96. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 96, No. 52).

4. Repealer filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

SUBCHAPTER 1.9 RULES OF THE COURT ADMINISTRATOR

ARTICLE 1

Definitions and General Provisions

§10210. Definitions.

(a) "Adjudication file" or "ADJ file" means a case file in which the jurisdiction of the Workers' Compensation Appeals Board has been invoked and which is maintained by the Division of Workers' Compensation in paper format, or electronic format, or both, including a temporary paper case file.

(b) "Administrative director" means the administrative director of the Division of Workers' Compensation or his or her designee.

(c) "Appeals board" means the commissioners and deputy commissioners of the Workers' Compensation Appeals Board acting en banc, in panels, or individually.

(d) "Applicant" means any person asserting a right to relief under the provisions of Labor Code section 5300.

(e) "Application for adjudication" or "application" means the initial pleading that asserts a right to relief under the provisions of Labor Code section 5300.

(f) "Central Registration Unit" is a unit within the Division of Workers' Compensation which maintains the website list of uniform names and addresses of claims administrators' offices and representatives' offices.

(g) "Claims administrator's office" means any office location that administers workers' compensation claims.

(h) "Court administrator" means the administrator of the workers' compensation adjudicatory process at the trial level, or his or her designee.

(i) "Declaration of readiness to proceed" or "declaration of readiness" means a request for a proceeding before the district office.

(j) "Declaration of readiness to proceed to expedited hearing" means a request for a proceeding before the district office pursuant to Labor Code section 5502(b).

(k) "Defendant" means any person against whom a right to relief is claimed.

(l) "District office" means a trial level workers' compensation court.

(m) "Document" is a pleading, petition, medical report, record, declaration, exhibit, or another filing submitted by a party or lien claimant, including an electronically scanned version of a document that was filed in paper form. Each medical report or other record having a different author and/or a different date of service is a separate "document."

(n) "Document cover sheet" means Form 10232.1, which is placed on top of a document or set of documents filed at one time in a specific case.

(o) "Document separator sheet" means Form 10232.2, which is placed on top of each individual document, when one or more documents are being filed at the same time in the same case and placed on top of each individual attachment to each document being filed, when a document has one or more attachments.

(p) "Electronic Adjudication Management System" or "EAMS" means the computerized case management system used by the Division of Workers' Compensation to store and maintain adjudication files and to perform other case management functions.

(q) "Electronic signature" means a signature electronically affixed by a workers' compensation administrative law judge or by the appeals board to any decision, findings, award, order or other document.

(r) "Fax" means a document that has been electronically served by a fax machine.

(s) To "file" a document means to deliver a document or cause it to be delivered to the district office with venue or to the appeals board for the purpose of having it included in the adjudication file.

(t) "Hearing" means any trial, mandatory settlement conference, rating mandatory settlement conference, status conference, lien conference, or priority conference.

(u) "Lien claimant" means any person claiming payment under the provisions of Labor Code section 4903 or 4903.1.

(v) "Lien conference" means a proceeding for the purpose of assisting the parties in resolving disputed lien claims pursuant to Labor Code section 4903 or 4903.1 or, if the dispute cannot be resolved, to frame the issues and stipulations in preparation for a lien trial.

(w) "Mandatory settlement conference" means a proceeding to assist the parties in

resolving their dispute or, if the dispute cannot be resolved, to frame the issues and stipulations in preparation for a trial.

(x) "Optical character recognition form" or "OCR form" means a paper form designed to be scanned so that its information is automatically extracted and stored in EAMS.

(y) "Party" means: (1) a person claiming to be an injured employee or the dependent of an injured employee; (2) a defendant; or (3) a lien claimant where either (A) the underlying case of the injured employee or the dependent of an injured employee has been resolved or (B) the injured employee or the dependent of an injured employee chooses not to proceed with his, her, or their case.

(z) "Petition" means any document filed containing a request for action other than an application for adjudication, an answer or a declaration of readiness to proceed.

(aa) "Priority conference" means a proceeding in which the applicant is represented by an attorney and the issues in dispute at the time of the proceeding include employment and/or injury arising out of and in the course of employment.

(bb) "Product delivery unit" means the unit within the Division of Workers' Compensation. The units are abbreviated as follows: Adjudication Unit "ADJ"; Disability Evaluation Unit "DEU"; Subsequent Injuries Benefits Trust Fund "SIF"; Uninsured Employers' Benefits Trust Fund "UEF"; Vocational Rehabilitation "VOC"; and Retraining and Return to Work Unit "RSU". For each product delivery unit there is an area in EAMS in which the case management information related to that product delivery unit is stored. That area is called the "product delivery case." "INT" is the integrated case, which is the umbrella for the individual product delivery cases for each unit residing in EAMS.

(cc) "Rating mandatory settlement conference" means a mandatory settlement conference conducted to facilitate the determination of the existence and extent of permanent disability through the use of informal ratings issued by the Disability Evaluation Unit, where the only unresolved issues are permanent disability and the need for future medical treatment.

(dd) "Representative's office" means any office location for a law firm, lawyer or repre-

representative of a party or lien claimant in a workers' compensation case.

(ee) "Regular hearing" means a trial.

(ff) To "serve" a document means to personally deliver a copy of the document, or to send it in a manner permitted by these rules and the rules of the appeals board, to a party, lien claimant, or attorney who is entitled to a copy of the document.

(gg) "Status conference" means a proceeding set for the purpose of ascertaining if there are genuine disputes requiring resolution, of providing assistance to the parties in resolving disputes, of narrowing the issues, and of facilitating preparation for trial if a trial is necessary.

(hh) "Submission" means the closing of the record to the receipt of further evidence or argument.

(ii) "Trial" means a proceeding set for the purpose of receiving evidence.

(jj) "Venue" means the district office, as established by Labor Code section 5501.5 or 5501.6, at which any proceedings will be conducted and from which any district office orders, decisions, or awards will be issued.

(kk) "Workers' compensation administrative law judge" as defined in Labor Code section 123.7 includes pro tempore judges appointed pursuant to California Code of Regulations, title 8, section 10350.

Note: Authority cited: Sections 133 and 5307(c), Labor Code. Reference: Sections 110, 4903, 4903.1, 5300, 5500.3, 5501.5, 5501.6 and 5502, Labor Code.

History: 1. Relocation of subchapter 1.9 from preceding section 10250 to precede section 10210, new article 1 (sections 10210-10214) and new section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10211. Compliance with Rules of the Court Administrator.

The failure to comply with the rules of the court administrator shall be deemed a bad faith action or tactic that is frivolous or solely intended to cause unnecessary delay unless that failure results from mistake, inadvertence, surprise, or excusable neglect.

Note: Authority cited: Sections 133, 5307(c) and 5500.3, Labor Code. Reference: Section 5813, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10212. District Office Records Not Subject to Subpoena.

(a) The records, files and proceedings of the district office shall not be taken from its offices either on informal request or in response to a subpoena duces tecum or any order issued out of any other court or tribunal. The records, files and proceedings of the district office shall not be produced pursuant a subpoena issued under Labor Code section 130.

(b) Certified copies of portions of the records shall be delivered upon payment of fees as provided in California Code of Regulations, title 8, section 9990.

Note: Authority cited: Sections 133 and 5307(c), Labor Code. Reference: Sections 130, 138.7 and 5955, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10213. Ex Parte and Prohibited Communications.

(a) No document, including letters or other writings, shall be filed by a party or lien claimant with the district office unless service of a copy is made on all parties together with the filing of a proof of service. When a workers' compensation administrative law judge receives an ex parte letter or other document from any party or lien claimant in a case pending before the workers' compensation administrative law judge, he or she shall serve copies of the letter or document on all other parties to the case with a cover letter explaining that the letter or document was received ex parte in violation of this rule.

(b) No party or lien claimant shall discuss with a workers' compensation administrative law judge the merits of any pending case without the presence of all necessary parties to the proceeding, except as provided by these rules.

(c) All correspondence concerning the examination and reports of a physician appointed pursuant to Labor Code section 5701 or 5703.5 shall be made through the workers' compensation administrative law judge, and no party, attorney or representative shall communicate with that physician with respect to the merits of the case unless ordered to do so.

Note: Authority cited: Sections 123.6, 133, 5307(c) and 5500.3, Labor Code. Reference: Sections 123.6, 5502, 5701 and 5703.5, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10214. Compromise and Release Forms and Stipulations with Request for Award Forms.

The following optical character recognition forms shall be used to settle case by either a compromise and release or stipulation with request for award.

(a) DWC-CA form 10214(a) (Stipulations with request for award) revision dated 11/2008 is incorporated by reference;

(b) DWC-CA form 10214(b) (Stipulations with request for award, death case) dated 11/2008 is incorporated by reference;

(c) DWC-CA form 10214(c) (Compromise and release) revision dated 11/2008 is incorporated by reference;

(d) DWC-CA form 10214(d) (Compromise and release, dependency claim) revision dated 11/2008 is incorporated by reference;

(e) DWC-CA form 10214(e) (Compromise and release, third party settlement) revision dated 11/2008 is incorporated by reference.

Note: Authority cited: Sections 133, 5307(c) and 5500.3, Labor Code. Reference: Sections 5002, 5003, 5004 and 5005, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

**ARTICLE 2
The Electronic Adjudication
Management System**

§10215. Case Names and Case Index.

An index of all cases filed with a district office shall be maintained in EAMS under the name of the person claimed to have been injured or the identification assigned to that person, whether or not that person is an applicant. Reference to the case shall be by the name of the injured person and the case number.

Note: Authority cited: Sections 127.5, 133, 5307(c) and 5500.3, Labor Code. Reference: Section 126, Labor Code.

History: 1. New article 2 (sections 10215-10225) and section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10216. Adjudication Files.

(a) All cases filed on and after the effective date of these regulations shall be maintained by the Division of Workers' Compensation in an electronic format in EAMS. All paper documents properly filed in such cases shall be scanned into the EAMS adjudication file and then destroyed no less than 30 business days after filing.

(b) All case opening documents shall be given a case number by the district office where no case number has been previously assigned for the injured worker for the alleged date of injury. The parties shall be notified of the case number by their preferred method of service.

(c) If a case number has been previously assigned by the Division of Workers' Compensation, a new case number will be assigned when a document is filed as follows: the prefix "ADJ" shall replace the previously assigned three letter prefix (i.e. "OAK") and precede the assigned case number.

(d) Except as provided in section 10273, the Division of Workers' Compensation shall maintain a paper adjudication file until it is converted to an electronic adjudication file. If, however, a paper adjudication file is maintained on or after the effective date of these regulations, an electronic adjudication file shall also be created and any documents filed thereafter shall be maintained electronically in EAMS, in accordance with subdivision (c).

(e) A paper adjudication file or a portion of a paper adjudication file may be converted to an electronic adjudication file by the Division of Workers' Compensation at any time. If a paper adjudication file is completely scanned into EAMS the Division of Workers' Compensation shall notify the parties to the case of the change in how the file is maintained; and the paper adjudication file may be destroyed no less than 30 business days after the issuance of the notification.

Note: Authority cited: Sections 127.5, 133, 5307 and 5500.3, Labor Code. Reference: Section 126, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10217. Official Participant Record and Duty to Furnish Correct Address.

(a) The Division of Workers' Compensation shall maintain an official participant record

for each adjudication file, which shall contain the names of all parties and lien claimants, and their attorneys or hearing representatives.

(b) In order to ensure case parties and documents are accurately associated to the correct electronic adjudication file, uniform names for claims administrators' offices and representatives' offices shall be used when filing documents in EAMS. The names will be assigned by the Division of Workers' Compensation.

(1) The Division of Workers' Compensation will maintain a list on its website (www.dwc.ca.gov/EAMS) of uniform names and mailing addresses and preferred method of service for the following entities: claims administrators' offices, and representatives' offices.

(2) Additions for new claims administrators' offices and representatives' offices and changes of name, location or address, telephone number, fax number, e-mail address or preferred method of service shall be registered by the entity requesting the change with the Central Registration Unit.

(A) The entity requesting the change must fax or e-mail a letter on letterhead with a signature from an authorized individual requesting the change to the Division of Workers' Compensation's Central Registration Unit within five business days of any change. The entity shall also advise all parties of any change of name, mailing address, or telephone number by furnishing the current information within five business days of any change.

(B) The fax number for the Central Registration Unit is: 1 (888) 822-9309. The e-mail address for the Central Registration Unit is: cru@dir.ca.gov.

(C) The new uniform name or address and preferred method of service will be posted by the Central Registration Unit within ten business days of receipt of the request.

(c) Except as required by subdivision (b), every party and every lien claimant having an interest in an active case pending before the district office or appeals board shall advise the district office and all parties of any change of mailing address and telephone numbers by furnishing the current information within five business days of any change

(d) Every lien claimant that has filed a lien in a case pending in a district office shall advise all parties within five business days of any change in the identity and/or telephone number

of the person with authority to resolve the lien by furnishing the correct name and daytime telephone number of that person to the interested parties; and shall advise the Division of Workers' Compensation of any such change after a declaration of readiness is filed.

(e) Every party and lien claimant having an interest in an inactive case: (1) shall advise all other known parties, lien claimants, attorneys, and hearing representative within five business days of any change of address (which shall include any change of mailing address and telephone numbers) by furnishing the correct and current address and/or number; and (2) shall advise the Division of Workers' Compensation of any such change within five business days if there is an outstanding award of further medical treatment or if there is continuing jurisdiction pursuant to Labor Code sections 5410, 5803 and 5804.

Note: Authority cited: Sections 127.5, 133, 5307(c) and 5500.3, Labor Code. Reference: Sections 126, 127, 5316, 5410, 5502, 5504, 5803 and 5804, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10218. Designated Preferred Method of Service.

(a) Claims administrators' offices and representatives' offices may designate first class mail, electronic mail or fax as their preferred method of service for receiving documents from the district office and the appeals board. The designated method of service shall be the same for all active cases for that claims administrator's office or representative's office. A party, a lien claimant, or an attorney or other representative for a party or lien claimant who does not or cannot designate a preferred method of service shall be served by first class mail.

(b) A represented party, a lien claimant, or an attorney or other representative for a party or lien claimant may agree with any other represented party, lien claimant, or attorney or other representative for a party or lien claimant that any method of service may be utilized for receiving documents between the parties to the agreement. If such an agreement is made, service pursuant to the agreement shall constitute valid service. Absent such an agreement, service between these parties or entities shall be made by first class mail.

(c) If the service is being made by or on an unrepresented injured worker, unrepresented dependent or unrepresented uninsured employer, then the service shall be made by first class mail.

Note: Authority cited: Sections 127.5, 133, 5307 and 5500.3, Labor Code. Reference: Section 126, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10222. Failure to Comply with the Court Administrator's Rules.

(a) If a document is not filed in compliance with the court administrator's rules, either because it does not comply with the procedural requirements or with the place of filing requirements, the court administrator may in his or her discretion take the following actions:

(1) Correct the defect and file the document; or

(2) Notify the filer that the document is not accepted for filing by service of a Notice of Document Discrepancy. The Notice shall state the discrepancy, the date of the attempted filing, and provide the filer with 15 business days from service to cure the discrepancy. If the document is corrected within 15 business days, or at a later date upon a showing of good cause, it shall be deemed filed on the original date the document was submitted.

(b) Notwithstanding the provisions of subdivision (a), the following documents shall not be filed with the district office or the appeals board, except as a non duplicative supporting exhibit or upon the order of a workers' compensation administrative law judge or the appeals board. Documents improperly submitted pursuant to this subdivision shall not be accepted for filing or deemed filed and shall not be acknowledged and may be discarded.

- (1) letters to opposing parties or counsel;
- (2) subpoenas;
- (3) notices of taking deposition;
- (4) medical appointment letters;
- (5) proofs of service ordered pursuant to California Code of Regulations, title 8, section 10500;
- (6) medical reports, except as required by section 10233;
- (7) copies of any decision of any federal or state court opinion otherwise available.
- (8) copies of any decision of the appeals

board or a workers' compensation administrative law judge that is otherwise available.

(9) duplicate medical and medical-legal reports.

(10) no diagnostic imaging as defined in Labor Code section 139.3, subd. (b)(1), shall be transmitted to the district office or the appeals board unless it is ordered.

(c) No document shall be sent by electronic mail or by fax directly to the district office or the appeals board. If a document is sent by electronic mail or fax directly to the district office, it shall not be accepted for filing or deemed filed, shall not be acknowledged, and may be discarded unless otherwise ordered by the workers' compensation administrative law judge or the appeals board.

Note: Authority cited: Sections 127, 133, 5307(c) and 5500.3, Labor Code. Reference: Sections 126, 5500.3 and 5502, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10223. Corrective Measures for Misfiled or Misdirected Documents into the Case Management System.

(a) The Division of Workers' Compensation may perform document substitution on filed documents; repair scanned documents; and move documents to other adjudication files.

(b) A document substitution may occur where a technical problem of readability and/or legibility exists with a filed document. The filer may seek a substitution of the document by filing a petition to substitute. The proposed document for substitution must be appended to a petition to substitute. If the petition to substitute is granted, the proposed document for substitution will replace the document that was unreadable or illegible.

(c) A document repair may occur where a document scanned into an electronic adjudication file by the Division of Workers' Compensation fails to reflect the original paper document. The Division of Workers' Compensation may repair the document so that the scanned image accurately reflects the original paper document. The Division of Workers' Compensation may repair a document at any time or a party may request a document be repaired. EAMS will retain as viewable the original document for those who have access to the electronic file.

(d) A document may be moved when a document originally scanned by the Division of Workers' Compensation is filed into the wrong electronic file.

(e) Documents that are in the process of being substituted or repaired shall not be moved.

(f) The Division of Workers' Compensation will provide notice to all parties of moved, substituted, or repaired documents within 15 business days.

Note: Authority cited: Sections 127, 133, 5307(c) and 5500.3, Labor Code. Reference: Sections 126, 5500.3 and 5502, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10225. Extended System Unavailability.

(a) If, for any reason, there is a technical failure of EAMS for longer than 24 hours, the court administrator, in his or her discretion, may declare that EAMS is unavailable for an extended period of time.

(b) After issuing a declaration of extended system unavailability, the court administrator shall issue an order that includes, but is not limited to:

(1) requiring that the district office or the appeals board shall serve all documents by first class mail;

(2) providing that filed documents shall be maintained in temporary paper adjudication files;

(3) providing that the time for performing any action, whether by the parties or by the district office, shall be extended by a specified period or until EAMS is declared to be operational; or

(4) requiring or allowing any other actions or remedies, as deemed appropriate under the circumstances.

(c) The court administrator shall post the declaration of extended system unavailability on the website of the Division of Workers' Compensation, if the website remains operational, and shall post it at every district office and at the office of the appeals board.

(d) Any declaration of extended unavailability shall remain in effect until the court administrator issues a subsequent declaration that EAMS is operational.

(e) The Division of Workers' Compensation will maintain a list of any and all technical

failures of EAMS that last longer than 24 hours on its website.

(f) EAMS shall be backed up daily pursuant to the State of California's information technology standards.

Note: Authority cited: Sections 127.5, 133, 5307(c) and 5500.3, Labor Code. Reference: Sections 5502 and 5700, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

ARTICLE 3

Filing of Documents by Parties or Lien Claimants

§10227. Place of Filing Documents After Initial Application or Case Opening Document.

(a) After the filing and processing of an initial application for adjudication of claim or other case opening document, all documents required or permitted to be filed under these regulations or under the rules of the appeals board shall be filed only with the district office having venue, except as provided by the rules of the appeals board, unless otherwise ordered by a workers' compensation administrative law judge or the appeals board.

Note: Authority cited: Sections 133 and 5307(c), Labor Code. Reference: Sections 126 and 5502 Labor Code.

History: 1. New article 3 (sections 10227-10236) and section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

Editor's Note: No subsection (b) was enacted.

§10228. Manner of Filing Documents.

(a) Except as provided by section 10603, subd. (a), all documents shall be filed in paper form.

(b) All paper documents shall be scanned into the electronic adjudication file and then destroyed no less than 30 business days after filing, unless otherwise provided by these rules or ordered by a workers' compensation administrative law judge or the appeals board. A scanned document shall have the same legal effect as a document filed in paper form.

(c) Each of the following persons or entities shall file optical character recognition forms completed by using a computer or typewriter

with the exception of OCR forms that are prepared at a hearing or that, for good cause, are filed at trial:

(1) any attorneys representing any party or any lien claimant;

(2) any insurance carrier or any representative of any insurance carrier (including any claims adjuster);

(3) any self-insured employer or any representative of a self-insured employer (including any claims adjuster);

(4) any third-party administrator or any representative of a third-party administrator (including any claims adjuster); and

(5) any lien claimant or any representative of any lien claimant, with the exception of: (A) a lien claimant (or a non-attorney representative of a lien claimant) asserting a living expenses lien under Labor Code section 4903(c); (B) a lien claimant (or a non-attorney representative of a lien claimant) asserting a burial expenses lien under Labor Code section 4903(d); or (C) a non-governmental lien claimant (or a non-attorney representative of a lien claimant) asserting a spousal or child support expenses lien under Labor Code section 4903(e).

(d) OCR forms will be posted in fillable format on the Division of Workers' Compensation website (<http://www.dir.ca.gov/dwc/forms.html>).

(e) All unrepresented employees, unrepresented dependents, unrepresented uninsured employers, or lien claimants listed in subdivision (c)(5)(A), (B) or (C) shall utilize optical character recognition forms, where such forms are required, but if they do not have ready access to a computer or typewriter, printed OCR forms will be available at the district offices and the information added to the form may be hand-printed in black ink.

(f) Whenever any party or lien claimant files any document utilizing an optical character recognition form, the party or lien claimant shall use the appropriate OCR form required by these rules.

(g) Except as set forth in subdivision (e), any OCR form that was not obtained from the Division of Workers' Compensation's website must function with EAMS in an equivalent manner as the Division's form.

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Section 126, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10229. Electronic Filing Exemption.

If a document is filed with EAMS as part of the electronic filing trial, that document does not need to be filed in compliance with regulation sections 10228 and 10232.

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Section 126, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10230. Time of Filing Documents.

(a) A paper document, including one filed by mail (regardless of when posted), is deemed filed on the date it is received, if received prior to 5 p.m. of a court day (i.e., Monday through Friday, except designated State holidays). A paper document received after 5 p.m. of a court day shall be deemed filed as of the next court day.

(b) When a document is filed by mail or by personal service, the appeals board or the district office that received the document for filing shall affix on it an appropriate endorsement as evidence of receipt. The endorsement may be made by handwriting, hand-stamp, electronic date stamp, or by other means.

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Section 126, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10232. Form and Size Requirements for Filed Documents.

(a) All documents except the medical reports of treating physicians, secondary physicians, qualified or agreed medical evaluators and proposed exhibits, shall be filed in accordance with the following standards:

(1) Only one side of each paper shall be used;

(2) All documents shall be printed with black ink on white paper that is 8 1/2 × 11 inches and at least twelve pound weight. All margins shall be at least 1 inch and shall be without typed or handwritten text in any margin;

(3) The first page shall include a case caption that shall include the name of the injured

worker or dependent claiming benefits, the name of the employer and the employer's insurer or indicating the employer is self-insured and a case number if one has been assigned by the district office. If a case number has been assigned the number shall be preceded by the abbreviation "ADJ";

(4) All non-form legal pleadings shall contain a heading above the case caption containing the name of the filing attorney and their state bar membership number and the attorney's law firm name and address;

(5) Except as otherwise provided in this section or section 10228(c), all OCR forms and documents shall be printed in Times New Roman, Times, Courier, Palatino, Century Schoolbook or similar serif font of at least 12 points in size;

(6) Except as otherwise provided in section 10228, all text added to the OCR forms shall be in capital letters.

(7) Response to the request on the OCR forms for social security numbers is optional, not mandatory.

(8) A list of body part codes is provided with the document cover sheet form and posted on the Division of Workers' Compensation website (<http://www.dir.ca.gov/forms.html>). The codes shall be used on OCR forms to describe the part of the body injured.

(9) A list of district office codes for place of venue is provided with the document cover sheet form and posted on the Division of Workers' Compensation website (<http://www.dir.ca.gov/forms.html>). The codes shall be used on OCR forms to describe the district office venue.

(10) No single document shall exceed 25 pages in length without the prior permission of the appeals board or the presiding workers' compensation administrative law judge of the district office with venue over the case;

(11) The text of a document shall be double spaced or one and one half spaces; however, captions, headings, headers, footnotes, footers and block quotations shall be single spaced.

(12) The documents shall be flat, without folds and without staples.

(13) OCR forms have bar codes at the top of the document. No other documents shall have bar codes on the top of the document.

(b) All documents shall be filed with document cover sheets and document separator sheets as follows:

(1) A completed document cover sheet shall be the first page of each individual document or set of documents filed at one time in the same case. The cover sheet provides space for information regarding 15 companion cases. Only the pages filled out need to be filed. A document separator sheet shall precede each document within a set of documents.

(2) If an individual document includes an attachment, a completed document separator sheet shall precede the attachment and if an individual document includes multiple attachments, a document separator sheet shall precede each individual attachment. A document separator sheet shall not be placed between a document and the proof of service for that document. Where one proof of service is used for multiple documents, a document separator sheet shall precede the proof of service.

(3) A list of document titles is provided with the document separator sheet form and posted on the Division of Workers' Compensation website (<http://www.dir.ca.gov/forms.html>). The document titles shall be used on document separator sheet to describe the attached document.

(4) The document separator sheet requires the filer to list the product delivery units, as defined in section 10210(bb), the date of the attached document, and the author of the attached document.

(5) This subdivision shall not apply to any unrepresented employees, unrepresented dependents or unrepresented uninsured employers who do not have ready access to document cover sheets and document separator sheets.

(c) Oversized documents shall be filed only at the time of trial in accordance with the provisions of section 10603.

(d) If an unrepresented worker, an unrepresented uninsured employer, or an unrepresented dependent does not have ready access to a computer or typewriter and compliance with subdivisions (a)(3) and (a)(5) is not feasible, a hand-printed document may be submitted. Any hand-printed document shall be legible and shall otherwise comply with subdivision (a), including the requirements of subdivision (a)(3) regarding margins and text in the margins.

Note: Authority cited: Sections 133, 5307 and 5500.3, Labor Code. Reference: Sections 126 and 5500.3, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10232.1. Document Cover Sheet Form.

DWC-CA form 10232.1 (Document cover sheet) revision dated 11/2008 is incorporated by reference.

Note: Authority cited: Sections 133, 5307 and 5500.3, Labor Code. Reference: Sections 126 and 5500.3, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10232.2. Document Separator Sheet Form.

DWC-CA form 10232.2 (Document separator sheet) revision dated 11/2008 is incorporated by reference.

Note: Authority cited: Sections 133, 5307 and 5500.3, Labor Code. Reference: Sections 126 and 5500.3, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10233. Filing of Medical Reports, Medical-Legal Reports, and Various Records.

(a) Except as provided by section 10603, medical reports, medical-legal reports, and medical records, and other records and documents shall be filed only in accordance with the following provisions.

(b) This subsection shall apply where a declaration of readiness (other than a declaration of readiness for an expedited hearing) is being filed, including a walk-through declaration of readiness.

(1) When filing a declaration of readiness, the filing party or lien claimant shall file the report of any agreed medical evaluator, any qualified medical evaluator, and any treating physician that: (A) are then in its possession or control, (B) are relevant to the issue being raised by the declaration of readiness, and (C) have not been filed previously. No other medical reports, medical-legal reports, medical records, or other documents shall be filed at that time, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

(2) When filing an objection to a declaration of readiness, or within ten days of the filing of the declaration of readiness if no objection is

timely filed, each opposing party or lien claimant shall file the report of any agreed medical evaluator, any qualified medical evaluator, and any treating physician that: (A) are then in its possession or control, (B) are relevant to the issue being raised by the declaration of readiness, and (C) have not been filed previously. No other medical reports, medical-legal reports, medical records, or other documents shall be filed at that time, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

(c) This subsection shall apply where a declaration of readiness for an expedited hearing is being filed.

(1) When filing a declaration of readiness for an expedited hearing, the filing party or lien claimant shall file the report of any agreed medical evaluator, any qualified medical evaluator, and any treating physician that: (A) are then in its possession or control, (B) are relevant to the issue being raised by the declaration of readiness, and (C) have not been filed previously. No other medical reports, medical-legal reports, medical records, or other documents shall be filed at that time.

(2) When filing an objection to a declaration of readiness for an expedited hearing, or within ten days of the filing of the declaration of readiness if no objection is timely filed, each opposing party or lien claimant shall file the report of any agreed medical evaluator, any qualified medical evaluator, and any treating physician that: (A) are then in its possession or control, (B) are relevant to the issue being raised by the declaration of readiness, and (C) have not been filed previously. No other medical reports, medical-legal reports, medical records, or other documents shall be filed at that time.

(3) All other medical reports, medical-legal reports, medical records, or other documents that are being proposed as exhibits with respect to the issue being raised by the declaration of readiness, and that have not been filed previously, shall be filed at the time of trial, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

(d) This subsection shall apply where a compromise and release or a stipulations with request for award is being filed, with the exception that this subsection shall not apply when the compromise and release or the stipulations with

request for award is being filed on a walk-through basis in accordance with section 10280.

(1) When filing a compromise and release or a stipulations with request for award, the filing party shall file all agreed medical evaluator reports, qualified medical evaluator reports, treating physician reports, and any other medical records or other records (e.g., wage statements) that: (A) are relevant to a determination of the adequacy of the compromise and release or stipulations with request for award; and (B) have not been filed previously.

(2) If the compromise and release or the stipulations with request for award is not approved, and the matter is set for a hearing on the adequacy of the proposed settlement, any additional reports, records, or other documents not previously filed that are being proposed as exhibits shall be filed at the time of the adequacy hearing, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

(3) If the compromise and release or the stipulations with request for award is not approved at or after the adequacy hearing, and the matter is set for a mandatory settlement conference or trial, then any additional medical reports, medical-legal reports, medical records, or other documents that are being proposed as exhibits shall be filed in the same manner as set forth in subsections (g) and (h).

(e) Excerpted portions of relevant physician, hospital or dispensary records shall be filed in accordance with section 10232.

(f) Excerpted portions of relevant personnel records, wage records and statements, job descriptions, and other business records shall be filed in accordance with section 10232.

(g) At a mandatory settlement conference, rating mandatory settlement conference, priority conference or lien conference, all other medical reports, medical-legal reports, medical records, or other documents that are being proposed as exhibits with respect to the issue being raised by the declaration of readiness, and that have not been filed previously, shall be filed, but only if the matter is being set for trial, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

(h) At trial, any additional medical reports, medical-legal reports, medical records, or other documents that are being proposed as exhibits with respect to the issue being raised by the

declaration of readiness shall be filed, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

Note: Authority cited: Sections 133, 5307(c) and 5500.3, Labor Code. Reference: Sections 126, 4600, 5500.3 and 5502, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10236. Filing of Copies of Documents.

(a) Except as provided by section 10603, subd. (a), no "original" business, medical, or other documents shall be filed with a district office.

(b) Only a photocopy or other reproduction of an original document shall be filed, and it is presumed the filed document is an accurate representation of the original document.

(c) If a party or lien claimant alleges that a filed document is an inaccurate or unreliable, the party alleging the document is inaccurate or unreliable shall state the basis for the objection. The filing party must establish that the document is an accurate representation of the original document.

(d) A party or lien claimant that elects to retain the original of an exhibit or proposed exhibit need not retain the original after either (1) the exhibit has been authenticated at trial or (2) a settlement that resolves all pending issues has been approved and all appeals have been exhausted or the time for seeking appellate review has expired.

Note: Authority cited: Sections 133, 5307(c) and 5500.3, Labor Code. Reference: Sections 126 and 5500.3, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

ARTICLE 4

Appearances, the Form of Minutes of Hearings and Minute Orders

§10240. Appearances Required.

(a) All parties and lien claimants shall appear at all hearings, except as provided below:

(1) Where injury arising out of and in the course of employment is at issue, lien claimants not defined as a party under subdivision

10210(y)(3) shall not be required to appear at the mandatory settlement conference or trial, unless otherwise ordered by the workers' compensation administrative law judge.

(2) Where liability for the claim has been accepted, lien claimants not defined as a party under subdivision 10210(y)(3), with a lien claim of \$25,000 or more, shall appear or have a representative appear at the mandatory settlement conference or lien conference, unless the appearance is excused by the workers' compensation administrative law judge.

(3) Lien claimants not defined as a party under subdivision 10210(y)(3) with liens of less than \$25,000 shall be available by telephone with settlement authority and shall notify defendant(s) of the telephone number at which the defendant may reach the lien claimants during the mandatory settlement conference or lien conference. The workers' compensation administrative law judge may order the appearance of lien claimants not defined as a party under subdivision 10210(y)(3), with liens of less than \$25,000 at a mandatory settlement conference or lien conference.

(4) All lien claimants shall appear at trial at which their lien(s) is an issue to be decided.

(b) All parties shall have a person available with settlement authority at the mandatory settlement conference or lien conference. The person with settlement authority need not be present if an attorney or representative who is present at these proceedings can obtain immediate authority by telephone.

(c) Unless the notice otherwise provides, the applicant shall be present at a mandatory settlement conference as provided in Labor Code section 5502, subd. (e).

(d) Appearance at a hearing not covered under this section shall be at the discretion of the workers' compensation administrative law judge.

Note: Authority cited: Sections 127.5, 133, 5307(c) and 5500.3, Labor Code. Reference: Sections 5502 and 5700, Labor Code.

History: 1. New article 4 (sections 10240-10246) and section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10241. Failure to Appear.

(a) Where a party or a lien claimant is served with notice of trial pursuant to section

10240 and fails to appear either in person or by attorney or representative, the workers' compensation administrative law judge may:

(1) dismiss the application after issuing a notice of intention to dismiss pursuant to California Code of Regulations, title 8, section 10562;

(2) dismiss the lien claim after issuing a notice of intention to dismiss pursuant to California Code of Regulations, title 8, section 10562;

(3) hear the evidence and, after service of the minutes of hearing and summary of evidence that shall include notice of intention to submit the case for decision pursuant to California Code of Regulations, title 8, section 10562.

(b) Where a party or a lien claimant is served with notice of a conference or mandatory settlement conference pursuant to section 10240 and fails to appear at the conference, the workers' compensation administrative law judge may:

(1) dismiss the application after issuing a notice of intention to dismiss pursuant to California Code of Regulations, title 8, section 10562;

(2) dismiss the lien claim after issuing a notice of intention to dismiss with or without prejudice pursuant to California Code of Regulations, title 8, section 10562;

(3) close discovery and forward the case to the presiding workers' compensation administrative law judge to set for trial.

(c) Where a party, after notice, fails to appear at either a trial or a conference and good cause is shown for failure to appear, the workers' compensation administrative law judge may take the case off calendar or may continue the case to a date certain.

Note: Authority cited: Sections 133, 5307(c) and 5500.3, Labor Code. Reference: Article XIV, Section 4, California Constitution; and Sections 5502(e) and 5700, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10243. Continuances.

Requests for continuances are inconsistent with the requirement that workers' compensation proceedings be expeditious and are not favored. Continuances will be granted only upon a clear showing of good cause. Where

possible, reassignment pursuant to section 10346 shall be used to avoid continuances.

Note: Authority cited: Sections 133 and 5307(c), Labor Code. Reference: Article XIV, Section 4, California Constitution; and Sections 5502 and 5502.5, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10244. Appearances in Settled Cases.

When the parties represent to the workers' compensation administrative law judge assigned to the case that a case has been settled, the case shall be taken off calendar and no appearances shall be required.

Note: Authority cited: Sections 133 and 5307(c), Labor Code. Reference: Article XIV, Section 4, California Constitution; and Sections 5502 and 5502.5, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10245. Minutes of Hearing Form.

DWC-CA form 10245 (Minutes of Hearing form) revision dated 11/2008 is incorporated by reference.

Note: Authority cited: Sections 126, 127.5, 133 and 5307(c), Labor Code. Reference: Sections 5307(c), 5307.5(b), 5313, 5500.3 and 5502, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10246. Electronically Filed Decisions, Findings, Awards, and Orders.

The district office may electronically file any decision, findings, award, order or other document issued by a workers' compensation administrative law judge. Any document that is electronically filed shall have the same legal effect as a document in paper form.

Note: Authority cited: Sections 127.5, 133 and 5307(c), Labor Code. Reference: Sections 5307(c), 5307.5(b) and 5313, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

ARTICLE 5

Declarations of Readiness to Proceed and Objections and Hearing Calendars

§10250. Declaration of Readiness to Proceed.

(a) Applications or petitions shall not be

placed on calendar for mandatory settlement conferences, status conferences, priority conferences, expedited hearing or any other hearing unless one of the parties has filed and served a declaration of readiness to proceed in the form prescribed by the court administrator. The declaration of readiness shall be served on all other parties and lien claimants.

(b) All declarations of readiness to proceed shall state under penalty of perjury the moving party has made a genuine, good faith effort to resolve the dispute before filing the declarations of readiness to proceed, and shall state with specificity the same on the declarations of readiness to proceed.

(c) A false declaration or certification by any party, lien claimant, attorney or representative may give rise to proceedings under Labor Code section 134 for contempt or Labor Code section 5813 for sanctions.

(d) If a party or lien claimant is represented by an attorney or representative any declaration of readiness filed on behalf of the party shall be executed by the attorney or representative.

Note: Authority cited: Sections 127.5, 133, 5307(c) and 5502(a), Labor Code. Reference: Sections 134, 5500.3, 5502 and 5813, Labor Code.

History: 1. New subchapter 1.9 (section 10250) and section filed 12-31-2003 as an emergency; operative 1-1-2004 (Register 2004, No. 1). A Certificate of Compliance must be transmitted to OAL by 4-30-2004 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 1-1-2004 order transmitted to OAL 4-30-2004; disapproved by OAL and order of repeal filed 6-15-2004 (Register 2004, No. 27).

3. New subchapter 1.9 (section 10250) and section filed 6-30-2004; operative 6-30-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 27).

4. Relocation of subchapter 1.9 heading from preceding section 10250 to preceding 10210, new article 5 (sections 10250-10256) and repealer and new section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10250.1. Declaration of Readiness to Proceed Form.

DWC-CA form 10250.1 (Declaration of Readiness to Proceed form) revision dated 11/2008 is incorporated by reference.

Note: Authority cited: Sections 127.5, 133, 5307(c) and 5502(a), Labor Code. Reference: Sections 5500.3, 5502 and 5813, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10251. Objection to Declaration of Readiness to Proceed.

(a) Any objection to a declaration of readiness to proceed shall be filed and served within ten (10) calendar days after service of the declaration. The objection shall set forth, under penalty of perjury, specific reason why the case should not be set or why the requested proceedings are inappropriate.

(b) A false declaration or certification filed under this section by any party, lien claimant, attorney or representative may give rise to proceedings under Labor Code section 134 for contempt or Labor Code section 5813 for sanctions.

(c) If a party or lien claimant is represented, the attorney or representative shall execute any objection to the declaration of readiness to proceed on behalf of the party. Declarations of readiness to proceed shall be reviewed by the presiding workers' compensation administrative law judge or any workers' compensation administrative law judge designated by the presiding workers' compensation administrative law judge, who will determine on the basis of the facts stated in the declaration whether the objection should be sustained.

(d) If a party has received a copy of the declaration of readiness to proceed and has not filed an objection under this section, that party shall be deemed to have waived any and all objections to proceeding on the issues specified in the declaration, absent extraordinary circumstances.

Note: Authority cited: Sections 127.5, 133, 5307(c) and 5502(a), Labor Code. Reference: Sections 134, 5502 and 5813, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10252. Expedited Hearing Calendar.

(a) Where injury to any part or parts of the body is accepted as compensable by the employer, a party is entitled to an expedited priority hearing and decision upon the filing of an application for adjudication of claim and a

declaration of readiness to proceed pursuant to section 10250 establishing a bona fide, good faith dispute as to:

(1) the employee's entitlement to medical treatment pursuant to Labor Code section 4600;

(2) the employee's entitlement to, or the amount of, temporary disability indemnity payments;

(3) the employee's entitlement to vocational rehabilitation services, or the termination of an employer's liability to provide these services to an employee; or

(4) the employee's entitlement to compensation from one or more responsible employers when two or more employers dispute liability as among themselves.

(b) An expedited hearing may be set upon request where injury to any part or parts of the body is accepted as compensable by the employer and the issues include medical treatment or temporary disability for a disputed body part or parts.

(c) A workers' compensation administrative law judge assigned to a case involving a disputed body part or parts may redesignate the expedited hearing as a mandatory settlement conference, receive a pretrial conference statement pursuant to Labor Code section 5502, subd. (e)(3), close discovery, and schedule the case for trial on the issues presented, if the workers' compensation administrative law judge determines, in consultation with the presiding workers' compensation administrative law judge, that the case is not appropriate for expedited determination.

(d) Grounds for the redesignation of an expedited hearing includes, but is not limited to, cases where the direct and cross-examination of the applicant will be prolonged, or where there are multiple witnesses who will offer extensive testimony.

(e) The parties are expected to submit for decision all matters properly in issue at a single trial and to produce all necessary evidence, including witnesses, documents, medical reports, payroll statements and all other matters considered essential in the proof of a party's claim or defense.

Note: Authority cited: Sections 127.5, 133 and 5502(b), Labor Code. Reference: Section 5502(b), Labor Code.

History: 1. Change without regulatory effect renumbering former section 10136 to section 10252,

including amendment of subsection (c), filed 4-7-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 15).

2. Repealer and new section heading and amendment of section and Note filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10252.1. Expedited Hearing Form.

DWC-CA form 10252.1 (Expedited Hearing form) revision dated 11/2008 is incorporated by reference.

Note: Authority cited: Sections 127.5, 133 and 5502(b), Labor Code. Reference: Section 5502(b), Labor Code.

History: 1. Change without regulatory effect renumbering former section 10137 to section 10252.1 filed 4-7-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 15).

2. Repealer and new section and amendment of Note filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10253. Settlement Conference Calendar.

(a) In accordance with Labor Code section 5502, subd. (e) (2), the workers' compensation administrative law judge shall have authority to inquire into the adequacy and completeness, including provision for lien claims, of compromise and release agreements or stipulations with request for award or orders, and to issue orders approving compromise and release agreements or awards or orders based upon approved stipulations, to make orders and rulings regarding admission of evidence and discovery matters, including admission of offers of proof and stipulations of testimony where appropriate and necessary for resolution of the dispute by the workers' compensation administrative law judge, and may submit and decide the dispute on the record pursuant to the agreement of the parties. The workers' compensation administrative law judge shall not hear sworn testimony at any conference.

(b) The workers' compensation administrative law judge may continue a conference to a time certain to facilitate a specific resolution of the dispute subject to Labor Code section 5502, subd. (e)(1).

(c) Subject to the provisions of Labor Code section 5502.5, upon a showing of good cause, the workers' compensation administrative law

judge may continue a mandatory settlement conference to a date certain, may continue it to a status conference on a date certain, or may take the case off calendar. In such a case, the workers' compensation administrative law judge shall note the reasons for the continuance or order taking off calendar in the minutes. The minutes shall be served on all parties and lien claimants, and their representatives.

(d) Absent resolution of the dispute, the parties shall file at the mandatory settlement conference a joint pre-trial conference statement setting forth the issues and stipulations for trial, witnesses, and exhibits.

(e) A summary of conference proceedings including the joint pre-trial conference statement and the disposition shall be filed by the workers' compensation administrative law judge in the adjudication file and shall be served on the parties and lien claimants.

Note: Authority cited: Sections 127.5, 133, 5307(c) and 5502, Labor Code. Reference: Sections 5502 and 5502.5, Labor Code

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10253.1. Pre-Trial Conference Statement Form.

DWC-CA form 10253.1 (Pre-trial Conference Statement form) revision dated 11/2008 is incorporated by reference.

Note: Authority cited: Sections 133, 5307, 5500.3 and 5502, Labor Code. Reference: Section 5502, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10254. Priority Conference Calendar.

(a) A priority conference shall be set upon the filing of a declaration of readiness requesting a priority conference that shows that the applicant is represented by an attorney and that the issues in dispute include employment and/or injury arising out of and in the course of employment.

(b) Upon a showing of good cause, a workers' compensation administrative law judge may continue the matter to a status conference. At each priority or status conference, the parties shall be prepared to set the matter for trial or to provide a plan to complete discovery.

(c) To the extent possible, all priority and status conferences in a case shall be conducted by the same workers' compensation administrative law judge. When discovery is complete, or when the workers' compensation administrative law judge determines that the parties have had sufficient time to complete reasonable discovery, the case shall be set for trial as expeditiously as possible.

Note: Authority cited: Sections 127.5, 133, 5307 and 5502(c), Labor Code. Reference: Section 5502(c), Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10256. Setting the Case.

(a) A presiding workers' compensation administrative law judge or a workers' compensation administrative law judge, using sound discretion, may on his or her own motion set any case for hearing.

(b) The parties are expected to submit for decision all matters properly in issue at a single trial and to produce all necessary evidence, including witnesses, documents, medical reports, payroll statements and all other matters considered essential in the proof of a party's claim or defense. However, a workers' compensation administrative law judge may order that the issues in a case be bifurcated and tried separately upon a showing of good cause.

Note: Authority cited: Sections 127.5, 133, 5307(c) and 5502(a), Labor Code. Reference: Sections 5307(c) and 5502(a), Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

ARTICLE 6 Consolidation Procedures

§10260. Assignment of Consolidated Cases.

(a) Any request or petition to consolidate cases that are assigned to different workers' compensation administrative law judges in the same district office, or that have not been assigned but are venued at the same district office, shall be referred to the presiding workers' compensation administrative law judge of that office, whether the cases involve the same injured worker or multiple injured workers.

(b) Any request or petition to consolidate cases involving the same injured worker that are assigned to workers' compensation administrative law judges at different district offices, or that have not been assigned but are venued at different district offices, shall first be referred to the presiding workers' compensation administrative law judges of the district offices to which the cases are assigned. If the presiding workers' compensation administrative law judges are unable to agree on where the cases will be assigned for hearing, the conflict shall be resolved by the court administrator upon referral by one of the presiding judges.

(c) Any request or petition to consolidate cases involving multiple injured workers that are assigned to workers' compensation administrative law judges at different district offices, or that have not been assigned but are venued at different district offices, shall be referred to the court administrator.

(d) In resolving any request or petition to consolidate cases that are assigned to workers' compensation administrative law judges at different district offices, or that have not been assigned but are venued at different district offices, the court administrator shall set the request or petition for a conference regarding the place of hearing. At or after the conference, the court administrator shall determine the place of hearing and may determine the workers' compensation administrative law judge to whom the cases will be assigned, giving consideration to the factors set forth in California Code of Regulations, title 8, section 10589. In reaching any determination, the court administrator may assign a workers' compensation administrative law judge to hear any discovery motions and disputes relevant to discovery in the action and to report their findings and recommendations to the court administrator.

(e) Any party aggrieved by the determination of the court administrator may request proceedings pursuant to Labor Code section 5310, except that an assignment to a particular workers' compensation administrative law judge shall be challenged only in accordance with the provisions of California Code of Regulations, title 8, sections 10452 and 10453.

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Sections 5303 and 5708, Labor Code.

History: 1. New article 6 (section 10260) and section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

ant to Government Code section 11343.4 (Register 2008, No. 47).

ARTICLE 7

Access to Records and Retention of Records

§10270. Access to and Viewing Adjudication Files.

(a) A party, a lien claimant, or an attorney or other representative for a party or lien claimant may access and view specific adjudication files in which the party, lien claimant, attorney, or representative is a case participant except as provided for in section 10271.

(b) Except as otherwise prohibited by law or sections 10271 and 10272, any person may inspect the contents of any electronic adjudication file at any district office, whether or not the district office has venue over the case.

(c) Except as otherwise prohibited by law or sections 10271 and 10272, any person may inspect the contents of any paper adjudication file at the district office or office of the appeals board where the file is located during regular office hours.

(d) The paper adjudication file and the records and documents contained therein may not be removed from the district office or the office of the appeals board for copying or for any other purpose.

(e) Copying operators must operate their equipment in the room assigned to them and any person copying a paper adjudication file must put papers back in the file in their original order and any person viewing or copying a file must return the file in the same order and condition in which it was received.

(f) A paper adjudication file shall not be sent from one office to another for inspection except for good cause by order of a workers' compensation administrative law judge or the appeals board and upon the payment of a fee required by California Code of Regulations, title 8, section 9990. At the request of a party to the case, or his or her attorney, a paper adjudication file that has been transferred to a record storage center for storage will be made available for inspection through the office from which the file was transferred. Paper adjudication files that have been transferred to a record storage center will be made available for inspection by any other person upon payment of the fee required

by California Code of Regulations, title 8, section 9990.

Note: Authority cited: Sections 127.5, 133, 138.7, 5307(c) and 5500.3, Labor Code. Reference: Sections 5502 and 5700, Labor Code.

History: 1. New article 7 (sections 10270-10275) and section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10271. Prohibitions on Document Inspection.

(a) The following documents shall not be made available for inspection by any person:

(1) Decisions, reports, opinions, orders, recommendations and other documents that are in the process of preparation, or, although fully prepared, have not yet been signed and filed.

(2) Ratings that have not yet been served.

(3) The working papers, personal notes, deliberation records, and other private notations made by a workers' compensation administrative law judge, commissioner, deputy commissioner or appeals board attorney or legal assistant in the course of hearing or deliberation relating to the case.

(4) Any legal memorandum or analysis prepared by a workers' compensation administrative law judge, commissioner, deputy commissioner, appeals board attorney or legal assistant to assist a workers' compensation administrative law judge, deputy commissioner or commissioner in his or her deliberations concerning a case.

Note: Authority cited: Sections 133, 5307(c) and 5500.3, Labor Code; and Section 6253.4, Government Code. Reference: Sections 126, 127 and 138.7, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

Editor's Note: No subsection (b) was enacted.

§10272. Sealing Documents.

(a) The presiding workers' compensation administrative law judge or the appeals board may order sealed medical reports, medical records or other documents filed in a case containing references to or discussions of mental or emotional health of any person, sexual habits or practice, use of or addiction to alcohol or other drugs, or other matters of similar character. In a case involving an unrepresented injured employee, the presiding workers' com-

compensation administrative law judge or appeals board may on his, her, or its own motion seal a document or documents after compliance with subdivision (d). Within twenty court days after the order sealing documents, the presiding workers' compensation administrative law judge or the appeals board shall allow the injured worker an opportunity to object to the order.

(b)(1) A party requesting that a document or documents be sealed shall file a petition for an order sealing the requested records. The petition must be accompanied by a memorandum of points and authorities and a declaration containing facts sufficient to justify the sealing.

(2) The party requesting that a record or records be filed under seal must lodge it with the district office under (d) when the petition is filed or with the appeals board if the matter is pending on petition for reconsideration, removal or disqualification, unless good cause exists for not lodging it. Pending the determination of the petition, the lodged records will be conditionally under seal.

(3) If necessary to prevent disclosure, the petition, any opposition, and any supporting documents must be filed in a public redacted version and lodged in a complete version conditionally under seal.

(4) If the presiding workers' compensation administrative law judge or appeals board denies the petition to seal, the clerk must return the lodged record to the submitting party and must not place it in the adjudication file.

(5) A document filed with the district office or appeals board shall not disclose material contained in a previously filed document that is sealed, conditionally under seal, or subject to a pending petition to seal.

(c)(1) The party requesting that a record be filed under seal shall put it in a manila envelope or other appropriate container, seal the envelope or container, and lodge it with the district office or with the appeals board if the matter is pending on petition for reconsideration, removal or disqualification.

(2) The envelope or container lodged with the court must be labeled "CONDITIONALLY UNDER SEAL."

(3) The party submitting the lodged record shall affix to the envelope or container a cover sheet that:

(A) Contains a case number and

(B) States that the enclosed record is subject to a petition to file the record under seal.

(4) Upon receipt of a record lodged under this rule, the district office or the appeals board shall endorse the affixed cover sheet with the date of its receipt and must retain but not file the record unless ordered to do so.

(d) The presiding workers' compensation administrative law judge or the appeals board may order that a document be filed under seal or sealed only if he, she, or it expressly finds facts that establish:

(1) There exists an overriding public interest that overcomes the right of public access to the record;

(2) The overriding public interests supports sealing the record;

(3) A substantial probability exists that the overriding public interest will be prejudiced if the record is not sealed;

(4) The proposed sealing is narrowly tailored; and

(5) No less restrictive means exists to achieve the overriding public interest.

(e)(1) If an order is made that a document or documents be sealed, the order shall be filed in the record of the proceedings. The order shall set forth the facts that support the findings and direct the sealing of only those documents and pages, or if practicable, portions of those documents and pages, that contain the material that needs to be placed under seal.

(2) If the order directs that an entire document shall be sealed, and if the sealed document is contained in a paper adjudication file, the sealed document shall be placed in a sealed envelope, which shall be removed from the file before the file is made available for public inspection. If the sealed document is in an electronic adjudication file, the document shall be marked as sealed. No entirely sealed document in a paper file or an electronic file shall be available for public inspection.

(3) If the order directs that a portion or portions of a document be sealed, and if the partially sealed document is contained in a paper adjudication file, the partially sealed document shall be placed in a sealed envelope, however, a version of the document with the sealed portion redacted shall be made available for public inspection. If the sealed document is in an electronic adjudication file, a version of the document with the sealed portion redacted also

shall be electronically maintained and shall be made available for public inspection.

(f) Sealed documents shall be made available for inspection by any party to the case or by his representative, subject to any reasonable conditions and limitations as the presiding workers' compensation administrative law judge or the appeals board may impose.

(g) Sealed documents shall not otherwise be made available for public inspection except by order of a workers' compensation administrative law judge or the appeals board which shall be made only on a showing that good cause exists to permit the inspection.

Note: Authority cited: Sections 127, 133 and 5307, Labor Code. Reference: Section 5307(c), Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10273. Retention, Return and Destruction of Records and Exhibits.

(a) The Division of Workers' Compensation shall retain for at least fifty years after the filing of case opening documents (i.e., the initial application for adjudication of claim or, where an application has not previously been filed, either a stipulations with request for award or a compromise and release) the following records in a adjudication file, in either electronic or paper form:

- (1) the application for adjudication of claim and any amended application;
- (2) all settlement documents;
- (3) all orders, decisions, or awards;
- (4) all minutes of hearing;
- (5) all minutes of hearing and summary of evidence;
- (6) all medical-legal reports;
- (7) all permanent and stationary medical reports of treating physicians;
- (8) all rating instructions;
- (9) all formal ratings, summary rating determinations, and consultative ratings; and
- (10) any other documents as determined by the appeals board, the administrative director, the court administrator.

(b) After five years from the date of filing of the initial application, the Division of Workers' Compensation may eliminate from the adjudication file and destroy paper or electronic correspondence and other miscellaneous mate-

rial or records, including non-permanent and stationary medical reports of treating physicians, not listed in subdivision (a), above.

(c) At any time, the Division of Workers' Compensation may eliminate from the adjudication file and destroy any of the following paper or electronic documents:

- (1) extra copies of pleadings, notices, findings, orders, decisions, awards and other documents; and
- (2) any documents filed in violation of section 10222, subd. (b).

(d) Following a period of fifty (50) years after the filing of the application or other case opening document, the Division of Workers' Compensation may destroy the electronic and/or paper file in each case.

(e) Any party filing an original document or other pieces of evidence pursuant to California Code of Regulations, title 8, section 10603, subd. (a), shall, at the time of filing, either (1) arrange for the return of the document or evidence, at the filing party's sole expense, at the conclusion of all proceedings and appeals thereof; or (2) be deemed by not making such arrangements, to have consented to destruction, without notice, of the document or other evidence at the conclusion of all proceedings and appeals thereof.

(f) Stenographic reporters' notes or electronic sound recording of testimony shall be retained for a period of six (6) years after the taking of them and thereafter may be destroyed or otherwise disposed of.

Note: Authority cited: Sections 133, 5307 and 5500.3, Labor Code. Reference: Sections 136, 135 and 5708, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10275. Recording of Trial Level Proceedings.

(a) For the purposes of this section, "recording" means any photographing, recording, or broadcasting of trial level proceedings using video, film, audio, any digital media or other equipment.

(b) Except as provided in this rule, trial level proceedings shall not be photographed, recorded, or broadcast. This rule does not prohibit the Division of Workers' Compensation from photographing or videotaping sessions for

judicial education or publications and is not intended to apply to closed-circuit television broadcasts solely within the Division of Workers' Compensation or between Division of Workers' Compensation facilities if the broadcasts are controlled by the Division of Workers' Compensation and Division of Workers' Compensation personnel.

(c) Recording shall be permitted only on written order of the workers' compensation administrative law judge assigned to the case as provided in this subdivision. The workers' compensation administrative law judge in his or her discretion may permit, refuse, limit, or terminate recording.

(1) Any person who wishes to record a trial level proceeding shall make a written request to the presiding workers' compensation administrative law judge for permission to record the proceeding at least five business days before the proceeding commences unless good cause to shorten time is shown. The workers' compensation administrative law judge assigned to the proceeding shall rule upon the request. The district office shall promptly notify the parties that a request has been filed.

(2) The workers' compensation administrative law judge may hold a hearing on the request or rule on the request without a hearing.

(3) In ruling on the request, the workers' compensation administrative law judge shall consider the following factors:

(A) Importance of maintaining public trust and confidence in the workers' compensation system;

(B) Importance of promoting public access to the workers' compensation system;

(C) Parties' support of or opposition to the request;

(D) Nature of the case;

(E) Privacy rights of all participants in the proceeding, including witnesses;

(F) Effect on any minor who is a party, prospective witness, or other participant in the proceeding;

(G) Effect on any ongoing law enforcement activity in the case;

(H) Effect on any subsequent proceedings in the case;

(I) Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness;

(J) Effect on excluded witnesses who would have access to the televised testimony of prior witnesses;

(K) Security and dignity of the trial level proceeding;

(L) Undue administrative or financial burden to the Division of Workers' Compensation or participants;

(M) Interference with neighboring hearing rooms;

(N) Maintaining orderly conduct of the proceeding;

(O) Any other factor the workers' compensation administrative law judge deems relevant.

(4) The workers' compensation administrative law judge's ruling on the request to permit recording is not required to make findings or a statement of decision. The workers' compensation administrative law judge may condition the order permitting recording of the proceedings on the requestor's agreement to pay any increased costs incurred by the Division of Workers' Compensation resulting from recording the proceeding (for example, for additional security). The requestor shall be responsible for ensuring that any person who records the trial level proceedings on their behalf know and follow the provisions of the order and this rule.

(5) The order permitting recordation may be modified or terminated on the workers' compensation administrative law judge's own motion or upon application to the workers' compensation administrative law judge without the necessity of a prior hearing or written findings. Notice of the application and any modification or termination ordered pursuant to the application shall be given to the parties and each person permitted by the previous order to record the proceeding.

(6) The workers' compensation administrative law judge shall not permit recording of the following:

(A) Proceedings held in chambers which are not transcribed by a hearing reporter;

(B) Proceedings closed to the public; and

(C) Conferences between an attorney and a client, witness, or aide, between attorneys, or between counsel and the workers' compensation administrative law judge at the bench, unless transcribed by a hearing reporter.

(7) The workers' compensation administrative law judge may require a demonstration that people and equipment comply with this rule.

The workers' compensation administrative law judge may specify the placement of equipment to minimize disruption of the proceedings.

(8) The following rules shall apply to all recording:

(A) One video recording device and one still photographer shall be permitted.

(B) The equipment used shall not produce distracting sound or light. Signal lights or devices to show when equipment is operating shall not be visible.

(C) Microphones and wiring shall be unobtrusively located in places approved by the workers' compensation administrative law judge and shall be operated by one person.

(D) Operators shall not move equipment or enter or leave the courtroom while the proceeding is in session, or otherwise cause a distraction.

(E) Equipment or clothing shall not bear the insignia or marking of a media agency.

(9) If two or more people request recollection of a proceeding, they shall file a statement of agreed arrangements. If they are unable to agree, the workers' compensation administrative law judge may deny a request to record the proceeding.

(d) Any violation of this rule or an order made under this rule is an unlawful interference with the proceedings may be the basis for an order terminating recording, a citation for contempt, or an order imposing monetary or other sanctions as provided by law.

(e) Notwithstanding (a) through (d), a workers' compensation administrative law judge may permit inconspicuous personal recording devices to be used by parties in a courtroom to make sound recordings as personal notes of the proceedings. A person proposing to use a recording device shall obtain advance permission from the workers' compensation administrative law judge before recording the proceeding. The recording shall not be used for any purpose other than as personal notes, and shall not constitute evidence as to any matter recorded. The right on any individual to use a personal recording device shall be suspended if, in the workers' compensation administrative law judge's sole discretion, it appears that (1) the continued recording of the proceedings will inhibit any party or witness from participation in the proceeding; or (2) the recording is done in a manner that threatens to disrupt the proceeding.

Note: Authority cited: Sections 127, 5307(c) and 5500.3, Labor Code. Reference: Section 5307(c), Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

ARTICLE 8 Procedures for Requesting Immediate Action by a Judge

§10280. Walk-Through Documents.

(a) A "walk-through" document is a document that is presented to a workers' compensation administrative law judge for immediate action. Notwithstanding the provisions of section 10250 (relating to the filing of declarations of readiness) and section 10544 (relating to notices of hearing), the following provisions shall govern walk-through documents.

(b) Each district office will have a designee of the presiding workers' compensation administrative law judge available to assign walk-through cases from 8:00 a.m. to 11:00 a.m. and 1:00 p.m. to 4:00 p.m. on court days.

(c) The following documents may be submitted on a walk-through basis:

- (1) Compromise and releases;
- (2) Stipulations with request for award;
- (3) Petitions for attorney's fees for representation of the applicant in vocational rehabilitation;
- (4) Petitions for attorney's fees for representation of the applicant at a deposition; and
- (5) Petitions to compel attendance at a medical examination or deposition.

(d) The following procedures shall be followed for filing walk-through documents:

(1) A walk-through settlement document (i.e., a compromise and release or a stipulations with request for award), and all supporting medical reports and other supporting documents not previously filed, shall be filed directly with the workers' compensation administrative law judge at the date and time of the walk-through. The party presenting the walk-through settlement shall use the appropriate form, document cover sheet, and document separator sheet. Permanent and stationary medical or medical-legal reports shall be indicated as such. In addition, each walk-through settlement document (i.e., a compromise and release or a stipulations with

request for award) shall be accompanied by a proof of service showing that the settlement document was served on all other parties to the settlement, on any defendant not executing the settlement who may be liable for the payment of additional compensation, and on all lien claimants whose liens have not been resolved.

(A) A case opening settlement document being submitted for a walk-through shall be submitted no later than noon (12:00 p.m.) of the court day before any action on the walk-through, and shall be designated as a walk-through document. All documents in support of the settlement document shall be submitted at the walk-through with the assigned judge.

(2) A walk-through petition (i.e., a petition for vocational rehabilitation attorney's fees, a petition for deposition attorney's fees, or a petition to compel attendance at a medical examination or deposition) and all other documents relating to the walk-through petition, including any supporting documentation shall be filed directly with the workers' compensation administrative law judge at the date and time of the walk-through. The party presenting the walk-through petition shall use the appropriate form, document cover sheet, and document separator. In addition, at the date and time of the walk-through, the party filing the walk-through petition shall file a proof of service directly to the workers' compensation administrative law judge, as follows:

(A) For a petition for attorney's fees for representation of the applicant in vocational rehabilitation, a proof of service showing service on the injured worker and the defendant alleged to be liable for paying the fees.

(B) For a petition for attorney's fees for representation of the applicant at a deposition, a proof of service showing service on the injured worker and the defendant alleged to be liable for paying the fees.

(C) For a petition to compel attendance at a medical examination or deposition, a proof of service showing service on the injured worker, the injured worker's attorney, and all defendants.

(e) When appearing for the walk-through proceeding, the party filing the walk-through document shall appear before the district office staff person designated by the presiding workers' compensation administrative law judge to assign the walk-through document to a workers'

compensation administrative law judge. The filing party shall then appear before the assigned judge. If the assigned judge is unavailable for any reason, the filing party shall then proceed to the presiding workers' compensation administrative law judge for possible reassignment to another judge.

(f) A workers' compensation administrative law judge who is presented with a walk-through settlement document shall approve it, disapprove it, suspend action on it, or accept it for later review and action. If a workers' compensation administrative law judge is presented with so many walk-through settlement documents that review of them will interfere with the cases scheduled before him or her for hearing, the judge may refer the walk-through settlement to the presiding judge for possible reassignment to another judge.

(g) A walk-through document may be acted on only by a workers' compensation administrative law judge at the district office that has venue. If an injured worker has existing cases at two or more district offices that have venue, a walk-through document may be filed at any office having venue over an existing case that is a subject of the walk-through document. An existing case is a case that has been filed and assigned a case number prior to the filing of the walk-through document.

(h) A walk-through document may be acted on by any workers' compensation administrative law judge except as follows:

(1) If a judge has taken testimony, any walk-through document in that case must be acted on by the judge who took testimony if that judge works at the district office to which the case is assigned, unless the presiding judge allows it to be acted on by another judge.

(2) If a judge has reviewed a document and declined to approve it, a walk-through document in that case must be acted on by the same judge, if that judge works at the district office to which the case is assigned, unless the presiding judge allows it to be acted on by another judge.

(i) A workers' compensation judge who is presented with a walk-through petition for attorney's fees or petition to compel attendance shall issue an order in compliance with section 10349.

Note: Authority cited: Sections 127.5, 133 and 5307(c), Labor Code. Reference: Sections 4053, 4054, 5001, 5002, 5702 and 5710, Labor Code.

History: 1. New article 8 (sections 10280-10281) and section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10281. Emergency Petitions for Stay.

(a) A party may present to the presiding workers' compensation administrative law judge of the district office having venue a petition to stay an action by another party pending a hearing.

(b) Each district office will have a designee of the presiding workers' compensation administrative law judge available to assign petitions for stay from 8:00 a.m. to 11:00 a.m. and 1:00 p.m. to 4:00 p.m. on court days.

(c) A party who walks through a petition to stay an action shall provide notice to the opposing party or parties no later than 10:00 a.m. of the immediately preceding court day. This notice shall: (1) state with specificity the nature of the relief to be requested by the petition to stay; and (2) state the date, time, and place that the petition to stay will be presented. A copy of the petition to stay shall be attached to the notice. The notice shall be given by either fax or e-mail. If notice by fax or e-mail fails, or if an opposing party's fax number or e-mail address are unknown, notice shall be given in the manner best calculated to expeditiously and timely advise the opposing party of the information set forth in subdivisions (c)(1) and (c)(2), including notice by phone or by overnight mail or delivery service. First-class mail shall not be utilized for notice of a petition to stay an action.

(d) A petition to stay an action shall be accompanied by a declaration regarding notice stating under penalty of perjury: (1) the notice given, including the date, time, manner, and name of the party informed; (2) the relief sought; and (3) whether opposition is expected. In addition, if the petitioner was unable to give timely notice to the opposing party, the declaration under penalty of perjury also shall state that the petitioner in good faith attempted to inform the opposing party but was unable to do so, specifying the efforts made to inform the opposing party.

(e) Upon the receipt of a proper petition to stay an action, the presiding workers' compensation or his or her designee shall, in his or her discretion, either: (1) deny the petition; (2) grant a temporary stay and set the petition for a formal hearing; or (3) set the petition for a formal

hearing, without either denying the petition or granting a temporary stay.

Note: Authority cited: Sections 127.5, 133 and 5307(c), Labor Code. Reference: Sections 4053, 4054, 4902, 5001, 5002, 5702 and 5710, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

ARTICLE 9

Review of Administrative Orders Issued by the Administrative Director

§10290. Petition Appealing Order Granting or Denying Petition for Order Requiring Employee to Select Employer-Designated Physician.

(a) Upon receipt of a timely petition appealing a decision granting or denying a change of primary treating petition, pursuant to California Code of Regulations, title 8, section 9786, subd. (e)(2) or (e)(3), the matter shall be referred to a workers' compensation administrative law judge for hearing and determination of the issues raised. The petition shall be accompanied by a copy of the administrative director's order, a declaration of readiness, an application for adjudication if one has not been previously filed, and any other documents deemed relevant that have not been previously filed. A party aggrieved by the determination of the workers' compensation administrative law judge may seek relief therefrom within the same time and in the same manner specified for petitions for reconsideration.

(b) Any party aggrieved by an order issued by a workers' compensation administrative law judge pursuant to a referral under California Code of Regulations, title 8, section 9786, subd. (e)(4), of the rules of the administrative director may petition the appeals board for relief therefrom within twenty (20) days from the date of the issuance of the order in the same manner specified for petitions for reconsideration.

Note: Authority cited: Sections 127.5, 133 and 5307(c), Labor Code. Reference: Sections 4603 and 4604, Labor Code.

History: 1. New article 9 (sections 10290-10294.5) and section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10291. Petition Appealing Notice of Compensation Due.

(a) The petition appealing notice of compensation due shall be served on the injured worker or dependent and on the audit unit, concurrently with its filing.

(b) The petition appealing notice of compensation due shall specify the factual and legal basis for the petition and shall include the audit unit's file number. The petition appealing notice of compensation due shall be accompanied by a copy of the notice of compensation due, a declaration of readiness, an application for adjudication if one has not been previously filed, and any other documents deemed relevant.

(c) If an application for adjudication has not been previously filed, venue shall be designated and determined in accordance with Labor Code section 5501.5 and California Code of Regulations, title 8, section 10409. If an application for adjudication has been previously filed, the petition appealing notice of compensation due shall be filed at the district office having venue and the case number assigned to the application for adjudication shall be assigned to the petition.

(d) An appeal of notice of compensation due shall be set for a hearing before a workers' compensation administrative law judge within forty-five (45) days of filing unless the employee's claim is already before a workers' compensation administrative law judge on other substantive issues in which case the appeal may be considered with these other issues. The audit unit, insurer, self-insured employer or third party administrator and the injured worker shall receive notice of the hearing and copies of subsequent notices of orders issued in the case. Following the hearing, the workers' compensation administrative law judge shall issue findings of fact and an order affirming, modifying or rescinding the notice of compensation due, which complies with Labor Code section 5313.

(e) The copy of the appeal of notice of compensation due sent to the injured worker shall inform the injured worker of the right to consult an attorney. If the injured worker is represented by an attorney, the workers' compensation administrative law judge may determine the amount of attorney fees reasonably incurred in resisting the appeal of notice of compensation due and may assess reasonable attorney fees as a cost upon the employer filing

the appeal of notice of compensation due in accordance with Labor Code section 129(c).

Note: Authority cited: Sections 127.5, 133 and 5307(c), Labor Code. Reference: Sections 129, 5300 and 5301, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10293. Petition Appealing Order of the Rehabilitation Unit.

(a) Appeals from decisions of the rehabilitation unit of the Division of Workers' Compensation shall be commenced as follows:

(1) if an application for adjudication is already on file, by filing and serving a declaration of readiness and a petition setting forth the reason for the appeal;

(2) if no application for adjudication is on file, by filing and serving an application for adjudication, a declaration of readiness, and a petition setting forth the reason for the appeal.

(b) The party appealing the rehabilitation unit decision and the party opposing the appeal shall file and serve any documents that the parties deem relevant that have not already been filed in the rehabilitation unit case file.

(c) If an application for adjudication has not been previously filed, venue shall be designated and determined in accordance with Labor Code section 5501.5 and California Code of Regulations, title 8, section 10409. If an application for adjudication has been previously filed, the petition appealing a decision of the rehabilitation unit shall be filed at the district office having venue and the case number assigned to the application for adjudication shall be assigned to the petition.

(d) A petition appealing a decision of the rehabilitation unit shall be filed within twenty (20) days from the date of the issuance of the rehabilitation unit decision.

Note: Authority cited: Sections 127, 133 and 5307(c), Labor Code. Reference: Sections 139.5, 4603, 4604 and 5500, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10294. Petition Appealing Determination of a Return to Work Reimbursement.

(a) An eligible employer may appeal the administrative director's notice under section

10119, subd. (i)(1) and (2), by filing a "Petition Appealing Administrative Director's Reimbursement Allowance," setting forth the basis of the appeal. The petition shall be filed within twenty (20) days from the date of the issuance of the administrative director's notice.

(b) If an application for adjudication has been previously filed, the petition appealing the administrative director's notice shall be filed at the district office having venue and the case number assigned to the application for adjudication shall be assigned to the petition. If an application for adjudication has not been previously filed, an application shall be filed together with the petition, and venue shall be designated and determined in accordance with Labor Code section 5501.5 and California Code of Regulations, title 8, section 10409.

(c) A "Petition Appealing Administrative Director's Reimbursement Allowance" shall be accompanied by a declaration of readiness.

(d) A copy of the petition shall be concurrently served on the administrative director.

Note: Authority cited: Sections 133, 139.48 and 5307.3, Labor Code. Reference: Sections 62.5, 139.48 and 5814.6, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10294.5. Petition Appealing Determination Regarding Supplemental Job Displacement Benefits.

(a) Either party may appeal the determination and order of the administrative director issued under California Code of Regulations, title 8, section 10133.54 by filing a petition together with a declaration of readiness to proceed pursuant to section 10250 within twenty calendar days of the issuance of the decision or within twenty days after a request is deemed denied pursuant to California Code of Regulations, title 8, section 10133.54, subd. (f), except that the time for filing shall be extended in accordance with California Code of Regulations, title 8, sections 10507 and 10508. The petition shall set forth the specific factual and legal basis for the appeal.

(b) If an application for adjudication has been previously filed, the petition appealing the administrative director's notice shall be filed at the district office having venue and the case number assigned to the application for adjudication shall be assigned to the petition. If an application for adjudication has not been previously filed, an application shall be filed together with the petition, and venue shall be designated and determined in accordance with Labor Code section 5501.5 and California Code of Regulations, title 8, section 10409.

(c) A copy of the petition shall be concurrently served on the administrative director.

Note: Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Sections 4658.5 and 4658.6, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

ARTICLE 10 Arbitration

§10295. Mandatory Arbitration.

(a) This rule applies to injuries occurring on or after January 1, 1990.

(b) Any application for adjudication that lists one or more disputes involving an issue set forth in Labor Code section 5275, subd. (a), shall be accompanied by an arbitration submittal form. The arbitration submittal form shall indicate that either:

(1) an arbitrator has been selected pursuant to Labor Code section 5271, subd. (a), or

(2) an unsuccessful attempt has been made to select an arbitrator and the presiding workers' compensation administrative law judge is requested pursuant to Labor Code section 5271, subd. (b), to assign a panel of five arbitrators.

(c) If the parties have agreed to an arbitrator pursuant to Labor Code section 5271, subd. (c), the presiding workers' compensation administrative law judge shall, within six (6) days of receipt of the arbitration submittal form, order the issue or issues in dispute submitted for arbitration pursuant to Labor Code sections 5272, 5273, 5276 and 5277.

(d) If the arbitration submittal form requests a panel pursuant to Labor Code section 5271, subd. (b), the presiding workers' compensation administrative law judge shall, within six (6) days of receipt of the arbitration submittal form, serve on each of the parties an identical list of five arbitrators selected at random pursuant to Labor Code 5271, subd. (b). For each party in excess of one party in the capacity of employer and one party in the capacity of

injured employee or lien claimant, the presiding workers' compensation administrative law judge shall randomly select two additional arbitrators to add to the panel in accordance with the selection process set forth in Labor Code section 5271, subd. (c). Each of the parties shall strike two arbitrators from the list and return it to the presiding workers' compensation administrative law judge within six (6) days after service. Failure to timely return the list shall constitute a waiver of a party's right to participate in the selection process. If one arbitrator remains, the presiding workers' compensation administrative law judge shall, within six (6) days of return of the lists from the parties, order the issue or issues submitted for arbitration before the selected arbitrator pursuant to Labor Code sections 5272, 5273, 5276 and 5277. If more than one arbitrator remains on the panel, the presiding workers' compensation administrative law judge shall randomly select an arbitrator from the remaining panelists.

(e) If the parties to the dispute have stricken all the arbitrators from the panel, the presiding workers' compensation administrative law judge shall, within six (6) days of receipt of the last of the returned lists, serve on each of the parties to the dispute a new list of five arbitrators and any additional arbitrators required by Labor Code section 5271, subd. (c), selected at random but excluding the names of the arbitrators on the prior list. Each of the parties to the dispute shall again strike two arbitrators from the list and return it to the presiding workers' compensation administrative law judge within six (6) days after service. This procedure shall continue until one or more arbitrators remain on the lists returned to the presiding workers' compensation administrative law judge.

(f) The parties shall provide all necessary materials to the arbitrator. Any paper file shall remain in the custody of the district office.

(g) A copy of any final decision, order or award from the arbitrator, together with a copy of the record developed as set forth in Labor Code sections 5276 and 5277, shall be filed with the presiding workers' compensation administrative law judge of the district office having venue. The district office shall scan the copies of the arbitrator's the decision, order or award and record into the EAMS adjudication file and, after scanning, shall destroy the copies.

Note: Authority cited: Sections 133 and 5307(c), Labor Code. Reference: Sections 5270-5277, Labor Code.

History: 1. New article 10 (sections 10295-10297) and section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10296. Voluntary Arbitration.

(a) At any time, the parties may agree to submit any issue for arbitration pursuant to Labor Code section 5275, subdivision (b), by submitting an arbitration submittal form that indicates that the parties have selected an arbitrator pursuant to Labor Code section 5271, subdivision (a), and by filing an application for adjudication if one has not been previously filed.

(b) Within six (6) days of receipt of the arbitration submittal form, the presiding workers' compensation administrative law judge shall order the issues in dispute submitted for arbitration pursuant to Labor Code sections 5272, 5273, 5276 and 5277.

(c) If the parties are unable to agree to an arbitrator under Labor Code section 5271, subdivision (a), the parties may agree to follow the procedures for selecting an arbitrator under Labor Code section 5271, subdivisions (b) and (c), as set forth in section 10295.

(d) The parties shall provide all necessary materials to the arbitrator.

(e) A copy of any final decision, order or award from the arbitrator, together with a copy of the record developed as set forth in Labor Code sections 5276 and 5277, shall be filed with the presiding workers' compensation administrative law judge of the district office having venue. The district office shall scan the copies of the arbitrator's decision, order or award and the record into the EAMS adjudication file and, after scanning, shall destroy the copies.

Note: Authority cited: Sections 133 and 5307(c), Labor Code. Reference: Sections 5270-5277, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

§10297. Arbitration Submittal Form.

DWC-CA form 10297 (Arbitration Submittal form) revision dated 11/2008 is incorporated by reference.

Note: Authority cited: Sections 133, 5307 and 5500.3, Labor Code. Reference: Section 5275, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 47).

**SUBCHAPTER 2
WORKERS' COMPENSATION
APPEALS BOARD—RULES OF
PRACTICE AND PROCEDURE**

**ARTICLE 1
General**

§10301. Definitions.

As used in this subchapter:

(a) "Administrative Director" means the Administrative Director of the Division of Workers' Compensation or his or her designee.

(b) "Adjudication file" or "ADJ file" means a case file in which the jurisdiction of the Workers' Compensation Appeals Board has been invoked and which is maintained by the Division of Workers' Compensation in paper format, electronic format, or both, including a temporary paper case file.

(c) "Appeals Board" means the commissioners and deputy commissioners of the Workers' Compensation Appeals Board acting en banc or in panels.

(d) "Applicant" means any person asserting a right to relief under the provisions of Labor Code Section 5300.

(e) "Application for Adjudication" or "application" means the initial pleading that asserts a right to relief under the provisions of Labor Code Section 5300.

(f) "Carve-out case" means a workers' compensation case that, in accordance with the criteria specified in Labor Code sections 3201.5 through 3201.9, is subject to an alternative dispute resolution (ADR) system that supplements or replaces all or part of the dispute resolution processes contained in Division 4 of the Labor Code.

(g) "Case opening document" means any document that creates an adjudication case and invokes the jurisdiction of the Workers' Compensation Appeals Board for the first time.

(h) "Court Administrator" means the administrator of the workers' compensation adju-

dicatory process at the trial level, or his or her designee.

(i) "Declaration of Readiness to Proceed" or "Declaration of Readiness" means a request for a proceeding at a district office.

(j) "Declaration of Readiness to Proceed to Expedited Hearing" means a request for a proceeding at a district office pursuant to Labor Code section 5502(b).

(k) "Defendant" means any person against whom a right to relief is claimed.

(l) "District office" means a location of a trial court of the Workers' Compensation Appeals Board.

(m) "Document" is a pleading, petition, medical report, record, declaration, exhibit, or another filing submitted by a party or lien claimant, including an electronically filed document or a scanned version of a document that was filed in paper form. Each medical report or other record having a different author and/or a different date is a separate "document."

(n) "Document cover sheet" means the form adopted by the Court Administrator under section 10232.1, which is placed on top of a document or set of documents being filed at one time in a specific case.

(o) "Document separator sheet" means the form adopted by the Court Administrator under section 10232.2, which is placed on top of each individual document, when one or more documents are being filed at the same time in the same case, and which is placed on top of each individual attachment to each document being filed, when a document has one or more attachments.

(p) "Electronic Adjudication Management System" or "EAMS" means the computerized case management system used by the Division of Workers' Compensation to electronically store and maintain adjudication files and to perform other case management functions.

(q) "Fax" means a document that has been electronically served by a facsimile (fax) machine or other fax technology.

(r) To "file" a document means to deliver a document or cause it to be delivered to the district office with venue or to the Appeals Board for the purpose of having it included in the adjudication file.

(s) "Hearing" means any trial, mandatory settlement conference, rating mandatory settlement conference, status conference, lien confer-

ence, or priority conference at a district office or before the Appeals Board.

(t) "Lien claimant" means any person or entity claiming payment under the provisions of Labor Code section 4903 or 4903.1.

(u) "Lien conference" means a proceeding held for the purpose of assisting the parties in resolving disputed lien claims pursuant to Labor Code section 4903 or 4903.1 or, if the dispute cannot be resolved, to frame the issues and stipulations in preparation for a lien trial.

(v) "Mandatory settlement conference" means a proceeding to assist the parties in resolving their dispute or, if the dispute cannot be resolved, to frame the issues and stipulations in preparation for a trial.

(w) "Optical character recognition form" or "OCR form" means a paper form designed to be scanned so that its information is automatically extracted and stored in EAMS.

(x) "Party" means: (1) a person claiming to be an injured employee or the dependent of a deceased employee; (2) a defendant; or (3) a lien claimant where either (A) the underlying case of the injured employee or the dependent(s) of an injured employee has been resolved or (B) the injured employee or the dependent(s) of a deceased employee choose(s) not to proceed with his, her, or their case.

(y) "Petition" means any request for action by the Workers' Compensation Appeals Board other than an Application for Adjudication, an Answer or a Declaration of Readiness to Proceed.

(z) "Priority conference" means a proceeding in which the applicant is represented by an attorney and the issues in dispute at the time of the proceeding include employment and/or injury arising out of and in the course of employment.

(aa) "Rating mandatory settlement conference" means a mandatory settlement conference conducted to facilitate determination of the existence and extent of permanent disability through the use of informal ratings issued by the Disability Evaluation Unit, where the only unresolved issues are permanent disability and the need for future medical treatment.

(bb) "Regular hearing" means a trial.

(cc) To "serve" a document means to personally deliver a copy of the document, or to send it in a manner permitted by these rules or the rules of the Court Administrator, to a party,

lien claimant, or attorney who is entitled to a copy of the document.

(dd) "Status conference" means a proceeding set for the purpose of ascertaining if there are genuine disputes requiring resolution, of providing assistance to the parties in resolving disputes, of narrowing the issues, and of facilitating preparation for trial if a trial is necessary.

(ee) "Submission" means the closing of the record to the receipt of further evidence or argument.

(ff) "Trial" means a proceeding set for the purpose of receiving evidence.

(gg) "Venue" means the district office, as established by Labor Code section 5501.5 or 5501.6, at which any trial level proceedings will be conducted and from which any trial level orders, decisions, or awards will be issued.

(hh) "Workers' Compensation Appeals Board" means the Appeals Board, commissioners, deputy commissioners, presiding workers' compensation judges and workers' compensation judges.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Sections 110, 130, 131, 134, 3201.5 et seq., 4903 et seq., 5300, 5307, 5309, 5310, 5500, 5500.3, 5501, 5501.5, 5501.6, 5502, 5700, 5701 and 5808, Labor Code.

History: 1. Amendment of section and Note filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

2. Amendment of section and Note filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10302. Working Titles of Workers' Compensation Administrative Law Judges and Presiding Workers' Compensation Administrative Law Judges.

The working titles of "workers' compensation administrative law judge" (formerly, "referee") and "presiding workers' compensation administrative law judge" (formerly, "referee in charge") shall be respectively "workers' compensation judge" and "presiding workers' compensation judge." The term "workers' compensation judge" shall include pro tempore judges appointed pursuant to section 10350.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Sections 27, 123.5, 123.7, 5309, 5310 and 5312, Labor Code.

History: 1. Amendment of section heading, section and Note filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10306. Case Names. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Section 126, Labor Code.

History: 1. Amendment of section heading and section filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

2. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10308. Official Address Record. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Section 126, Labor Code.

History: 1. Amendment filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

2. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10324. Ex Parte Communications.

(a) No document, including letters or other writings, shall be filed by a party or lien claimant with the Workers' Compensation Appeals Board unless service of a copy thereof is made on all parties together with the filing of a proof of service as provided for in Rule 10505.

(b) When the Appeals Board or a workers' compensation judge receives an ex parte letter or other document from any party or lien claimant in a case pending before the Appeals Board or the workers' compensation judge, he, she, or it shall serve copies of the letter or document on all other parties to the case with a cover letter explaining that the letter or document was received ex parte in violation of this rule.

(c) No party or lien claimant shall discuss with the Appeals Board or a workers' compensation judge the merits of any case pending before the Appeals Board or that judge without the presence of all necessary parties to the proceeding, except as provided by these rules.

(d) All correspondence concerning the examination by and the reports of a physician appointed by a workers' compensation judge or the Appeals Board pursuant to Labor Code

section 5701, 5703.5, 5706, or 5906 shall be made, respectively, through the workers' compensation judge or the Appeals Board, and no party, attorney or representative shall communicate with that physician regarding the merits of the case unless ordered to do so.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Sections 5701, 5703.5, 5706, 5708 and 5906, Labor Code.

History: 1. Amendment filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

2. Amendment of section and Note filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

ARTICLE 2

Powers, Duties and Responsibilities

§10346. Assignment or Transfer of Cases.

(a) The presiding workers' compensation judge has full responsibility for the assignment of cases to the workers' compensation judges of each office. The presiding workers' compensation judge may utilize EAMS to assign cases. The presiding workers' compensation judge shall transfer to another workers' compensation judge the proceedings on any case in the event of the death, extended absence, unavailability, or disqualification of the workers' compensation judge to whom it has been assigned, and may otherwise reassign those cases if no oral testimony has been received therein, or if the requirements of Labor Code Section 5700 have been waived. To the extent practicable and fair, supplemental proceedings shall be assigned to the workers' compensation judge who heard the original proceedings.

(b) Any conflict that may arise between presiding workers' compensation judges of different offices respecting assignment of a case, venue, or priority of hearing where there is conflict in calendar settings will be resolved by a deputy commissioner of the Appeals Board.

(c) If a compromise and release or stipulations with request for award have not been approved, disapproved, or noticed for trial on the issue of adequacy and other disputed issues within 45 days after filing, the file shall be transferred to the presiding judge for review.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Sections 5309 and 5310, Labor Code.

History: 1. Amendment of section and Note filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

2. Amendment of section and Note filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10347. Assignment of Judges. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Sections 5309 and 5310, Labor Code.

History: 1. New section filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51). For prior history, see Register 96, No. 43.

2. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

ARTICLE 4 Filing of Documents

§10390. Place and Time of Filing Documents. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Section 126, Labor Code.

History: 1. Repealer and new section filed 12-23-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 52).

2. Amendment filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

3. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10391. Filing of Copies of Documents. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Section 126, Labor Code.

History: 1. New section filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

2. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10392. Form and Size Requirements for Filed Documents. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Section 126, Labor Code.

History: 1. Amendment filed 12-23-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 52).

2. Amendment filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

3. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10395. Improper Filing of Documents. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Section 126, Labor Code.

History: 1. New section filed 5-25-82; designated effective 7-1-82 (Register 82, No. 22).

2. Amendment filed 12-23-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 52).

3. New subsections (e)-(f), subsection relettering and amendment of last paragraph filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

4. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10396. Duty to Furnish Correct Address. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Section 126, Labor Code.

History: 1. Amendment filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

2. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10397. Restrictions on the Rejection for Filing of Documents Subject to a Statute of Limitations or a Jurisdictional Time Limitation.

(a) An application for adjudication of claim, a petition for reconsideration, a petition to reopen, or any other petition or other document that is subject to a statute of limitations or

a jurisdictional time limitation shall not be rejected for filing solely on the basis that:

(1) the document is not filed in the proper office of the Workers' Compensation Appeals Board;

(2) the document has been submitted without the proper form, or it has been submitted with a form that is either incomplete or contains inaccurate information; or

(3) the document has not been submitted with the required document cover sheet and/or document separator sheet(s), or it has been submitted with a document cover sheet and/or document separator sheet(s) not containing all of the required information.

(b) A document that is subject to a statute of limitations or a jurisdictional time limitation may be rejected for filing if it does not contain a combination of information sufficient to establish the case or cases to which the document relates or, if it is a case opening document, sufficient information to open an adjudication file. If a document is rejected in accordance with this subdivision, the Court Administrator shall return the document to the filer and shall notify the filer, through the service of a Notice of Document Discrepancy, that the document has not been accepted for filing. The Notice of Document Discrepancy shall specify the nature of the discrepancy(ies) and the date of the attempted filing, and it shall state that the filer shall have 15 days from the service of the Notice within which to correct the discrepancy(ies) and resubmit the document for filing. If the document is corrected and resubmitted for filing within 15 days, or at a later date upon a showing of good cause, it shall be deemed filed as of the original date the document was submitted.

(d) Nothing in this section shall preclude the discretionary or conditional acceptance for filing of a document that is subject to a statute of limitations or a jurisdictional time limitation, even if it does not contain a combination of information sufficient to establish the case or cases to which the document relates or, if it is a case opening document, sufficient information to open an adjudication file.

(e) Where document that it is subject to a statute of limitations or a jurisdictional time limitation has been accepted for filing in accordance with this rule, but the document nevertheless cannot be processed by EAMS, the Court Administrator may serve a copy of the filed

document on the filing party or lien claimant, together with a Notice of Document Discrepancy. The notice may specify the nature of the discrepancy(ies) and request that the party correct the discrepancy(ies) within 15 days after service of the Notice, however, a failure to timely correct the discrepancy(ies) shall not nullify the acceptance of the document for filing.

(f) Nothing in this section shall be deemed to excuse non-compliance with any of other provisions of the rules of the Workers' Compensation Appeals Board or non-compliance with the rules the Court Administrator. Any such non-compliance may still be a basis for the imposition of sanctions under Labor Code section 5813 and Rule 10561.

Note: Authority cited: Article XIV, Section 4, California Constitution; Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Sections 126, 5316, 5500 and 5501, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

Editor's Note: No subsection (c) was enacted.

ARTICLE 5 Pleadings

§10400. Filing and Service of Applications.

(a) Except as provided by sections 10865 and 10953, proceedings for the adjudication of rights and liabilities before the Workers' Compensation Appeals Board shall be initiated by the filing of an Application for Adjudication, a case opening Compromise and Release Agreement, a case opening Stipulations with Request for Award, or a Request for Findings of Fact under section 10405.

(b) A case opening Compromise and Release Agreement, a case opening Stipulations with Request for Award, and a Request for Findings of Fact under section 10405 are each an "application" for purposes of invoking the jurisdiction of the Workers' Compensation Appeals Board, but none of these documents shall be deemed an application for purposes of Labor Code section 4064(c).

(c) Upon the filing of an initial application, the application shall be assigned an adjudication case number and a venue.

(d) When filing an amended application, the applicant shall indicate on the box set forth

on the application form that it is an "amended" application.

(e) Upon filing an Application for Adjudication, the filing party or lien claimant shall concurrently serve a copy of the application and any accompanying documents on all other parties and lien claimants.

(f) If the party filing the application is an unrepresented injured employee, an unrepresented dependent of a deceased employee, or a lien claimant or non-attorney representative of a lien claimant who falls within one of the exceptions of section 10228, subdivisions (c)(5)(A) through (c)(5)(C), the Workers' Compensation Appeals Board:

(1) shall serve a conformed copy of the application on all parties and lien claimants, including the filing applicant, who are listed on either on the application, on the proof of service to the application, or on the address record (if an address record was previously created for an earlier application); and

(2) if it is an initial application, shall concurrently give notification of the assigned adjudication case number and venue.

Such service shall be deemed service of a conformed copy of the application for purposes of Labor Code section 5501.

(g) For all other parties and lien claimants, the Workers' Compensation Appeals Board:

(1) shall serve a conformed copy of the application on the filing party or lien claimant (or, if represented, on the filing party or lien claimant's attorney or other representative); and

(2) if it is an initial application, shall concurrently give notification of the assigned adjudication case number and venue.

Upon receipt of the conformed copy of the application, the filing party or lien claimant (or, if represented, the filing party or lien claimant's attorney or other representative) shall forthwith serve a copy of the conformed application on all other parties and lien claimants who are listed on the application or on the proof of service to the application, and, if it is an initial application, shall concurrently notify all other parties and lien claimants of the assigned adjudication case number and venue.

Such service shall be deemed service of a conformed copy of the application for purposes of Labor Code section 5501.

(h) Disclosure of the applicant's Social Security number is voluntary, not mandatory. A

failure to provide a Social Security number will not have any adverse consequences. Nevertheless, although an applicant is not required by law to provide a Social Security number, he or she is encouraged to do so. Social Security numbers are used solely for identification and verification purposes in order to administer the workers' compensation system. A Social Security number will not be disclosed, made available, or otherwise used for purposes other than those specified, except with the consent of the applicant, or as permitted or required by statute, regulation, or judicial order.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Sections 126, 5316, 5500 and 5501, Labor Code.

History: 1. Repealer and new section exempt from OAL review pursuant to Government Code section 11351 filed 12-19-90; operative 1-1-91 (Register 91, No. 7).

2. Amendment of section filed 6-11-92 with Secretary of State by Workers' Compensation Appeals Board; operative 6-11-92. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 92, No. 24).

3. Amendment filed 12-23-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 52).

4. Editorial correction of article heading (Register 93, No. 53).

5. Amendment of section and Note filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

6. Amendment of section heading, section and Note filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10403. Application Required Before Jurisdiction Invoked and Before Compelled Discovery May Be Commenced.

The jurisdiction of the Workers' Compensation Appeals Board is invoked only by the filing of an initial Application for Adjudication of Claim or other case opening document. The pre-application assignment of a non-adjudication EAMS case number by any ancillary unit of the Division of Workers' Compensation (e.g., the Disability Evaluation Unit, the Information and Assistance Office, the Rehabilitation Unit, or the Retraining and Return to Work Unit):

(a) does not establish the jurisdiction of the Workers' Compensation Appeals Board and,

therefore, does not permit it to conduct any hearings or to issue any orders;

(b) does not toll the statute of limitations (except as provided in Labor Code section 5454 for submissions to the Information and Assistance Unit); and

(c) does not authorize the commencement of formal, compelled discovery.

Nothing in this section shall be construed to preclude any non-compelled pre-application medical evaluations or investigations.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Sections 5300, 5301 and 5500, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47). For prior history, see Register 92, No. 24.

§10409. Venue.

(a) The person or entity filing an initial Application for Adjudication (or other case opening document) shall designate venue and shall specify whether venue is based upon: (1) the place of the employee or dependent's residence at the time of filing (Lab. Code, §5501.5(a)(1) or (d)); (2) the place where the injury allegedly occurred or, for cumulative trauma or industrial disease claims, where the last alleged injurious exposure occurred (Lab. Code, §5501.5(a)(2) or (d)); or (3) the place where the employee's attorney maintains his or her principal place of business (Lab. Code, §5501.5(a)(3)).

(b) When a Division of Workers' Compensation employee files his or her own Application for Adjudication of Claim or other case opening document, the following provisions shall apply:

(1) Regardless of the venue designated by the employee, venue shall be determined as follows:

(A) The parties may agree on a venue, subject to the approval of the presiding workers' compensation judge of the agreed-upon venue;.

(B) If the parties are unable to agree on a suitable venue, or for any other good cause shown, the presiding workers' compensation judge of the district office designated on the application or other case opening document shall consult with the Secretary or other Deputy Commissioner of the Appeals Board to determine the appropriate venue, with the Secretary

or other Deputy Commissioner issuing the appropriate venue order.

(2) The Secretary or other Deputy Commissioner of the Appeals Board shall assign the case to a workers' compensation judge unfamiliar with the employee. When appropriate, a workers' compensation judge from a region other than the employee's region shall be assigned.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Sections 5500 and 5501.5, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10410. Objection to Venue Under Labor Code Section 5501.5(c).

Pursuant to Labor Code section 5501.5(c), any employer or insurance carrier listed on an initial Application for Adjudication may file an objection to a venue selection, based on the employee's attorney's principal place of business under Labor Code section 5501.5(a)(3), within 30 days after notice of the adjudication case number and venue is received by the employer or insurance carrier. The objecting employer or insurance carrier shall state under penalty of perjury the date when the notice of the adjudication case number and venue was received.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Section 5501.5, Labor Code.

History: 1. New section filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

2. Amendment of section heading, section and Note filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10411. Petition for Change of Venue Under Labor Code Section 5501.6.

A petition for change of venue pursuant to Labor Code section 5501.6 shall be filed at the district office with venue. Any objection to a petition for a change of venue shall be filed within 10 days of the filing of the petition. The presiding judge of the district office having venue, or his or her designee, shall grant or deny the petition for change of venue, or serve notice of a status conference concerning the petition, within 30 days of the filing of the petition.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Section 5501.6, Labor Code.

History: 1. New section filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

2. Amendment of section heading, section and Note filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10412. Proceedings and Decisions After Venue Change.

When an order changing venue is issued, all further trial level proceedings shall be conducted at, and all further trial level orders, decisions, and awards shall be issued by, the district office to which venue was changed until another order changing venue is issued.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Sections 126 and 5501.6, Labor Code.

History: 1. New section filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51). For prior history, see Register 93, No. 52.

2. Amendment of section heading, section and Note filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10414. Declaration of Readiness to Proceed. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Sections 134, 5502 and 5813, Labor Code.

History: 1. Amendment exempt from OAL review pursuant to Government Code section 11351 filed 12-19-90; operative 1-1-91 (Register 91, No. 7).

2. Amendment of section filed 6-11-92 with Secretary of State by Workers' Compensation Appeals Board; operative 6-11-92. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 92, No. 24).

3. Amendment of first paragraph filed 12-23-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 52).

4. Amendment of section and Note filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

5. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10415. Declaration of Readiness to Proceed to Expedited Hearing. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Section 5502(b), Labor Code.

History: 1. New section filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

2. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10416. Objection to Declaration of Readiness to Proceed. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Sections 134 and 5813, Labor Code.

History: 1. Amendment exempt from OAL review pursuant to Government Code section 11351 filed 12-19-90; operative 1-1-91 (Register 91, No. 7).

2. Amendment of first paragraph filed 12-23-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 52).

3. Amendment of section and Note filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

4. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10417. Walk-Through Calendar Setting. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Sections 5316 and 5502, Labor Code.

History: 1. Amendment exempt from OAL review pursuant to Government Code section 11351 filed 12-19-90; operative 1-1-91 (Register 91, No. 7).

2. Amendment filed 12-23-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 52).

3. Renumbering of former section 10417 to section 10420 and new section 10417 filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

4. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10450. Petitions.

(a) A request for action by the Workers' Compensation Appeals Board, other than an Application for Adjudication, an Answer, or a Declaration of Readiness, shall be made by petition. The caption of each petition shall contain the case title and adjudication case number and shall indicate the type of relief sought.

(b) Any previously filed document shall not be attached to a petition; any such document that is attached to a petition may be discarded.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Section 126, Labor Code.

History: 1. Amendment of section and Note filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

2. Amendment of section and Note filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

ARTICLE 6 Service

§10500. Service by the Workers' Compensation Appeals Board.

(a) Except as provided in subdivision (b) below, the Workers' Compensation Appeals Board may, in its discretion, designate a party or lien claimant, or their attorney or agent of record, to make service of notices of the time and place of hearing, orders approving compromise and release, awards based upon stipulations with request for award and any interim or procedural orders. In deciding whether to exercise this discretion, the Workers' Compensation Appeals Board may consider whether service by it would be more efficient and cost-effective because most or all of the parties, lien claimants, attorneys, or agents of record to be served have specified e-mail or fax as their preferred method of service. If discretion is exercised so as to require designated service, the party, lien claimant, or attorney or agent of record designated to make service shall retain the proof of service and shall not file it unless ordered to do so by the Workers' Compensation Appeals Board.

(b) The Workers' Compensation Appeals Board shall serve all parties and lien claimants of record notice of any final order, decision, or award issued by it on a disputed issue after

submission. The Workers' Compensation Appeals Board shall not designate a party or lien claimant, or their attorney or agent of record, to serve any final order, decision, or award relating to a submitted disputed issue.

(c) If the Workers' Compensation Appeals Board effects personal service of a document at a hearing or at a walk-through proceeding, the proof of personal service shall be made by endorsement on the document, setting forth the fact of personal service, the name(s) of the person(s) served and the date of service. The endorsement shall bear the signature of the person making the service.

(d) If the Workers' Compensation Appeals Board serves a document by mail, the proof of mail service shall be made by endorsement on the document, setting forth the fact of mail service on the persons or entities listed on the official address record who have not designated e-mail or fax as their preferred method of service. The endorsement shall state the date of mail service and it shall bear the signature of the person making the service.

(e) If the Workers' Compensation Appeals Board electronically serves a document through EAMS on persons or entities listed on the official address record who have designated e-mail or fax as their preferred method of service, the record of electronic service maintained in EAMS shall constitute proof of service on such persons or entities by the Workers' Compensation Appeals Board.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Sections 5316 and 5504, Labor Code.

History: 1. Repealer and new section exempt from OAL review pursuant to Government Code section 11351 filed 12-19-90; operative 1-1-91 (Register 91, No. 7).

2. Amendment filed 12-16-92; operative 2-1-93 and exempt from OAL review pursuant to Government Code section 11351 (Register 92, No. 51).

3. Amendment of section and Note filed 12-23-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 52).

4. Amendment filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

5. Amendment of section heading, section and Note filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10505. Service by the Parties or Lien Claimants.

(a) This section shall apply when a document is served by a party, a lien claimant, or their attorney or other agent of record.

(b) Except when a document is personally served, service of any document shall be made by first-class mail or by an alternative method that will effect service that is equivalent to or more expeditious than first-class mail, unless:

(1) the party, lien claimant, attorney, or agent being served has previously specified that a designated preferred method of service other than first-class mail may be used for any service, consistent with section 10218; or

(2) the serving party, lien claimant, attorney, or agent and the receiving party, lien claimant, attorney, or agent previously agreed to some other method of service.

For purposes of this subsection, "an alternative method that will effect service that is equivalent to or more expeditious than first-class mail" shall be limited to either: (i) use of express (overnight) or priority mail; or (ii) use of a bona fide commercial delivery service or attorney service promising delivery within two business days, as shown on the service's invoice or receipt.

(c) If a document is personally served by a party or lien claimant, the proof of personal service shall be made by endorsement on the document, setting forth the fact of personal service, the name(s) of the person(s) served and the date of service. The endorsement shall bear the signature of the person making the service.

(d) If a document is served by a party or lien claimant by mail on persons listed on the official address record who have designated mail as their preferred method of service, who have failed to make any designation, or who have previously agreed to accept mail service in accordance with subdivision (g), the proof of mail service may be made by: (1) affidavit or declaration of service; (2) written statement endorsed upon the document served and signed by the party making the statement; or (3) letter of transmittal. The proof of service shall set forth the names and addresses of persons served, the fact of service by mail, the date of service, and the address(es) to which mailing was made.

(e) If a document is served by a party or lien claimant by e-mail on persons listed on the official address record who have designated

e-mail as their preferred method of service, or who have previously agreed to accept e-mail service in accordance with subdivision (g), the proof of e-mail service must state:

(1) the e-mail address of the person making the e-mail service;

(2) the date of the e-mail service;

(3) the name(s) and e-mail address(es) of the person(s) served; and

(4) that the document was served by e-mail and that there was no report of any error or delay in the transmission of the e-mail.

Absent evidence to the contrary, service by e-mail shall be deemed complete at the time of transmission, unless a document is re-served in accordance with subdivision (h).

(f) If a document is served by a party or lien claimant by fax on persons listed on the official address record who have designated fax as their preferred method of service, or who have previously agreed to accept fax service in accordance with subdivision (g), the proof of fax service must state:

(1) the sending fax machine telephone number of the person making the fax service;

(2) the date and time of the fax service;

(3) the name and the fax machine telephone number of the person served; and

(4) that the document was served fax transmission and the transmission was reported as complete and without error.

Absent evidence to the contrary, service by fax shall be deemed complete at the time of transmission, unless a document is re-served in accordance with subdivision (h).

(g) By prior agreement of the parties or lien claimants, or where authorized or requested by the receiving party or lien claimant, service of any document may be made by methods other than the designated preferred method of service.

(h) This subdivision shall apply where, after serving a document in accordance with subdivisions (d), (e), (f), and/or (g), the serving party or lien claimant (or their attorney or agent of record) subsequently receives notification that the service to one or more parties or lien claimants (or to their attorneys or agents of record) failed.

(1) When the serving party or lien claimant (or their attorney or agent of record) receives notification of failed service to any intended recipient(s), the server shall promptly re-serve the document on the intended recipient(s) using

the method of service (i.e., mail, e-mail, fax) best calculated to result in valid service on the intended recipient(s), even if the intended recipient(s) did not previously designate that method as their preferred method of service.

(2) The server need not re-serve the document on intended recipients for whom the server did not receive notification of failed service.

(3) On re-service, the server shall execute a new proof of service in accordance with subdivisions (c), (d), (e), and/or (f), showing re-service on the intended recipient(s).

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Section 5316, Labor Code.

History: 1. Amendment of section heading and text filed 12-23-93; operative 1-1-94. Submitted to OAL for printing pursuant to Government Code section 11351 (Register 93, No. 52).

2. Amendment filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

3. Amendment of section heading, section and Note filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10507. Time Within Which to Act When a Document is Served by Mail, Fax, or E-Mail.

(a) If a document is served by mail, fax, e-mail, or any method other than personal service, the period of time for exercising or performing any right or duty to act or respond shall be extended by:

(1) five calendar days from the date of service, if the physical address of the party, lien claimant, attorney, or other agent of record being served is within California;

(2) ten calendar days from the date of service, if the physical address of the party, lien claimant, attorney, or other agent of record being served is outside of California but within the United States; and

(3) twenty calendar days from the date of service, if the physical address of the party, lien claimant, attorney, or other agent of record being served is outside the United States.

(b) For purposes of this section, “physical address” means the street address or Post Office Box of the party, lien claimant, attorney, or other agent of record being served, as reflected in the Official Address Record at the time of service, even if the method of service actually used was

fax, e-mail, or other agreed-upon method of service.

(c) This rule applies whether service is made by the Workers’ Compensation Appeals Board, a party, a lien claimant, or an attorney or other agent of record.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Section 5316, Labor Code.

History: 1. Amendment of section heading and section filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

2. Amendment of section heading, section and Note filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10508. Extension of Time for Weekends and Holidays.

If the last day for exercising or performing any right or duty to act or respond falls on a weekend, or on a holiday for which the offices of the Workers’ Compensation Appeals Board are closed, the act or response may be performed or exercised upon the next business day.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Section 5316, Labor Code; Sections 6700, 6701 and 6707, Government Code; and Sections 10, 12, 12a, 12b, 13 and 135, Code of Civil Procedure.

History: 1. New section filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10510. Service on Represented Employees or Dependents and on Attorneys or Agents.

(a) All orders, decisions, findings, awards, minutes of hearing, notices of hearing, correspondence, and any other documents issued by the Workers’ Compensation Appeals Board, including those being served by designated service in accordance with section 10500, shall be served on:

(1) the injured employee or any dependent(s) of a deceased employee, whether or not the employee or dependent is represented by an attorney or other agent of record;

(2) each attorney or other agent of record of the injured employee or any dependent(s) of a deceased employee; and

(3) each attorney or other agent of record for any other affected party or affected lien claimant, unless that party or lien claimant is

unrepresented, in which event service shall be made directly on the party or lien claimant.

(b) Except for designated service under section 10500 or as otherwise provided by these rules, service by any party or lien claimant shall be made on the attorney(s) or agent(s) of record of each other affected party or affected lien claimant, unless that party or lien claimant is unrepresented, in which event service shall be made directly on the party or lien claimant. Except as provided in section 10500, or as otherwise ordered by a workers' compensation judge or the Appeals Board, no party or lien claimant shall be required to serve any document on the injured employee or any dependent(s) of a deceased employee, if the employee or dependent is represented by an attorney or other agent of record.

(c) Nothing in this rule shall preclude more comprehensive service, either as ordered by the Workers' Compensation Appeals Board or in the discretion of the Workers' Compensation Appeals Board or the parties.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Section 5316, Labor Code.

History: 1. Amendment filed 12-23-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 52).

2. Amendment of section heading, section and Note filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10514. Proof of Service by Parties and Lien Claimants. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Section 5316, Labor Code.

History: 1. Amendment of section heading and text filed 12-23-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 52).

2. Amendment filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

3. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10520. Proof of Service by Workers' Compensation Appeals Board. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Section 5316, Labor Code.

History: 1. Amendment filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

2. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

ARTICLE 8 Hearings

§10541. Submission at Conference.

(a) A workers' compensation judge may receive evidence and submit an issue or issues for decision at a conference hearing if the parties so agree.

(b) If documentary evidence is required to determine the issue or issues being submitted, the parties shall comply with the provisions of Rule 10629 regarding the listing and filing of exhibits.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Sections 5708 and 5709, Labor Code.

History: 1. Amendment filed 12-23-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 52).

2. Amendment of section heading, section and Note filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

3. Amendment of section and Note filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10548. Continuances; Appearances in Settled Cases. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Article XIV, Section 4, California Constitution; and Section 5502.5, Labor Code.

History: 1. Amendment of section heading, section and Note filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

2. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10550. Proper Identification of the Parties and Lien Claimants.

Whenever any party or lien claimant (or any attorney or other representative for a party or lien claimant) either (i) files any Application for

Adjudication, Answer, stipulated Findings and Award, Compromise and Release, lien claim, petition or other pleading with the Workers' Compensation Appeals Board or (ii) states its appearance on the record at any hearing before the Workers' Compensation Appeals Board (including but not limited to stating its appearance on any pretrial conference statement, appearance sheet, or minutes of hearing), the party or lien claimant, or its attorney or other representative, shall comply with the following requirements:

(a) each party or lien claimant shall set forth its full legal name, and each attorney or other representative shall set forth the full legal name(s) of the party or parties he, she, or it is representing;

(b) if an adjusting agent or third-party claims administrator is appearing, it shall disclose: (1) whether it is appearing on behalf of an employer, an insurance carrier, or both; (2) the identity or identities of the party or parties it is representing; and (3) if it is representing an insurance carrier, whether the policy includes a high self-insured retention, a large deductible, or any other provision that affects the identity of the entity or entities actually liable for the payment of compensation;

(c) if an insurance carrier is appearing, it shall disclose: (1) whether it is appearing solely on its behalf, or also on behalf the insured employer; and (2) whether its policy includes a high self-insured retention, a large deductible, or any other provision that affects the identity of the entity actually liable for the payment of compensation; and

(d) if a lien claim is being filed or amended, or if a lien claimant is appearing, the lien claimant shall state whether it is the original owner of the alleged debt or whether it has purchased the alleged debt from the original owner or some subsequent purchaser.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Sections 3755-3759, 4903.1(c), 5001, 5002, 5003, 5004, 5500, 5502, 5503, 5505, 5702 and 5709, Labor Code.

History: 1. New section filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10555. Priority Conference Calendar. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Section 5502(c), Labor Code.

History: 1. New section filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

2. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10561. Sanctions.

(a) On its own motion or upon the filing of a petition pursuant to Rule 10450, the Workers' Compensation Appeals Board may order payment of reasonable expenses, including attorney's fees and costs and, in addition, sanctions as provided in Labor Code section 5813. Before issuing such an order, the alleged offending party or attorney must be given notice and an opportunity to be heard. In no event shall the Workers' Compensation Appeals Board impose a monetary sanction pursuant to Labor Code section 5813 where the one subject to the sanction acted with reasonable justification or other circumstances make imposition of the sanction unjust.

(b) Bad faith actions or tactics that are frivolous or solely intended to cause unnecessary delay include actions or tactics that result from a willful failure to comply with a statutory or regulatory obligation, that result from a willful intent to disrupt or delay the proceedings of the Workers' Compensation Appeals Board, or that are done for an improper motive or are indisputably without merit. Violations subject to the provisions of Labor Code Section 5813 shall include but are not limited to the following:

(1) Failure to appear or appearing late at a conference or trial where a reasonable excuse is not offered or the offending party has demonstrated a pattern of such conduct.

(2) Filing a pleading, petition or legal document unless there is some reasonable justification for filing the document.

(3) Failure to timely serve documents (including but not limited to medical reports and medical-legal reports) as required by the rules of the Appeals Board, the Court Administrator, or the Administrative Director, where the documents are within the party or lien claimant's possession or control, unless that failure resulted from mistake, inadvertence, or excusable neglect.

(4) Failing to comply with the Workers' Compensation Appeals Board's Rules of Practice and Procedure, with the regulations of the

Administrative Director or the Court Administrator, or with any award or order of the Workers' Compensation Appeals Board, including an order of discovery, which is not pending on reconsideration, removal or appellate review and which is not subject to a timely petition for reconsideration, removal, or appellate review, unless that failure results from mistake, inadvertence, surprise, or excusable neglect.

(5) Executing a declaration or verification to any petition, pleading, or other document filed with the Workers' Compensation Appeals Board:

(A) that: (i) contains false or substantially false statements of fact; (ii) contains statements of fact that are substantially misleading; (iii) contains substantial misrepresentations of fact; (iv) contains statements of fact that are made without any reasonable basis or with reckless indifference as to their truth or falsity; (v) contains statements of fact that are literally true, but are intentionally presented in a manner reasonably calculated to deceive; and/or (vi) conceals or substantially conceals material facts; and

(B) where a reasonable excuse is not offered or where the offending party has demonstrated a pattern of such conduct.

(6) Bringing a claim, conducting a defense, or asserting a position:

(A) that is: (i) indisputably without merit, (ii) done solely or primarily for the purpose of harassing or maliciously injuring any person, and/or (iii) done solely or primarily for the purpose of causing unnecessary delay or a needless increase in the cost of litigation; and

(B) where a reasonable excuse is not offered or where the offending party has demonstrated a pattern of such conduct.

(7) Presenting a claim or a defense, or raising an issue or argument, that is not warranted under existing law — unless it can be supported by a nonfrivolous argument for an extension, modification, or reversal of the existing law or for the establishment of new law — and where a reasonable excuse is not offered or where the offending party has demonstrated a pattern of such conduct. In determining whether a claim, defense, issue, or argument is warranted under existing law, or if there is a reasonable excuse for it, consideration shall be given to:

(A) whether there are reasonable ambiguities or conflicts in the existing statutory, regu-

latory, or case law, taking into consideration the extent to which a litigant has researched the issues and found some support for its theories; and

(B) whether the claim, defense, issue, or argument is reasonably being asserted to preserve it for reconsideration or appellate review.

This subdivision is specifically intended not to have a “chilling effect” on a party or lien claimant’s ability to raise and pursue legal arguments that reasonably can be regarded as not settled.

(8) Asserting a position that misstates or substantially misstates the law, and where a reasonable excuse is not offered or where the offending party has demonstrated a pattern of such conduct.

(9) Using any language or gesture at or in connection with any hearing, or using any language in any pleading or other document:

(A) where the language or gesture (i) is directed to the Workers' Compensation Appeals Board, to any of its officials or staff, or to any party or lien claimant (or the attorney or other representative for a party or lien claimant) and (ii) is patently insulting, offensive, insolent, intemperate, foul, vulgar, obscene, abusive, or disrespectful; or

(B) where the language or gesture impugns the integrity of the Workers' Compensation Appeals Board or its Commissioners, judges, or staff.

(e) Notwithstanding any other provision of these rules, for purposes of this rule and Labor Code section 5813: (1) a lien claimant may be deemed a “party” at any stage of the proceedings before the Workers' Compensation Appeals Board; and (2) an “attorney” includes a lay representative of a party or lien claimant.

(f) This rule shall apply only to applications filed on or after January 1, 1994.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Sections 4903.6(c) and 5813, Labor Code.

History: 1. New section filed 12-23-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 52).

2. Amendment filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

3. Amendment of section and Note filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10563. Appearances Required. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Sections 5502(e) and 5708, Labor Code.

History: 1. Amendment filed 5-25-82; designated effective 7-1-82 (Register 82, No. 22).

2. Amendment exempt from OAL review pursuant to Government Code section 11351 filed 12-19-90; operative 1-1-91 (Register 91, No. 7).

3. Editorial correction of History 1 (Register 96, No. 52).

4. Amendment of section and Note filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

5. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10589. Consolidation of Cases.

(a) Consolidation of two or more related cases, involving either the same injured employee or multiple injured employees, rests in the sound discretion of the Workers' Compensation Appeals Board. In exercising that discretion, the Workers' Compensation Appeals Board shall take into consideration any relevant factors, including but not limited to the following:

(1) whether there are common issues of fact or law;

(2) the complexity of the issues involved;

(3) the potential prejudice to any party, including but not limited to whether granting consolidation would significantly delay the trial of any of the cases involved;

(4) the avoidance of duplicate or inconsistent orders; and

(5) the efficient utilization of judicial resources.

Consolidation may be ordered for limited purposes or for all purposes.

(b) Consolidation may be ordered by the Workers' Compensation Appeals Board on its own motion, or may be ordered based upon a petition filed by one of the parties. A petition to consolidate shall:

(1) List all named parties in each case;

(2) Contain the adjudication case numbers of all the cases sought to be consolidated, with the lowest numbered case shown first;

(3) Be filed in each case sought to be consolidated; and

(4) Be served on all attorneys or other representatives of record and on all non-represented parties in each case sought to be consolidated.

(c) Any order regarding consolidation shall be filed in each case to which the order relates.

(d) If consolidation is ordered, the Workers' Compensation Appeals Board, in its discretion, may designate one case as the master file for exhibits and pleadings. If a master file is designated, any subsequent exhibits and pleadings filed by the parties and lien claimants during the period of consolidation shall be filed only in the master case, however, all pleadings and exhibit cover sheets filed shall include the caption and case number of the master file case, followed by the case numbers of all of the other consolidated cases.

(e) If a master file has been designated and the consolidated cases are tried, all relevant documentary evidence previously received in an individual case shall be deemed admitted in evidence in the consolidated proceedings under the master file and shall be deemed part of the record of each of the several consolidated cases. Evidence received subsequent to the designation of the master file shall be similarly received with like force and effect.

(f) When cases are consolidated, joint minutes of hearing, summaries of evidence, opinions, decisions, orders, findings, or awards may be used, however, copies shall be filed in the record of proceedings of each case.

Note: Authority cited: Sections 133, 5307, 5309 and 5708, Labor Code. Reference: Sections 5300, 5301, 5303 and 5708, Labor Code.

History: 1. Renumbering of former section 10590 to new section 10589, including amendment of section and Note, filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).

2. Amendment of section heading, section and Note filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

§10590. Consolidated Cases—Same Injured Worker. [Repealed]

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Section 5303, Labor Code.

History: 1. Amendment exempt from OAL review pursuant to Government Code section 11351 filed 12-19-90; operative 1-1-91 (Register 91, No. 7).
 2. Renumbering of former section 10590 to new section 10589 and new section 10590 filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).
 3. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

**§10591. Consolidating Cases—
 Multiple Injured Workers. [Repealed]**

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Sections 5303, 5310 and 5708, Labor Code.

History: 1. New section filed 12-23-93; operative 1-1-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 93, No. 52).
 2. Amendment of section heading, section and Note filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).
 3. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

**§10592. Pleadings in Consolidated
 Cases. [Repealed]**

Note: Authority cited: Sections 133 and 5307, Labor Code. Reference: Sections 5303 and 5313, Labor Code.

History: 1. Amendment of section and Note filed 12-19-2002; operative 1-1-2003. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 2002, No. 51).
 2. Repealer filed 11-17-2008; operative 11-17-2008. Submitted to OAL for printing only (Register 2008, No. 47).

**§10593. Testimony of Judicial or
 Quasi-Judicial Officers of the Workers'
 Compensation Appeals Board or of the
 Division of Workers' Compensation.**

(a) No judicial or quasi-judicial officer of the Workers' Compensation Appeals Board or of the Division of Workers' Compensation may be subpoenaed or ordered to testify regarding either (1) the reasons for or basis of any decision or ruling he or she has made or (2) his or her opinion regarding any statements, conduct, or events occurring in proceedings before him or her, except as follows:

(A) The judicial or quasi-judicial officer may be ordered to testify where his or her testimony is necessary on an issue of disqualification under Labor Code section 5311 and Code of Civil Procedure section 641.

(B) The judicial or quasi-judicial officer may be ordered to testify where his or her testimony is necessary on an issue of an alleged ex parte communication.

The judicial or quasi-judicial officer may be subpoenaed or ordered to testify as a percipient witness to statements, conduct, or events that occurred in the proceedings before him or her, to the same extent as any other percipient witness.

(b) The testimony of a judicial or quasi-judicial officer shall be given only on the terms and conditions ordered by the presiding workers' compensation judge of the district office having venue, or by the Appeals Board, after the filing of a "Petition to Compel the Testimony of a Judicial or Quasi-Judicial Officer."

(1) The petition to compel shall set forth with specificity the facts (or alleged facts) and law that support the petition.

(2) The petition to compel shall be verified under penalty of perjury.

(3) The petition to compel shall be served on all other parties, on all lien claimants whose liens are presently pending in issue in the underlying claim to which the petition relates, and on the Legal Unit of the Division of Workers' Compensation (DWC-Legal Unit), together with a proof of service. [*As of the effective date of this rule, the street address of the DWC-Legal Unit is 1515 Clay Street, 18th Floor, Oakland, CA 94612-1402 and the Post Office Box of the DWC-Legal Unit is P.O. Box 420603, San Francisco, CA 94142. However, current information regarding the street address and Post Office Box of the DWC-Legal Unit may be obtained by calling the Headquarters of the Division of Workers' Compensation, whose number, as of the effective date of this rule, is (510) 286-7100.*]

(4) A petition to compel that does not meet all of the foregoing requirements may be summarily dismissed or denied.

(c) The other parties, lien claimants, and the DWC-Legal Unit shall have 15 days within which to file any objection to the petition to compel.

(d) The petition to compel shall be determined: (1) by the presiding workers' compen-