



# Bradford & Barthel, LLP

## Statute of Limitations Guide

<p><b>Reporting a Claim: LC§ 5400</b></p> <ul style="list-style-type: none"> <li>- LC 5400 requires the Injury be reported to the Employer within 30 days of the occurrence. The failure to give notice under <u>LC5400</u>, or any defect or inaccuracy in a notice is not a bar to recovery under this division if it is found as a fact in the proceedings for the collection of the claim that the employer was not in fact misled or prejudiced ( LC 5403) by such failure.</li> </ul>	<p><b>Continuous/Cumulative Trauma: LC § 5412</b></p> <ul style="list-style-type: none"> <li>- One year from the date of injury as defined as when the EE first suffered "disability" and knew/should have known the disability was caused by employment</li> </ul>
<p><b>Comp Benefits: LC § 5405</b></p> <ul style="list-style-type: none"> <li>- 1 year from Date of Injury (DOI) where no benefits have been provided to file an Application</li> <li>- 1 year from DOI or last benefit when medical or disability benefits were provided</li> </ul>	<p><b>Discrimination/LC § 132a</b></p> <ul style="list-style-type: none"> <li>- 1 year from the claimed discriminatory act</li> </ul>
<p><b>Death Benefits: LC §§§ 5406, 5406.5, 5406.6</b></p> <ul style="list-style-type: none"> <li>- LC § 5406, 1 year from Date of Death (DOD) or last benefit paid</li> <li>- LC § 5406.5, 1 year from DOD or last furnishing of any benefits, no more than 240 weeks from the Date of Injury (DOI)- asbestosis, cancer</li> <li>- LC § 5406.6, 1 year from DOD or last furnishing of any benefits, not more than 240 weeks from the DOI - HIV</li> </ul>	<p><b>Minors/Incompetents LC § 5408</b></p> <ul style="list-style-type: none"> <li>- Statute does not run while minor is under age 18 or incompetent until a guardian/ conservator has been appointed</li> </ul>
<p><b>Lien Claimants: LC §§ 4903, 4905.2(b)(1)(B)</b></p> <ul style="list-style-type: none"> <li>- LC § 4903, 18 months from Date of Services that were provided after July 1, 2013</li> <li>- LC § 4905.2(b)(1)(B), Provider must submit bill within 12 months of service</li> </ul>	<p><b>Petitions for LC § 5814</b></p> <ul style="list-style-type: none"> <li>- 2 years from the date the payment of compensation was due</li> </ul>
<p><b>New &amp; Further Disability: LC §§ 5410, 5804</b></p> <ul style="list-style-type: none"> <li>- 5 years from DOI to reopen claim post award for good cause or to claim any new and further benefits as a result of the original injury</li> </ul>	<p><b>Serious &amp; Willful: LC § 4553</b></p> <ul style="list-style-type: none"> <li>- 1 year from the DOI; an employer is found to have caused an injury by its "serious and willful misconduct" will be ordered to pay an amount equal to half the value of all WC benefits paid as a result of the injury.</li> </ul>
<p><b>Reopen: LC §§ 5808, 5804</b></p> <ul style="list-style-type: none"> <li>- Requests to reopen for "good cause"</li> </ul>	<p><b>Workers' Compensation Reimbursement: CCP 338(d)</b></p> <ul style="list-style-type: none"> <li>- Three years for an action of relief on the grounds of fraud of mistake as the case of action is not deemed to have accrued until the discovery by the aggrieved party of the facts constituting the mistake or fraud. Recommended you file a lien for reimbursement.</li> </ul>
<p><b>Workers' Compensation Contribution: LC § 5500.5</b></p> <ul style="list-style-type: none"> <li>- 1 year from the issuance of an award or order approving C&amp;R to Petition for Contribution</li> </ul>	<p><b>Workers' Compensation Third Party Credit Rights: LC 3858</b></p> <ul style="list-style-type: none"> <li>- Employee may claim/right of action for all damages proximately caused from the injury/death caused by another person other than the employer. Employer is relieved from the obligation to pay further compensation to the employee up to the entire amount of the balance of the judgement – WCAB approved</li> </ul>
<p><b>Workers' Compensation Third Party Action: LC 3852, CCP 335.1</b></p> <ul style="list-style-type: none"> <li>- 2 years from Date of Injury</li> </ul>	<p><b>Reynolds Language to Protect Statute of Limitations on Medical Only Files</b></p> <p>Important time frames you need to know if you should later change your mind and wish to pursue your claim. Send notice in English/ Spanish.</p> <ol style="list-style-type: none"> <li>1. Under LC 5405(a) you have one year from the date of your injury to begin to commence proceedings. Please contact me at: (give number and email information), or you may contact the Administrative Director for information and Assistance at: (800) 736-7401 and ask for an information and assistance officer. – <b><u>Use this if you have provided benefits and the case is not denied</u></b></li> <li>2. Under LC 5410 you have five years from the date of your injury to claim further benefits. If you do not pursue additional benefits within five years from the date of your injury, you may lose your rights. – <b><u>Use this if for all cases to include denied cases</u></b></li> </ol>



# Bradford & Barthel, LLP

## Office Locations

<p style="text-align: center;"><b>Anaheim, CA*</b></p> <p>222 S. Harbor Blvd., Suite 950 Anaheim, California 92805 (714) 526-9120   (714) 526-9130 fax</p> <p style="text-align: center;"><i>Primary Venues:</i> Anaheim, Santa Ana, Long Beach</p>	<p style="text-align: center;"><b>Ontario, CA*</b></p> <p>3270 Inland Empire Blvd., Suite 100 Ontario, California 91764 (909) 476-0552   (909) 476-0554 fax</p> <p style="text-align: center;"><i>Primary Venues:</i> San Bernardino, Riverside, Pomona</p>	<p style="text-align: center;"><b>San Jose, CA*</b></p> <p>1737 N. 1<sup>st</sup> Street, Suite 200 San Jose, California 95112 (408) 392-8202   (408) 392-0903 fax</p> <p style="text-align: center;"><i>Primary Venues:</i> San Jose, San Francisco, Salinas, Stockton</p>
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