



John R. Lane
Commissioner

The Commonwealth of Massachusetts

Department of Industrial Accidents

*600 Washington Street
Boston, Mass. 02111*

CIRCULAR LETTER NO. 261

OCTOBER 10, 1991

TO: ALL INTERESTED PARTIES
FROM: JAMES CAMPBELL, COMMISSIONER
SUBJECT: NEW SECTION 15 GUIDELINES

A handwritten signature in dark ink, appearing to be 'JC' or 'James Campbell', written over the word 'COMMISSIONER'.

The format for preparation of petitions for approval of settlement under § 15 has been revised. New questions #11 and #12 require disclosure of payments made to the plaintiff/employee or the Worker's Compensation Insurer by the Workers' Compensation Trust Fund under the provisions of § 65.

The new guidelines are attached hereto. Effective December 1, 1991, petitions which do not conform to the new format will be returned to the petitioner for revision. Effective immediately, all petitions should be directed to:

Douglas W. Sears
Deputy Director
Dispute Resolution
600 Washington Street
Boston, Ma. 02111

INSTRUCTIONS FOR PREPARATION OF PETITION FOR
APPROVAL OF SETTLEMENT UNDER GENERAL LAWS,
CHAPTER 152, SECTION 15

1. SET OUT EACH QUESTION FOLLOWED BY YOUR ANSWER. IF A QUESTION IS NOT APPLICABLE, PLEASE SO INDICATE. THE QUESTIONS ARE TO BE ANSWERED IN THE ORDER IN WHICH THEY ARE LISTED.
2. IN ADDITION TO THE ORIGINAL, PLEASE FILE A SUFFICIENT NUMBER OF COPIES SO THAT EACH INTERESTED PARTY WILL RECEIVE ONE.
3. THE PETITIONER MUST ALSO SUBMIT AN ENVELOPE WITH SUFFICIENT POSTAGE ADDRESSED TO THE ATTORNEY WHO FILED THE PETITION. THE APPROVED COPIES WILL BE RETURNED IN THE ENVELOPE PROVIDED AND THE FILING ATTORNEY WILL BE RESPONSIBLE FOR DISTRIBUTING THE APPROVED COPIES TO THE PARTIES.
4. IF THE PETITION IS ACCEPTED IN THE FORM SUBMITTED, THE REVIEWING BOARD WILL APPROVE AND RETURN ALL COPIES TO THE FILING ATTORNEY, USUALLY WITHIN FOURTEEN DAYS.
5. SUBMIT THE ORIGINAL AND COPIES OF THE PETITION TO:

DOUGLAS W. SEARS
FIRST DEPUTY DIRECTOR OF DISPUTE RESOLUTION
DEPARTMENT OF INDUSTRIAL ACCIDENTS
600 WASHINGTON STREET
BOSTON, MA. 02111

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF
INDUSTRIAL ACCIDENTS

BOARD NO.

PETITION TO THE REVIEWING BOARD FOR APPROVAL OF
THIRD PARTY SETTLEMENT UNDER G.L. c. 152, §15

_____	Plaintiff/Employee
_____	Employer
_____	Workers' Compensation Insurer
_____	Third Party
_____	Third Party Insurer

The above-named parties request the reviewing board to approve a third party settlement under G.L. c.152, §15. Following are the terms and conditions of the settlement.

1. Describe in detail the accident, event, incident or series of incidents which form the basis for the workers' compensation claim and the third party claim.
2. Briefly describe the injuries and the course of medical treatment.
3. Set out the periods of disability.
4. Set out the amounts paid by workers' compensation insurer in weekly incapacity and/or death benefits, medical expenses, specific losses under §36 or any other payments made in this case pursuant to the provisions of c. 152.
5. Evaluate the liability of the third party in the tort claim and state why settlement is advisable.
6. What is the total amount of the proposed settlement?

7. How will the third party settlement proceeds be divided among the plaintiff/employee, the workers' compensation insurer, and counsel for the plaintiff/employee?
8. How will the attorney's fee and expenses in the third party claim be apportioned between the plaintiff/employee and the workers' compensation insurer?
9. If the workers' compensation case will remain open after the third party settlement and if the plaintiff/employee continues to be disabled, and/or will require further medical treatment, set out the agreement between plaintiff/employee and the workers' compensation insurer respecting reallocation of the legal fee as required by Hunter v. Midwest Coast Transport, Inc. et al., 400 Mass 779 (1987).
10.
 - a. If expenses are being reimbursed attach receipted bills or other appropriate proof of payment.
 - b. If the workers' compensation case has been settled, or is proposed for settlement, attach a copy of the lump sum agreement.
 - c. Attach a copy of the contingent fee agreement or explain the absence of such an agreement.
11. List any amounts paid or payable to the plaintiff/employee by the Workers' Compensation Trust pursuant to the provisions of G.L. c. 152, § 65 subsections:
 - (2)(d) (payment of vocational rehabilitation benefits pursuant to G.L. c. 152, § 30H)
 - (2)(e) (payment of approved claims to employees of uninsured employers)
 - (2)(f) (payment of approved fellow-worker claims pursuant to G.L. c. 152, § 26)
12. List any amounts paid or payable to the workers' compensation insurer by the Workers' Compensation Trust Fund pursuant to G.L. c. 152, § 65 subsections:
 - (2)(a) (reimbursement of cost-of-living adjustments pursuant to G.L. c. 152, §§ 31, 34A)
 - (2)(b) (reimbursement of adjustments to weekly benefits pursuant to G.L. c. 152, § 35C)
 - (2)(c) (reimbursement of payments relating to second injuries pursuant to G.L. c. 152, § 37)

(2)(g) (reimbursement of payments relating to second
injuries pursuant to G.L. c. 152, § 37A)

Signed under the penalties of perjury this _____
day of _____, 19____.

/s/
Plaintiff/Employee

NAME
ADDRESS
TEL. #

/s/
Attorney/Representative for
Workers' Compensation Insurer

NAME
ADDRESS
TEL. #

/s/
Attorney for Plaintiff/Employee

NAME
ADDRESS
TEL. #

/s/
Attorney/Representative
for Third Party Insurer

NAME
ADDRESS
TEL. #

/s/
Attorney for the Workers' Compensation Trust Fund

NAME
ADDRESS
TEL. #

The foregoing petition adequately recites the terms, allocations and reasons for the settlement of the third party claim. Accordingly, the reviewing board approves the petition.

If the insurer recovers previously paid workers' compensation benefits as a result of this settlement, it shall submit a revised statistical unit report to the appropriate rating bureau within sixty (60) days of recovery, pursuant to General Laws Chapter 152, Section 53A (4).

Administrative Law Judge
For The Reviewing Board

DATE: