

 *Law Offices of*
Bradford & Barthel, LLP
WE PROMISE AGGRESSIVE, EFFICIENT, COST-EFFECTIVE REPRESENTATION

**LUMP SUM PAYMENTS
AND
COMMUTATION
CALCULATIONS**


Office Locations





Tim Mussack, B&B Ratings
B&B Sacramento
(916) 569-0790 or
Ext 1144
tmussack@bradfordbarthel.com

<https://www.bradfordbarthel.com/areas-of-practice/bb-ratings/rating-referral-form/ratings@bradfordbarthel.com>

 © 2017, Bradford & Barthel, LLP 2

Lump Sum Payments - Commutation

- LC 5100
- ...the appeals board, on its own motion either upon notice, or upon application of either party with due notice to the other, may commute the compensation payable under this division to a lump sum and order it to be paid forthwith or at some future time if...



© 2017, Bradford & Barthel, LLP

3

Commutations

LC 5100 allows for lump sum if:

- a. It is necessary for the protection of the person entitled thereto, or for the best interest of the applicant.
- b. That commutation will avoid inequity and will not cause undue expense or hardship to the applicant.



© 2017, Bradford & Barthel, LLP

4

Commutations

- LC 5101
- assuming interest at the rate of 3 percent per annum...
- taking into consideration the probability of the beneficiary's death only in estimating the present value of such life pension.
 - This is built into the DWC's PV Tables 2 and 3



© 2017, Bradford & Barthel, LLP

5

Commutations

- Lump sum to injured worker
- Lump sum to applicant attorney



© 2017, Bradford & Barthel, LLP

6

Attorney Fees

- 4906
- (d) In establishing a reasonable attorney's fee, consideration shall be given to the responsibility assumed by the attorney, the care exercised in representing the applicant, the time involved, and the results obtained.



© 2017, Bradford & Barthel, LLP

7

Attorney Fees

WCAB POLICY AND PROCEDURAL MANUAL - 1.140 ATTORNEY'S FEES

- In cases of average complexity, the WCAB believes that a reasonable fee will be in the range of 9 percent to 12 percent of the permanent disability indemnity, death benefit or compromise and release awarded.



© 2017, Bradford & Barthel, LLP

8

WCAB POLICY AND PROCEDURAL MANUAL - 1.140 ATTORNEY'S FEES

- In cases of above average complexity, a fee in excess of the normal upper limit of 12 percent applicable to all benefits described in Paragraph 1 hereof is warranted.
- the WCJ should be satisfied that there is an adequate basis for justifying the fee determination if it should be made an issue.



© 2017, Bradford & Barthel, LLP

9

WCAB POLICY AND PROCEDURAL MANUAL - 1.140 ATTORNEY'S FEES

- In cases of below average complexity, the fee applicable to all benefits described in Paragraph 1 hereof may range downward from the 9 percent – 12 percent range to as low as 1 percent.



© 2017, Bradford & Barthel, LLP

10

Attorney Fees

- Based on calculation of benefits
- COLA projections used to calculate total benefits
- Case law indicates that benefit increases should be projected at no more than 3% when used to evaluate attorney fees
- Approved by the WCAB for each case



© 2017, Bradford & Barthel, LLP

11

COLA - Summary

- COLA is calculated using Dept of Labor average weekly wage reported in 1st quarter, compared to prior year first quarter.
- COLA increases payment on January 1 of the year after the beginning of PTD or Life Pension, and every January 1 thereafter, for dates of injury Jan 1, 2003 and later.
- Projected COLA rate needed to estimate future increases (3%).
- Calculate beginning/ ending dates.
- Use correct Life Expectancy (Male/ Female).



© 2017, Bradford & Barthel, LLP

12

Southern California Edison v. WCAB and Elsie Martinez

“Section 5101, which governs how workers’ compensation awards are to be commuted, requires discounting to present value at 3%. Inflating the recovery nullifies the whole exercise of discounting to present value.”



© 2017, Bradford & Barthel, LLP

13

Attorney Fees – Present Value of lifetime benefits?

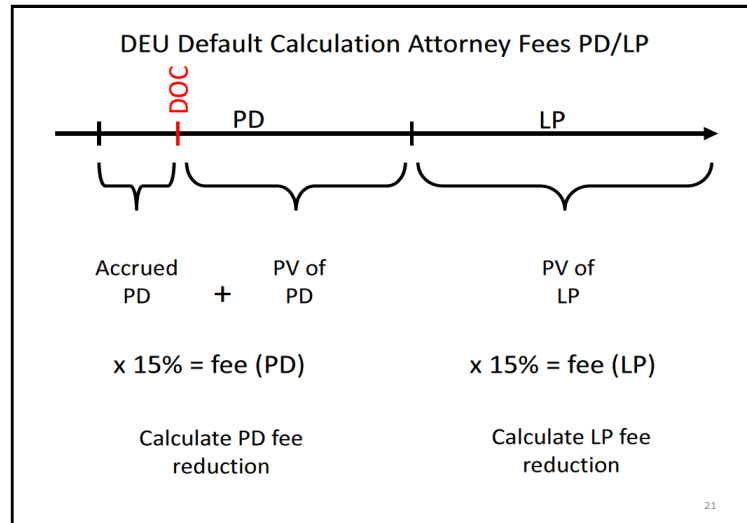
- Southern California Edison v. WCAB and Elsie Martinez
- Second Court of Appeals 8/23/13
not to be published B245118
- “Future Disability Payments Should Not Be Inflated Prior to Calculating Attorney Fees.”
- Lifetime benefits were projected at the annual rate of 4.6%.
- Commuted award of future payments of \$2,005,089 x 15% = attorney fees of \$347,210.15
- Weekly benefit was \$910, \$339.89 weekly deduction = 37.4% will go to attorney fees...
- “The result is an award that is excessive and produces an award of attorney fees exceeding one-third of the recovery.”



© 2017, Bradford & Barthel, LLP

14

22nd Annual DWC Educational Conference (2015) SAWW and Commutations



15

Calculating Benefits

- PPD value includes fixed number of weeks of benefits based on DOI; weekly benefit rate is based on AWE, DOI, level of PD
- Lifetime Benefits (70% PD or greater)
 - COLA applies for DOI 1/1/2003 and after
 - Use a [spreadsheet](#).
 - Use some method of date calculation
 - Excel has an available date calculator formula
 - Use correct [Life Expectancy tables](#).
male/ female
date of calculation/ commutation affects benefit end date



<https://www.dir.ca.gov/osip/LifeExpectancyTables2012.pdf>

© 2017, Bradford & Barthel, LLP

16

Calculating Future Benefits

Life Pension

- PPD award – calculate end date of PPD
- LP rate – awarded rate is paid through end of year initiated
- Life expectancy tables male/ female 2012
<https://www.dir.ca.gov/osip/LifeExpectancyTables2012.pdf>

2012 Life Tables were published by the CDC 11/28/16 –adopted by OSIP for projections in 2017

- Every January 1, apply COLA projections for LP for duration of life expectancy



© 2017, Bradford & Barthel, LLP

17

Calculate Future Benefits

PTD

- Awarded benefit rate – payable through initial year of PTD
- Life expectancy tables male/ female 2012
<https://www.dir.ca.gov/osip/LifeExpectancyTables2012.pdf>

2012 Life Tables were published by the CDC 11/28/16 –adopted by OSIP for projections in 2017

Every January 1, apply COLA projections for PTD for duration of life expectancy



© 2017, Bradford & Barthel, LLP

18

Commutations

- The following link is to the DIR page with Commutation templates and instructions:
- <http://www.dir.ca.gov/dwc/deu.html>
- [Disability Evaluation Unit forms](#)
- [Commutation templates and instructions](#) .zip file
- The next link is to the DIR and 3 PV tables that are needed for the commutations. (PV is calculated using 3%)
- <https://www.dir.ca.gov/t8/10169.html>



© 2017, Bradford & Barthel, LLP

19

Commutations - DEU

- <https://www.dir.ca.gov/dwc/deu.html>
- Templates and instructions to facilitate the calculation of life pension and permanent disability benefit commutations. When properly used, the templates assure that calculations are done in accordance with commutation calculation methods and tables that went into effect Jan. 17, 2001. The regulations and tables can be found in [section 10169 and 10169.1 of Title 8, California Code of Regulations](#).



© 2017, Bradford & Barthel, LLP

20

Commutations - DEU

- [section 10169 and 10169.1 of Title 8, California Code of Regulations.](#)

– <https://www.dir.ca.gov/t8/10169.html>

- [Commutation Instructions](#)

- [Table 1](#)
[Table 2](#)
[Table 3](#)

Table 1 (“Present Value of Permanent Disability at 3% Interest”) as issued in January 2001,

Table 2 (“Present Value of Life Pension at 3% Interest for a Male”) as issued in July 2001,

Table 3 (“Present Value of Life Pension at 3% Interest for a Female”) as issued in July 2001, and “Commutation Instructions” as issued in January 2001, are hereby incorporated by reference in their entirety as though they were set forth below. The tables and instructions are available from any office of the Division of Workers' Compensation and may be accessed and printed from the Division's homepage at www.dir.ca.gov.



© 2017, Bradford & Barthel, LLP

21

Commutations

Methods of Commutation

- A - Commutation of all remaining PD
- B - Commutation of PD “Off the Far End”
- C - Commutation of PD by Uniform Reduction

- D - Commutation of all remaining Life Pension after commencement of LP
- E - Commutation of all remaining Life Pension before commencement of LP
- F - Commutation of portion of remaining Life by uniform reduction of LP
- G - Uniform reduction of deferred Life Pension



© 2017, Bradford & Barthel, LLP

22

Commutations

- The two most common commutations requested/ approved are:
 - Off the far end
 - Uniform reduction
- There may be separate commutations for a Life Pension case – one for PD, one for LP.
 - If commutation of PD is “off the far end”, benefits end sooner; if Life Pension applies, it results in a gap in benefits between the end of PD and beginning of Life Pension benefits



© 2017, Bradford & Barthel, LLP

23

TABLE 1 - PRESENT VALUE OF PERMANENT DISABILITY

Use this table to commute, i.e. determine the present value of permanent disability benefits. The Wks column refers to the number of weeks of PD being commuted. The PV column contains the present value (PV) at 51 per week of the corresponding number of weeks of PD. A fractional number of weeks of PD may be commuted using interpolation. See Examples A, B and C under Commutation Procedures for an illustration of various types of commutations.

Wks	PV	Wks	PV	Wks	PV	Wks	PV	Wks	PV
1	0.9889	45	44.4058	89	86.7442	133	128.0402	177	168.3197
2	1.9977	46	45.3801	90	87.6945	134	128.9671	178	169.2257
3	2.9955	47	46.3533	91	88.6437	135	129.8930	179	170.1268
4	3.9932	48	47.3264	92	89.5929	136	130.8188	180	171.0298
5	4.9898	49	48.2985	93	90.5410	137	131.7436	181	171.9319
6	5.9864	50	49.2706	94	91.4892	138	132.6684	182	172.8339
7	6.9819	51	50.2416	95	92.4362	139	133.5922	183	173.7349
8	7.9774	52	51.2125	96	93.3833	140	134.5159	184	174.6359
9	8.9717	53	52.1824	97	94.3293	141	135.4386	185	175.5359
10	9.9661	54	53.1523	98	95.2753	142	136.3613	186	176.4359
11	10.9593	55	54.1210	99	96.2202	143	137.2830	187	177.3349
12	11.9525	56	55.0896	100	97.1651	144	138.2047	188	178.2339
13	12.9446	57	56.0575	101	98.1090	145	139.1253	189	179.1318
14	13.9367	58	57.0252	102	99.0529	146	140.0459	190	180.0298
15	14.9277	59	57.9918	103	99.9956	147	140.9655	191	180.9267
16	15.9187	60	58.9583	104	100.9384	148	141.8851	192	181.8236
17	16.9085	61	59.9238	105	101.8801	149	142.8036	193	182.7196
18	17.8984	62	60.8893	106	102.8219	150	143.7221	194	183.6155
19	18.8871	63	61.8537	107	103.7625	151	144.6396	195	184.5104
20	19.8759	64	62.8181	108	104.7032	152	145.5571	196	185.4053
21	20.8635	65	63.7814	109	105.6438	153	146.4736	197	186.2992
22	21.8511	66	64.7447	110	106.5823	154	147.3890	198	187.1931
23	22.8376	67	65.7069	111	107.5209	155	148.3034	199	188.0860
24	23.8241	68	66.6691	112	108.4594	156	149.2169	200	188.9789
25	24.8095	69	67.6302	113	109.3968	157	150.1302	201	189.8707
26	25.7948	70	68.5914	114	110.3343	158	151.0436	202	190.7626
27	26.7791	71	69.5514	115	111.2707	159	151.9563	203	191.6535
28	27.7634	72	70.5114	116	112.2071	160	152.8693	204	192.5443
29	28.7465	73	71.4704	117	113.1424	161	153.7826	205	193.4352
30	29.7297	74	72.4293	118	114.0778	162	154.7009	206	194.3261
31	30.7117	75	73.3872	119	115.0121	163	155.6122	207	195.2170
32	31.6937	76	74.3450	120	115.9463	164	156.5235	208	196.1079
33	32.6747	77	75.3018	121	116.8796	165	157.4337	209	196.9988
34	33.6556	78	76.2586	122	117.8128	166	158.3440	210	197.8897
35	34.6354	79	77.2143	123	118.7449	167	159.2532	211	198.7806
36	35.6152	80	78.1700	124	119.6771	168	160.1624	212	199.6715
37	36.5939	81	79.1246	125	120.6082	169	161.0706	213	200.5624
38	37.5726	82	80.0792	126	121.5393	170	161.9788	214	201.4533
39	38.5502	83	81.0337	127	122.4694	169	162.8859	215	202.3442
40	39.5278	84	81.9882	128	123.3994	172	163.7931	216	203.2351
41	40.5043	85	82.9427	129	124.3284	173	164.6992	217	204.1260
42	41.4808	86	83.8971	130	125.2574	174	165.6054	218	205.0169
43	42.4562	87	84.8425	131	126.1854	175	166.5105	219	205.9078
44	43.4315	88	85.7939	132	127.1133	176	167.4156	220	206.7987

TABLE 3 - PRESENT VALUE OF LIFE PENSION FOR A FEMALE

Use this table to commute, i.e. determine the present value (PV) of life pension benefits for a female. The "Age on DOC" column refers to the age of the injured employee as of the date of the commutation. The columns labeled "0, 1, 2, ..." refer to the period of years between the DOC and the commencement of life pension, commonly referred to as the "deferral period". The number at the intersection of the row (representing age) and column (representing deferral period) contains the present value at \$1 per week for that combination of age and deferral period. Fractional ages and commencement delays can be accommodated using interpolation. See Examples D, E, and F under Commutation Procedures. This table is based on the U.S. Decennial Life Tables for 1989-91.

Table with 15 columns: Age on DOC, 0, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14. Rows represent ages from 15 to 95. Values represent present value of life pension.

(Present Value of Life Pension for a Female - cont')

Title 8, Cal. Code of Reg., Sect. 10169 - Tables 2 & 3

(701)

Table with 15 columns: Age on DOC, 0, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14. Rows represent ages from 51 to 95. Values represent present value of life pension.

Commutations

- Which Commutation template
- Ex A, B, C, D, E, F, G
- Life Expectancy Tables (needed for lifetime benefit projections - PTD and Life Pension)
 - <http://www.dir.ca.gov/osip/LifeExpectancyTables2012.pdf>
- Commutation Table 1 applies to benefits with a fixed end date (PPD)
- Commutation Table 2 or Table 3 applies to lifetime benefits



© 2017, Bradford & Barthel, LLP

31

Commutation Examples

- **DOB: 2/7/1963 – currently 54 year old male**
- **DOI: 2/2/2013**
- **PD begins: 2/2/2015**
- **AWE = \$1500**
- **Date of Commutation – 5/3/17**
 - The DOC should be the date a check will be issued



© 2017, Bradford & Barthel, LLP

32

Examples

- #1: 40% PD; \$10,000 lump sum to injured worker “Off the Far End”
- #2: 60% PD; attorney fees of 15% “Off the Far End”
- #3: 85% PD (and Life Pension)
 - Attorney fees of 15% of 85% PD, “Off the Far End”; or by “Uniform Reduction”
 - Attorney fees of 15% of PV of Life Pension, “Uniform Reduction of LP”



© 2017, Bradford & Barthel, LLP

33

Commutation Example # 1

- **40% PD – 201 weeks at \$230/ week**
- **2/2/2015 – 12/10/2018**
- No attorney; no attorney fees.
- \$10,000 Lump Sum to injured worker
 - “Off the Far End” (Ex B)




© 2017, Bradford & Barthel, LLP

34

W:	Example
WCAB#:	ADJ
Date:	5/3/2017

B) COMMUTATION OF PD "OFF THE FAR END"


DOI:	02/02/13	PD Rating:	40.00%
PD starts:	02/02/15	# of weeks:	201.0000
DOC:	05/03/17	PD weekly rate:	\$230.00
		Amount to commute:	\$10,000.00



© 2017, Bradford & Barthel, LLP

35

1 Determine weeks of PD remaining after date of commutation (DOC).			
1a # of days from PD starts through DOC incl.....	822		
1b Divide by 7 days per week.....	117.4286		
1c Weeks elapsed through DOC.....	117.4286		
1d Total weeks of PD.....	201.0000		
1e Subtract weeks elapsed through DOC (1c from above).....	83.5714		
1f Weeks of PD remaining after DOC.....	83.5714		
2 Determine PV of weeks of PD remaining after DOC.			
2a Enter corresponding PV for #weeks just above 1f.....	84	PV	81.9862
2b Enter corresponding PV for #weeks just below 1f.....	83		81.0327
2c Difference of 2a & 2b.....			0.9535
2d Multiply by fractional portion of 1f.....		x	0.5714
2e PV of fractional week.....			0.5448
2f Add 2b.....		+	81.0327
2g PV of weeks remaining after DOC.....			81.5775
3 Determine commuted value of all PD due for period after DOC.			
3a PV of weeks remaining after DOC (2g from above).....	81.5775		
3b Multiply by PD rate.....		x	\$230.00
3c Commuted value of all PD due for period after DOC.....			\$18,762.83
4 Determine PV (at \$1/week) of amount to be commuted.			
4a Amount to be commuted.....			\$10,000.00
4b Divide by weekly PD rate.....		÷	\$230.00
4c PV of amount to be commuted.....			43.4783
5 Determine PV of weeks remaining after commutation off far end.			
5a PV of weeks remaining after DOC (2g from above).....	81.5775		
5b Subtract PV of amount to be commuted (4c from above).....	43.4783		
5c PV of weeks remaining after commutation off far end.....	38.0992		
* Take values from Table 1 - Present Value of Permanent Disability			
6 Determine number of weeks of PD remaining after commutation off far end.			
6a Enter PV and corresponding #weeks for PV just above 5c.....	39	PV	38.5502
6b Enter PV and corresponding #weeks for PV just below 5c.....	38		37.5726
6c Difference of 6a and 6b.....			0.9776
6d PV of weeks remaining after commutation off far end (5c from above).....			38.0992
6e Subtract 6b.....			37.5726
6f Difference of 6d and 6e.....			0.5266
6g Divide by 6c.....		÷	0.9776
6h Proportional amount of last week of PD.....			0.5387
6i Add to weeks component of 6b.....		+	38.0000
6j #weeks remaining after commutation off far end.....			38.5387
7 Determine amount of PD due after commutation off far end.			
7a #weeks remaining after commutation off far end (6j from above).....	38.5387		
7b Multiply by PD rate.....		x	\$230.00
7c PD still owed for period after DOC.....			\$8,863.90
8 Determine number of weeks eliminated from far end.			
8a #weeks PD before commutation off far end (1f from above).....	83.5714		
8b Subtract #weeks PD remaining after commutation (6j from above).....	38.5387		
8c #weeks eliminated from far end.....	45.0327		
9 Additional interest due for payment after date of commutation:			
Additional interest due for each day late.....			\$2.74
* Take values from Table 1 - Present Value of Permanent Disability			



36

Commutation Example 1

TABLE 1
PRESENT VALUE OF PERMANENT DISABILITY

	Weeks	PV
2a	84	81.9862
2b	83	81.0327
From 5c: [38.0992]		
6a	39	38.5502
6b	38	37.5726



© 2017, Bradford & Barthel, LLP

37

TABLE 1 - PRESENT VALUE OF PERMANENT DISABILITY

Wks	PV
82	80.0792
83	81.0327
84	81.9862
85	82.9387
37	36.5939
38	37.5726
39	38.5502
40	39.5278
41	40.5043
42	41.4808



38

Commutation Example # 1

- **1c Weeks elapsed (accrued) through DOC = 117.4286 (x \$230 = \$27,008.58)**
- **2a 2b; 6a 6b PV values from Table 1**
- **4a 4b 4c \$10,000 lump sum commutation (10,000 = 43.4783 weeks x \$230)**
- **7c PD still owed after DOC = \$8,863.90**
- **8c Weeks eliminated off far end: 45.0327 (x \$230 = \$10,357.52)**
- **Interest Savings: \$10,357.52 - \$10,000 = \$357.52**
- **PD ends: 1/28/2018 (45.0327 weeks eliminated from 12/10/18)**



© 2017, Bradford & Barthel, LLP

39

Commutation Example # 2

- **60% PD = 351.25 weeks @ \$270/ week = \$94,837.50**
- **2/2/2015 – 10/27/2021**
- **Attorney fees 15%: \$14,225.63**
- **“Off the Far End” Ex B**




© 2017, Bradford & Barthel, LLP

40

W:	Example
WCAB#:	ADJ
Date:	5/3/2017

B) COMMUTATION OF PD "OFF THE FAR END"


DOI:	02/02/13	PD Rating:	60.00%
PD starts:	02/02/15	# of weeks:	351.2500
DOC:	05/03/17	PD weekly rate:	\$270.00
		Amount to commute:	\$14,225.63



© 2017, Bradford & Barthel, LLP

41

1 Determine weeks of PD remaining after date of commutation (DOC).	
1a # of days from PD starts through DOC incl.....	822
1b Divide by 7 days per week.....	7
1c Weeks elapsed through DOC.....	117.4286
1d Total weeks of PD.....	351.2500
1e Subtract weeks elapsed through DOC (1c from above).....	117.4286
1f Weeks of PD remaining after DOC.....	233.8214
2 Determine PV of weeks of PD remaining after DOC.	
	weeks PV
2a Enter corresponding PV for #weeks just above 1f.....	234 219.0293
2b Enter corresponding PV for #weeks just below 1f.....	233 218.1535
2c Difference of 2a & 2b.....	0.8758
2d Multiply by fractional portion of 1f.....	0.8214
2e PV of fractional week.....	0.7194
2f Add 2b.....	218.1535
2g PV of weeks remaining after DOC.....	218.8729
3 Determine commuted value of all PD due for period after DOC.	
3a PV of weeks remaining after DOC (2g from above).....	218.8729
3b Multiply by PD rate.....	\$270.00
3c Commuted value of all PD due for period after DOC.....	\$59,095.68
4 Determine PV (at \$1/week) of amount to be commuted.	
4a Amount to be commuted.....	\$14,225.63
4b Divide by weekly PD rate.....	\$270.00
4c PV of amount to be commuted.....	52.6875
5 Determine PV of weeks remaining after commutation off far end.	
5a PV of weeks remaining after DOC (2g from above).....	218.8729
5b Subtract PV of amount to be commuted (4c from above).....	52.6875
5c PV of weeks remaining after commutation off far end.....	166.1854
* Take values from Table 1 - Present Value of Permanent Disability	
6 Determine number of weeks of PD remaining after commutation off far end.	
	Weeks PV
6a Enter PV and corresponding #weeks for PV just above 5c.....	167 159.2532
6b Enter PV and corresponding #weeks for PV just below 5c.....	166 158.3440
6c Difference of 6a and 6b.....	0.9092
6d PV of weeks remaining after commutation off far end (5c from above).....	166.1854
6e Subtract 6b.....	158.3440
6f Difference of 6d and 6e.....	7.8414
6g Divide by 6c.....	0.9092
6h Proportional amount of last week of PD.....	8.6245
6i Add to weeks component of 6b.....	166.0000
6j #weeks remaining after commutation off far end.....	174.6245
7 Determine amount of PD due after commutation off far end.	
7a #weeks remaining after commutation off far end (6j from above).....	174.6245
7b Multiply by PD rate.....	\$270.00
7c PD still owed for period after DOC.....	\$47,148.62
8 Determine number of weeks eliminated from far end.	
8a #weeks PD before commutation off far end (1f from above).....	233.8214
8b Subtract #weeks PD remaining after commutation (6j from above).....	174.6245
8c #weeks eliminated from far end.....	59.1969
9 Additional interest due for payment after date of commutation:	
Additional interest due for each day late.....	\$3.90
* Take values from Table 1 - Present Value of Permanent Disability	



42

Commutation Example # 2

- **1c** Weeks elapsed (accrued) through DOC = 117.4286
(x \$270 = \$31,705.72)
- **4abc** \$14,225.63 lump sum commutation (\$14,225.63
= 52.6875 weeks x \$270)
- **7c** PD still owed after DOC = \$47,148.62
- **8c** Weeks eliminated off far end: 59.1969 (x \$270 =
\$15,983.16)
- Interest Savings: \$15,983.16 - \$14,225.63 = \$1,757.53
- **PD ends: 9/7/2020 (59.1969 weeks
eliminated from 10/27/21)**



© 2017, Bradford & Barthel, LLP

43

Commutation Example # 3

- **85% PD: \$290/ week x 673.25 weeks =
2/2/2015 – 12/28/2027 = \$195,242.50**
- **Life Pension: 12/29/2027 – 9/12/2043 =
\$204,575.58 (26.4 year life expectancy)**



© 2017, Bradford & Barthel, LLP

44

Commutation Example # 3

- Two separate awards for attorney fees:
 - For PD of 85% = \$195,242.50
 - 15% = \$29,286.38
 - “Off the Far End” Ex B
- For Life Pension
 - COLA projected for L/E at 3%
 - PV = \$138,663.15 ** workcompcentral **
 - 15% of PV = \$20,799.47
 - “Uniform Reduction” of Deferred Life Pension - Ex G



© 2017, Bradford & Barthel, LLP

45

B) COMMUTATION OF PD "OFF THE FAR END"

DOI:	02/02/13
PD starts:	02/02/15
DOC	05/03/17

PD Rating:	85.00%
# of weeks:	673.2500
PD weekly rate:	\$290.00
Amount to commute:	\$29,286.38



© 2017, Bradford & Barthel, LLP

46

1 Determine weeks of PD remaining after date of commutation (DOC).		
1a # of days from PD starts through DOC incl.....		822
1b Divide by 7 days per week.....	3	7
1c Weeks elapsed through DOC.....		117.4286
1d Total weeks of PD.....		673.2500
1e Subtract weeks elapsed through DOC (1c from above).....		117.4286
1f Weeks of PD remaining after DOC.....		555.8214
2 Determine PV of weeks of PD remaining after DOC.		
	weeks	PV
2a Enter corresponding PV for #weeks just above 1f.....	556	476.6792
2b Enter corresponding PV for #weeks just below 1f.....	555	475.9494
2c Difference of 2a & 2b.....		0.7298
2d Multiply by fractional portion of 1f.....	x	0.8214
2e PV of fractional week.....		0.5995
2f Add 2b.....	+	475.9494
2g PV of weeks remaining after DOC.....		476.5489
3 Determine commuted value of all PD due for period after DOC.		
3a PV of weeks remaining after DOC (2g from above).....		476.5489
3b Multiply by PD rate.....	x	\$290.00
3c Commuted value of all PD due for period after DOC.....		\$138,199.18
4 Determine PV (at \$1/week) of amount to be commuted.		
4a Amount to be commuted.....		\$29,286.38
4b Divide by weekly PD rate.....	3	\$290.00
4c PV of amount to be commuted.....		100.9875
5 Determine PV of weeks remaining after commutation off far end.		
5a PV of weeks remaining after DOC (2g from above).....		476.5489
5b Subtract PV of amount to be commuted (4c from above).....		100.9875
5c PV of weeks remaining after commutation off far end.....		375.5614
* Take values from Table 1 - Present Value of Permanent Disability		
6 Determine number of weeks of PD remaining after commutation off far end.		
	Weeks	PV
6a Enter PV and corresponding #weeks for PV just above 5c*.....	376	339.4819
6b Enter PV and corresponding #weeks for PV just below 5c*.....	375	337.6530
6c Difference of 6a and 6b.....		0.8082
6d PV of weeks remaining after commutation off far end (5c from above).....		375.5614
6e Subtract 6b.....		337.6530
6f Difference of 6d and 6e.....		37.9084
6g Divide by 6c.....	3	0.8082
6h Proportional amount of last week of PD.....		46.9047
6i Add to weeks component of 6b.....	+	375.9030
6j #weeks remaining after commutation off far end.....		421.9047
7 Determine amount of PD due after commutation off far end.		
7a #weeks remaining after commutation off far end (6j from above).....		421.9047
7b Multiply by PD rate.....	x	\$290.00
7c PD still owed for period after DOC.....		\$122,352.36
8 Determine number of weeks eliminated from far end.		
8a #weeks PD before commutation off far end (1f from above).....		555.8214
8b Subtract #weeks PD remaining after commutation (6j from above).....		421.9047
8c #weeks eliminated from far end.....		133.9167
9 Additional interest due for payment after date of commutation:		
Additional interest due for each day late.....		\$8.02
* Take values from Table 1 - Present Value of Permanent Disability		



Commutation Example # 3 - PD

- Weeks elapsed (accrued) through DOC = 117.4286 (x \$290 = \$34,054.29)
- PD still owed after DOC = \$122,352.36
- Weeks eliminated off far end: 133.9167 x \$290 = \$38,835.84
- Interest Savings: \$38,835.84 - \$29,286.38 = \$9,549.46
- **PD ends: 6/4/2025**



Commutation of PD “off the far end”

- LC 4659
- If PD is at least 70%...life pension is “to be paid during the remainder of life, **after payment for the maximum number of weeks** specified in Section 4658 has been made”



© 2017, Bradford & Barthel, LLP

49

85% PD - “Off the Far End”

- Life Pension begins 12/29/2027 (gap of 133.9167 weeks off the far end of the PD award)
- **No benefits due 6/5/2025 – 12/28/2027**
- Life Pension: 12/29/2027 – 9/12/2043 = \$204,575.58



© 2017, Bradford & Barthel, LLP

50

Example # 3 – 85% PD

Alternative:

“PD By Uniform Reduction” Ex C

C) COMMUTATION OF PD BY UNIFORM REDUCTION OF PAYMENTS

DOI:	02/02/13
PD starts:	02/02/15
DOC	05/03/17

PD Rating:	85.00%
# of weeks:	673.2500
PD weekly rate:	\$290.00
Amount to commute	\$29,286.38



1 Determine weeks of PD remaining after date of commutation (DOC).

1a # of days from PD starts through DOC incl.....	822
1b Divide by 7 days per week.....	7
1c Weeks elapsed through DOC.....	117.4286
1d Total weeks of PD.....	673.2500
1e Subtract weeks elapsed through DOC (1c from above).....	117.4286
1f Weeks of PD remaining after DOC.....	555.8214

2 Determine PV of weeks of PD remaining after DOC.

	weeks	PV
2a Enter PV for #weeks just above 1f.....	556	476.6732
2b Enter PV for #weeks just below 1f.....	555	475.9494
2c Difference of 2a & 2b.....		0.7238
2d Multiply by fractional portion of 1f.....	x	0.8214
2e PV of fractional week.....		0.5995
2f Add 2b.....	+	475.9494
2g PV of weeks remaining after DOC.....		476.5489

3 Determine amount of reduction required to produce lump sum.

3a Amount to be commuted.....	\$29,286.38
3b Divide by PV of remaining weeks (2g from above).....	476.5489
3c Amount of reduction after rounding to nearest whole cent.....	\$61.46

4 Determine new PD rate after reduction.

4a Weekly PD rate.....	\$290.00
4b Subtract amount of reduction (3c from above).....	\$61.46
4c New PD rate after reduction.....	\$228.54

5 Determine amount of PD still owed for period after DOC.

5a #weeks of PD remaining after DOC (1f from above).....	555.8214	
5b Multiply by new PD rate after reduction (4c from above).....	x	\$228.54
5c Amount of PD still owed for period after DOC.....	\$127,027.42	

6 Additional interest due for payment after date of commutation:

Additional interest due for each day late.....	\$8.02
--	--------

* Take values from Table 1 - Present Value of Permanent Disability



85% PD – “By Uniform Reduction”

- **1e** Weeks elapsed (accrued) through DOC =
117.4286 (x \$290 = \$34,054.29)
- **1f** Weeks remain of PD = 555.8214
(555.8214 = \$161,188.21)
- **3a** Amount commuted = **\$29,286.38**
- **5a** Amount of PD still owed = **\$127,027.02**
- **Interest Savings:** \$161,188.21 – 29,286.38 –
127,027.02 = \$4,874.81
- **PD continues to 12/28/2027; LP begins 12/29/2027**



© 2017, Bradford & Barthel, LLP

53

85% PD - Uniform Reduction

- **4 Determine new PD rate after reduction.**
- **4a** Weekly PD rate **\$290.00**
- **4b** Subtract amount of reduction (3c from
above)

 - \$61.46
- **4c** New PD rate after **\$228.54**



© 2017, Bradford & Barthel, LLP

54

85% PD – Uniform Reduction

- Reduction applies to all PD benefits due after Date of Commutation (5/3/2017)
- “Uniform Reduction” is \$61.46 from weekly benefit
- **Benefit rate from 5/4/2017 through 12/28/2027 = \$228.54**
- **No gap in benefits (Life Pension begins 12/29/2027)**



© 2017, Bradford & Barthel, LLP

55

PV of Life Pension

- **From workcompcentral PV calculator:**
- PV of Life Pension, with COLA ('due for Baker') = \$138,663.15 (this includes LP calculated with COLA projected at 3% (calculations differ re total LP))
- Attorney fee = 15% of PV = \$20,779.47



© 2017, Bradford & Barthel, LLP

56

**G) COMMUTATION OF A PORTION OF DEFERRED LIFE PENSION
BY UNIFORM REDUCTION OF LIFE PENSION**

Date of birth:	02/07/63
DOI:	02/02/13
PD start:	02/02/15
DOC:	05/03/17

Total weeks PD:	673.25
Life pension rate:	\$193.27
Gender:	male
Amount to commute	\$20,779.47



1 Determine exact age in years as of date of commutation (DOC).			
1a # of days from DOB through DOC.....			19809
1b Divide by average number of days per year.....	Q		365.24
1c Exact age on DOC.....			54.236
2 Determine number of years between DOC and LP commencement.			
2a Total weeks of PD.....			673.25
2b Multiply by 7 days per week.....	X		7
2c Total days of PD.....			4712.8
2d Subtract #days from PD commencement through DOC inclusive.....			822.0
2e Number of days from DOC to LP commencement.....			3890.8
2f Divide by average number of days per year.....			365.24
2g Period in years from DOC to LP commencement (i.e. deferral period).....			10.653
3 Determine PV of life pension for exact age and deferral period.*			
3a Enter PV for age 54 and deferral period 10.....			400.7
3b Enter PV for age 55 and deferral period 10.....			382.45
3c Difference of 3a and 3b.....			18.25
3d Multiply by fractional portion of 1c.....	X		0.236
3e Interpolation adjustment for age.....			4.31
3f Enter PV for age 54 and deferral period 10.....			400.7
3g PV for age 54 and deferral period 11.....			367.93
3h Difference of 3f and 3g.....			32.77
3i Multiply by fractional portion of deferral period (from 2g).....	X		0.653
3j Interpolation adjustment for deferral period.....			21.40
3k PV for age below 1c and deferral period below 2g (3a from above).....			400.7
3l Subtract sum of 3e and 3j.....			25.71
3m PV for exact age and deferral period on DOC.....			374.99
* Take values from Table 2 - Present Value of Life Pension for a Male, or Table 3 - Present Value of Life Pension for a Female, as dictated by gender.			
4 Calculate amount of reduction in LP rate necessary to produce lump sum.			
4a Amount to be commuted.....			\$20,779.47
4b Divide by 3m.....			374.99
4c Amount of weekly reduction in LP.....			\$55.41
5 Calculate LP rate after commutation.			
5a LP rate before commutation.....			\$193.27
5b Subtract weekly reduction in LP (4c from above).....			55.41
5c LP rate after commutation.....			\$137.86
6 Additional interest due for payment after date of commutation:			
Additional interest due for each day late.....			\$5.69



TABLE 2
PRESENT VALUE OF LIFE PENSION FOR A MALE

- Number of years between date of commutation (DOC) and commencement of life pension

	Age on DOC	Deferral period	PV
3a	54	10	400.70
3b	55	10	382.45
3f	54	10	400.70
3g	54	11	367.93



© 2017, Bradford & Barthel, LLP

59

Commutation Example # 3 - LP

- **2g** 10.653 years from DOC to LP commencement
- **3a 3b 3g** PV values from Table 2 (male) or Table 3 (female)
- **4c Uniform Reduction = \$55.41 per week**



© 2017, Bradford & Barthel, LLP

60

Commutation Example # 3 - LP

- **5 Calculate LP Rate after commutation**
 - **5a LP rate before commutation \$193.27**
 - **5c Subtract weekly reduction (4c) \$55.41**
 - **5c LP Rate after reduction = \$137.86**
- $\$193.27 - \$55.41 = \$137.86 = \text{year 1 LP benefit (2027)}$
- COLA applies to LP Rate (before reduction) each January 1st
- in this case, beginning 1/1/2028
- Subtract \$55.41 from current LP rate to obtain benefit rate after commutation



Year	# Days	Weekly Rate	Reduction	Weekly after Reduction
2027	3	\$ 193.27	55.41	\$ 137.86
2028	365.24	\$ 199.07	55.41	\$ 143.66
2029	365.24	\$ 205.04	55.41	\$ 149.63
2030	365.24	\$ 211.19	55.41	\$ 155.78
2031	365.24	\$ 217.53	55.41	\$ 162.12
2032	365.24	\$ 224.06	55.41	\$ 168.65
2033	365.24	\$ 230.78	55.41	\$ 175.37
2034	365.24	\$ 237.70	55.41	\$ 182.29
2035	365.24	\$ 244.83	55.41	\$ 189.42
2036	365.24	\$ 252.17	55.41	\$ 196.76
2037	365.24	\$ 259.74	55.41	\$ 204.33
2038	365.24	\$ 267.53	55.41	\$ 212.12
2309	365.24	\$ 275.56	55.41	\$ 220.15
2043	365.24	\$ 283.83	55.41	\$ 228.42
2041	365.24	\$ 292.34	55.41	\$ 236.93
2042	365.24	\$ 301.11	55.41	\$ 245.70
2043	255	\$ 310.14	55.41	\$ 254.73



Commutations

Limitations:

- Issued in 2001
- Table 1 – PV for commutation of current benefit payment – ends at 950 weeks (18.27 years)
- Table 2 and 3 – PV for commutation of future benefit payment (Life Pension) will project out 14 years (x 52 weeks = 728 weeks; for DOI 2005 or later, 89% PD = 737.25 weeks)
- COLA is not included
- You can request Commutations from the DEU
 - https://www.dir.ca.gov/dwc/forms/DEU_CommutionRequest.xls



COMMUTATION REQUEST

Directions: Fill in the section under All Cases as completely as possible. Remaining sections only need to be filled in if you are requesting a commutation of those benefits.

All cases:		Requested by: _____
IW: _____	EAMS Case#: _____	Contact number: _____
		FAX Number: _____
		Request Date: _____
DOI: _____		If DOI is oia 1/1/03, then any LP or
P&S date: _____		PTD benefits would be subject to
		annual SAWW-based increases.
Attorney fee% (if applicable): _____		
Annual SAWW increase (if appl.): _____		Judge to fill in Annual SAWW increase and
	Leave blank for Judge	provide approval signature. If judge leaves
		Annual SAWW increase blank, DEU will use 3%.
Permanent Disability:		Judge _____
PD Rating: _____		Signature: _____
PD duration (in weeks): _____		
Initial PD weekly rate: _____		
Is PD subject to +15% adjustment under LC 4658(d)? (Y/N) _____		If DOI is 1/1/05-12/31/12, then PD may be subject to adjustment under LC 4658(d). If applicable, enter the effective date of adjustment and rate after adjustment in Additional Comments section below.
Is PD subject to -15% adjustment under LC 4658(d)? (Y/N) _____		
Life Pension:		Death Benefit:
Date of birth: _____		Average Weekly Earnings: _____
PD start date (typically the P&S date or the day after TD ends): _____		Start date of benefits: _____
PD duration (in weeks): _____		Initial benefit rate: _____
Initial rate of LP benefits: _____		Death benefit amt (LC 4702): _____
Gender: _____		DOB of youngest child: _____
100% Permanent Total Disability:		All commutations will follow Baker vs. WCAB in determining effective date of first SAWW increase.
Date of birth: _____		
PTD start date (typically the P&S date or the day after TD ends): _____		Commutations involving 104 week TD cap will follow Brower vs. Jones (ADJ802221) in determining start date of PD or PTD.
Initial rate of PTD benefits: _____		
Gender: _____		
Additional Comments:		





BB

Law Offices of
Bradford & Barthel, LLP

WE PROMISE AGGRESSIVE, EFFICIENT, COST-EFFECTIVE REPRESENTATION



Bradford & Barthel, LLP
13 Offices across California

Tim Mussack
(916) 569-0790
tmussack@bradfordbarthel.com