Retaliation Complaint

PLEASE PRINT OR TYPE ALL INFORMATION
Refer to the accompanying Guide to assist you in filling out this form.

FOR OFFICE USE ONLY		
Taken by:	**Office:**	**Employee Name:**
Date filed:	**Violation:**	**Case #:**
Wage Complaint: ☐ YES ☐ NO	**Action:**	**SIC #:**

PRELIMINARY QUESTIONS

**The following questions are asked in relation to your current complaint **

1. Have you made a **health and safety** complaint to your employer or supervisor?

☐ YES, on: _____/_____/_____ To whom: _____ , Title: _____ ☐ NO

2. Have you made a **health and safety related retaliation complaint** against your employer with a government agency?

☐ YES, on: _____/_____/_____ With whom: _____ ☐ NO

[If you have a health & safety related retaliation complaint, you may also make a complaint with Federal OSHA within 30 days of the alleged event.]

3. Did you speak with a Labor Commissioner Investigator during an inspection at your worksite?

☐ YES, on: _____/_____/_____ With whom: _____ ☐ NO

4. Have you made a **wage claim** against your employer with the Labor Commissioner? If so, where? _____

☐ YES, on: _____/_____/_____ ☐ NO **[If you have unpaid wages, you may file a wage claim by filling out another form, "DLSE FORM 1."]**
Month Day Year

5. Are other employees also filing retaliation claims against your employer? ☐YES ☐NO ☐I DON'T KNOW

Part 1: LANGUAGE ASSISTANCE & REPRESENTATION

6a. Do you need an interpreter? ☐YES ☐NO	6b. If you checked "YES" to Box 6a, enter the language needed:			
7a. If you are being helped with your claim by a lawyer or other advocate, enter your ADVOCATE'S NAME and ORGANIZATION:				7b. ADVOCATE'S PHONE ( )
7c. Your ADVOCATE'S MAILING ADDRESS (Number, Street, Floor, Suite)	CITY	STATE	ZIP CODE	d. Your ADVOCATE'S EMAIL

Part 2: YOUR INFORMATION

8. Your FIRST NAME	9. Your LAST NAME	10. HOME PHONE ( )	11. OTHER PHONE ( )	12. BIRTH DATE
13. Your MAILING ADDRESS (Street Number, Street Name, Apartment Number)	CITY	STATE	ZIP CODE	
14. EMAIL				

Part 3: EMPLOYER INFORMATION

15. EMPLOYER / BUSINESS NAME(S)	16. EMPLOYER'S VEHICLE LICENSE PLATE #	17. EMPLOYER PHONE ( )	
18. ADDRESS of EMPLOYER / BUSINESS (Street Number, Street Name, Floor, Suite):	CITY	STATE	ZIP CODE
19. ADDRESS where you worked, if different from Box 18 (Number, Street, Floor, Suite):	CITY	STATE	ZIP CODE
20. NAME of PERSON IN CHARGE (First Name, Last Name)	21. JOB TITLE / POSITION of PERSON IN CHARGE		
22. TYPE OF BUSINESS	23. TYPE OF WORK PERFORMED	24. TOTAL NUMBER OF EMPLOYEES	25. EMPLOYER STILL IN BUSINESS? ☐YES ☐NO ☐DON'T KNOW

26. Check which box describes your employer, if you know: ☐CORPORATION ☐INDIVIDUAL /DBA ☐ PARTNERSHIP ☐ LLC ☐ LLP

PRINT YOUR NAME: _____

FOR OFFICE USE ONLY
Case #:

Part 4: EMPLOYMENT STATUS

27. DATE OF HIRE	28. Check which box applies to you:
_____/_____/_____ Month Day Year	☐ Still working for employer ☐ QUIT on ____/____/_____ (Month Day Year) ☐ DISCHARGED on ____/____/_____ (Month Day Year) ☐ Suspended on ____/____/_____ (Month Day Year) ☐ Other (specify): _____

29. If you no longer work for the employer, what was your final rate of pay?	30. Last job title with Employer
$ _____/_____ (for example, $10/hour)	Job Title: _____

Part 5: YOUR COMPLAINT

INSTRUCTIONS: Please see the Instructions Sheet to help you answer the following questions. Give a written statement to each question. An incomplete form will result in delays. While it is important to know the names of management involved, **do not include the names of the any of your witnesses on this page.**

31. What changes have occurred at work that caused you to make this complaint?

☐ Termination ☐ Suspension ☐ Demotion ☐ Change in hours ☐ Change in pay ☐ Other : _____

☐ Disciplinary action/written warning ☐ Threat ☐ Transfer ☐ Forced to resign/quit

Date of change in employment: ___/___/___

Name(s) of person(s) carrying out change: _____ Title: _____

_____ Title: _____

Please describe what happened.

_____

_____

_____

_____

32a. What reason would the employer give for the changes that you experienced that are described in question 31 above? What right did you exercise or action did you take that happened before the change in your employment described in question 31?

_____

_____

_____

_____

_____

_____

32b. Describe how your employer knew about the activity or actions (e.g., exercising your rights) in question 32a.?

_____

_____

_____

_____

(Continued, Page 2 of 4)

PRINT YOUR NAME: _____

FOR OFFICE USE ONLY
Case #:

THIS PAGE IS CONFIDENTIAL

Part 6: WITNESSES

All witnesses are confidential, and the Labor Commissioner will not reveal their identities unless it becomes necessary to proceed with the investigation or to enforce the Labor Commissioner's determination.

33. Please list any witnesses to the events described in questions 31, 32a. and 32b.

Name: _____ Title:_____

Address: _____

Phone Number: _____ Email Address: _____

Describe what they saw or heard in connection to your complaint: _____

_____

Name: _____ Title:_____

Address: _____

Phone Number: _____ Email Address: _____

Describe what they saw or heard in connection to your complaint: _____

_____

Name: _____ Title:_____

Address: _____

Phone Number: _____ Email Address: _____

Describe what they saw or heard in connection to your complaint: _____

_____

Part 7: REMEDIES

Briefly describe what kind of remedy you are seeking. What do you hope happens as a result of filing this complaint?

_____

_____

NEW EMPLOYMENT

Have you started a new job? ☐Yes ☐No Date you started new job: ____/____/____ (DD/MM/YY)

Name of New Employer: _____ Rate of pay: $ _____/_____ (for example, $10/hour)

I hereby certify that the information I have provided is true to the best of my knowledge and/or recollection.

Signed: _____ Date: _____

Print Name: _____

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AUTHORIZATIONS TO RELEASE INFORMATION

PERSONNEL FILE RELEASE:

I, _____, hereby authorize_____
(Full name) (Employer name)
to release my Personnel records to the Division of Labor Standards Enforcement. I specifically authorize the release of all records in my personnel file.

This authorization is valid for a period of one year from the date of my signature.

_____
Signature of Employee

_____
Date of Signature

Cal-OSHA RELEASE: If you have a health and safety related complaint, please fill out the following release.

I authorize a DLSE investigator to inspect the original file contents and to be provided with a ***complete*** copy of the file, including the complaint that I filed with Cal-OSHA against the employer named above. By my signature I authorize a Cal-OSHA representative to discuss my complaint and the file detailing the correspondence and investigation into my complaint with the Division of Labor Standards Enforcement.

_____ _____
Signature Date

_____
Print Name

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INSTRUCTIONS AND GUIDE FOR FILING A RETALIATION COMPLAINT

Fill out and submit the "Retaliation Complaint" Form (RCI 1). Please read the following Instructions to ensure that you are completing the Form correctly. Please respond fully to all questions. An incomplete Form will result in delayed processing.

WHAT TO EXPECT AFTER YOU FILE YOUR COMPLAINT

1) **Investigation.** In most cases, you will receive a letter from the Labor Commissioner letting you know to whom your complaint has been assigned. After this happens, a deputy will contact you to interview you, and will also most likely interview your witnesses, the employer, and the employer's witnesses. In addition to the investigation, the deputy may also discuss settlement options with you.

2) **Conference & Hearing.** In some cases, you may be asked to come to the DLSE for a conference or a hearing. If you receive one of these notices, the deputy will explain what you need to bring with you.

3) **Determination.** After the deputy concludes his or her investigation, he or she will write a report and the DLSE will make a decision, known as a determination, on your case. If the decision is in your favor, the DLSE will work with the employer to enforce the decision. If the decision is in the favor of the employer, you will have a right to an appeal, the details of which you will be told in the determination.

4) **Staying in Touch.** It is your responsibility to keep the deputy informed of any address or telephone number changes. If the deputy is unable to locate you, he or she may be forced to close your case.

GUIDE TO COMPLETING "RETALIATION COMPLAINT" FORM (RCI 1)

PRELIMINARY QUESTIONS

These questions are in relation to your current complaint.

1. **Health and Safety Complaint**. If you have made a health and safety complaint to your employer that is related to the complaint you are filing, please check "YES" and indicate the date that you made the complaint, to whom, and that person's title.
2. **Health and Safety Related Retaliation Complaint**. It is unlawful for an employer to retaliate or discriminate against you (for example, fire, threaten to fire, demote, suspend, or discipline you) because you complain about health and safety. Check the "YES" box if you have made a health and safety related retaliation complaint with the DLSE or any other government agency, and enter the date you filed the complaint and the name of the government agency to whom you complained. If you have a health and safety related retaliation complaint, you may also file a complaint with Federal OSHA within 30 days of the event. For information about filing a complaint with Federal OSHA, go to www.OSHA.gov.
3. **Labor Commissioner Investigation.** It is unlawful for an employer to retaliate or discriminate against you (for example, fire, threaten to fire, demote, suspend, or discipline you) because you speak with a Labor Commissioner Investigator about your working conditions, including speaking with an agent of the Labor Commissioner's Bureau of Field Enforcement (BOFE). Check the "YES" box if you spoke with a Labor Commissioner investigator (for example, during an inspection of your workplace) about your working conditions, and enter the date on which the conversation took place and the name of the investigator.
4. **Wage Claim.** It is unlawful for an employer to retaliate or discriminate against you (for example, fire, threaten to fire, demote, suspend, or discipline you) because you filed a wage claim with the Labor Commissioner. Check the "YES" box if you filed a wage claim and enter the date on which you filed. If you have not filed a wage claim and would like to file one, you may ask DLSE staff for a copy of the wage claim form or download it at http://www.dir.ca.gov/dlse/HowToFileWageClaim.htm.
5. **Other Employees Filing Retaliation Claims?** Check "YES" if you know that other employees are filing a retaliation complaint against your employer.

PART 1: Language Assistance & Representation

6. a. **Interpreter Needed?** Check "YES" if your primary language is not English and you want an interpreter to assist you.
6. b. **Language.** If you checked "YES" to Box 6a indicating that you need an interpreter, enter the language of the interpreter needed.
7. a. **Name of Advocate.** If you are being assisted with your claim by a lawyer or other advocate, enter the **name and organization** of the person who is assisting you.
7. b. **Phone Number of Advocate.** If you are being assisted with your claim by a lawyer or other advocate, enter the **phone number** at which your advocate can be contacted.
7. c. **Mailing Address of Advocate.** If you are being assisted with your claim by a lawyer or other advocate, enter the **mailing address** of your lawyer or other advocate. Include the street name and number, as well as any floor or suite number, city, state, and zip code. DLSE will mail copies of information related to your claim to the address of your advocate that you enter here.
7. d. **Email Address of Advocate.** If you are being assisted with your claim by a lawyer or other advocate, enter the **email address** of your lawyer or other advocate.

PART 2: Your Information

8. **Your First Name.** Enter your **first name**.
9. **Your Last Name.** Enter your **last name.**
10. **Your Home Phone Number.** Enter your **home telephone number, with area code**.
11. **Other Phone Number.** Enter the phone number, with area code, of **another phone** at which DLSE can reach you (for example, a **cell phone** that you use).
12. **Your Date of Birth.** Enter your **date of birth**. Include the month, day, and year.
13. **Your Mailing Address.** Enter your mailing address. Include the street name and number, as well as any floor or apartment number, city, state, and zip code. DLSE will mail copies of information related to your claim to your address that you enter here. **You must inform DLSE immediately of any change in your mailing address**.
14. **Email Address.** If you have an email address, please enter it here.

PART 3: Employer Information

15. **Employer/Business Name(s).** Enter the **complete name** of your employer against whom you are filing the claim, to the best of your knowledge. If your employer has more than one business name (including a "doing business as" or DBA name), list all names that you know. **If you are a garment worker or car wash worker, and your employer has closed its business and opened up under a new name, list both the new name (if you know it) and the previous name of your employer.**
16. **Employer License Plate Number.** Enter your employer's vehicle **license plate number**, if you know this information.
17. **Phone Number of Employer.** Enter the **telephone number** of your employer, **with area code**, if you know this information.
18. **Address of Employer/Business.** Enter the **last known address** of your employer. List the street name; number; floor, suite or room number (if any); city; state; and zip code. This address may be different from the address where you worked (which you should list in Box 19). **If you are a garment worker or car wash worker, and your employer has changed its business address** since you worked for the employer, **list both the new business address and the previous address,** if you know this information.
19. **Address Where You Worked.** Enter the **address where you performed work**, if different from the address you listed in Box 18. List the street name; number; floor, suite or room number (if any); city; state; and zip code.
20. **Name of Person in Charge.** Enter the **first and last name of the person in charge** at the location where you worked, if you know the name. This could be the owner, your supervisor, a manager, or another person who ran the business or oversaw your work
21. **Job Title/Position of Person in Charge.** Enter the **job title** of the person in charge, if known. Example: "Floor Manager."
22. **Type of Business.** Enter the **type of business or industry** in which your employer was conducting business.
23. **Type of Work Performed.** Enter **the type of work you did for your employer.**
24. **Total Number of Employees.** Enter the approximate total number of workers employed by your employer, if you know.
25. **Still in Business?** Check "YES" if you know that your employer is still operating its business.
26. **Description of Business Entity.** Check the box indicating whether your employer is a corporation, individually owned, a partnership, a limited liability company (LLC), or limited liability partnership (LLP), if you know this information.

PART 4: EMPLOYMENT STATUS

27. **Date of Hire.** Enter the date you were hired. Enter an approximate date if you don't remember the exact date.
28. **Work Status.** Indicate whether you **still work** for your employer; whether you **quit** your job (include the date that you quit); whether you were **discharged** (include the date that you were discharged); whether you were **suspended** (include the date that you were suspended); or whether another situation applies (check the "other" box and briefly specify your situation – for example, "on disability leave").
29. **Rate of Pay.** If you no longer work for the employer, what was your final rate of pay? Example, $10 per hour. If you are still working for the employer, leave this field blank.
30. **Job Title.** What is your current or final job title? Even if you no longer work for the employer, this information is important to provide.

PART 5: YOUR COMPLAINT

Please be aware that this specific portion of your complaint may be shared with your employer, so do not write the name of any witness for you, such as another employee, colleague, or co-worker that witnessed what happened.

31. **Change at Work. E**mployers cannot punish employees for making discrimination or harassment complaints or participating in workplace investigations. Punishment doesn't just mean firing or demotion: It can include other negative employment actions, from being denied a raise or a transfer to a more desirable position to missing out on training or mentoring opportunities. What is the change that happened at work that caused you to come file this complaint? Some of the common reasons are termination, suspension, demotion, change in hours, change in pay, discipline, transfer, and termination. Threats of any of the above may also be considered retaliation. If none of the boxes relates to your case, please indicate other and describe the change at work that gives rise to your complaint in the space beside it. Please note the names of any person who took part in the action, such as your employer, manager, or supervisor. Describe briefly what happened. The action taken is often referred to as the "adverse action."
32. a. **Why Did the Change at Work Happen?** Why did the change, or adverse action, take place? Do you know why your employer took the action you checked off or described in Question 31? Retaliation occurs when an employer punishes an employee for engaging in legally protected activity. For example, getting fired because your employer believes you filed a wage complaint is retaliation, because filing a wage complaint is a legally protected activity. What reason would the employer give to explain the changes you experienced? What right did you exercise, or action did you take? Please describe this clearly.
32. b. **Employer Knowledge.** How did your employer know or suspect the action you took in Question 32a.? Did you tell him? Did someone else? Did your manager or supervisor see it happen or say something to let you know she was aware of your activity in Question 32a.? Please describe clearly.

Partial List of Protected Activities Under California Law

- Complaining about or asserting a right under the Labor Code which the Labor Commissioner has the power to enforce. For example, complaining about non-payment of overtime, minimum wage, meal or rest breaks, not being provided with itemized statement, or misclassified as an independent contractor or as an exempt employee, requesting a suitable space for breastfeeding, etc. (Labor Code section 98.6)
- Requesting time off for jury duty (Labor Code section 230a)
- Requesting time off to attend to a sick child, parent, spouse or domestic partner (protection applies only if employer provides sick leave and you have not exhausted your sick leave entitlement) (Labor Code section 233)
- For employees who are victims of domestic violence, requesting time off to seek medical attention, psychological assistance and such other services (protection applies only if employer has 25 or more employees) (Labor Code section 230.1)
- For employees (including immediate family members) who are victims of a crime, requesting time off to attend to judicial proceedings (Labor Code section 230.2b)
- Disclosing information to a government or law enforcement agency where you reasonably believe the information discloses a violation of law. For example, filing a wage claim, cooperating in an investigation by our investigators during an inspection, reporting a health and safety issue to Cal-OSHA (Labor Code section 1102.5)

- Complaining about health and safety issues to your employer, your union or a government agency such as Cal-OSHA (Labor Code section 6310)
- Refusing to work where performance of work would result in a "real and apparent hazard" to the employee or coworkers. "Real and apparent hazard" suggests that serious bodily harm or death may result if you perform the work. (Labor Code section 6311)
- Discussing or disclosing your wages, or refusing to agree not to disclose your wages (Labor Code section 232)
- Engaging in political activity of your choice (Labor Code section 1101-1102)
- Taking time off to donate your organ(s) or bone marrow (Labor Code section 1512)
- Complaining about violation of licensing laws and other laws relating to child day care facilities (Health & Safety Code 1596.881)
- Inquiring to the Employment Development Department (EDD) about your rights under the Unemployment Insurance Code or testifying in any proceeding by that agency (Health & Safety Code section 1237)

The above is not a complete list. For a complete listing of the anti-retaliation statutes enforced by the Labor Commissioner, please see www.dir.ca.gov/dlse or visit your local DLSE office.

PART 6: WITNESSES

If anyone saw or heard anything in connection with the retaliation you are complaining about, please give us their name, title, address, phone number. Briefly describe what they witnessed. **This information is confidential, and the Labor Commissioner will not reveal their identities unless it becomes necessary to do so to proceed with the investigation or for the enforcement of the Labor Commissioner's Determination.**

PART 7: REMEDIES

What do you hope happens as a result of your complaint? If retaliation is proven, employers may have to pay you for your lost wages, reinstate you to your former position, delete any reference to the negative action in your personnel file, post a notice to other employees regarding the retaliation, penalties, and/or agree to not retaliate in the future. Please think carefully about what specifically could resolve this problem for you today.

NEW EMPLOYMENT.

Have you started a new job. If you found a new job and you are currently working, check "Yes." If you are not currently working, check "No."

Name of new employer. Fill in the name of your current employer if you are currently working at a new job. If you are not currently working, leave blank.

Date you started new job. Fill in the date you began working at your new job. If you are not currently working, leave blank.

Rate of pay. If you are currently working for a new employer, what is your current rate of pay? Example, $10 per hour. If you are not currently working, leave blank.

AUTHORIZATION TO RELEASE INFORMATION

If you have a health and safety related complaint, please fill out both authorization forms. If your complaint is not related to health and safety, please only fill out the release of personnel file. The personnel file release will allow the investigator access to your employment records for a period of one year.

COMPLAINTS NOT HANDLED BY THE LABOR COMMISSIONER

Work-Related Injury: Complaints of retaliation or discrimination due to a work-related injury, other than misdemeanor complaints, should be filed with the Worker's Compensation Appeals Board. Call 1-800-736-7401 for more information.

Discrimination Based on Race, Religion, Medical Condition, Sexual Orientation, Familial Status, Sex, Marital Status, or National Origin: These cases are handled by the Department of Fair Employment and Housing. Please see www.dfeh.ca.gov or call 1-800-864-1684 or the Equal Employment Opportunity Commission at www.eeoc.gov or call 1-800-669-4000.