

HEART TROUBLE

AND OTHER PRESUMPTIVE INJURIES

WELLS LAW

WORKERS' COMPENSATION

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BY CALIFORNIA STATE BAR

Making a false or fraudulent workers' compensation claim is a felony subject to up to 5 years in prison or a fine of up to \$50,000 or double the value of the fraud, whichever is greater, or by both imprisonment and fine.

INTRODUCTION

This pamphlet was created to inform **safety employees**, both active and retired, of the heart trouble and other injury presumptions.

This pamphlet is especially important if you currently do not have an attorney representing you. If you do have an attorney, then we recommend you follow your attorney's advice.

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Presumptions

Presumptions vary based on the type of safety employee you are, but presumptions can be a powerful benefit for safety employees who are injured on the job.

The burden of proof for an injury in a workers' compensation case is on the injured worker. There are exceptions to the rule, but in most situations, if you are eligible for a presumption, the defendants have to prove that there is no injury instead of the injured worker having to prove an injury.

Injuries involving heart, pneumonia, tuberculosis, Lyme's disease, hernia, lower back, meningitis, bloodborne illness, cancer, MRSA, and biochemical exposure are given special consideration by workers' compensation courts.

When you see L.C. § and number, it's shorthand for "Labor Code Section."

The Heart Presumption

If your safety position is eligible for the heart presumption, it's important to understand your potential rights:

- If heart trouble manifests or develops while you are working in your safety job, then it is presumed to be work related.
- Many safety workers don't understand that the presumption continues after you stop working or retire; this continues up to five (5) years after your last date worked.
- If you manifest or develop a heart problem within five (5) years after your employment separation date, then the presumption applies. This usually occurs when a safety person has a heart attack or is diagnosed with heart disease.
- There are situations where you can win the workers' compensation case beyond five (5) years if the condition manifested itself within the presumption period.
- If a heart attack that causes death within the presumption period (up to five years), your spouse / dependents could be entitled to death benefits.
- If you had a heart attack or bypass surgery five (5), ten (10), or even fifteen (15) years ago and did not file for workers' compensation benefits, the time limits to file may not apply to you.

- If you have a heart attack or bypass surgery after the presumption period (up to five [5] years), you still may be entitled to the presumption, because it matters when the heart condition manifested or developed not when the heart attack or bypass surgery occurred.
- The statute of limitations does not begin until the eligible safety employee knows or should have known the heart condition could be caused by work. It's possible for you to file a claim and win even years after heart trouble began.

To assist in delivering benefits for a safety employee with a heart problem, it is important to “spot it” before you retire or leave your job. You should:

- Get a complete physical exam by your personal physician.
- If you have high blood pressure, ask your doctor to schedule an echocardiogram. It's a non-invasive study that detects abnormalities of the heart.
- If LVH (left ventricular hypertrophy) or left atrial enlargement is detected, then have a EBCT heart scan performed.

CDCR Personnel

If you are CDCR peace officer or an employee with custodial duties, then the following presumptions may apply to you:

- Any Heart Trouble (L.C. §3212.2 / L.C. §3212.10)
- Pneumonia (L.C. §3212.10)
- Tuberculosis (L.C. §3212.2 / L.C. §3212.6)
- Meningitis (L.C. §3212.10)
- Bloodborne Diseases / MRSA (L.C. §3212.8)
- Biochemical Exposure (L.C. §3212.85)

The most common presumptive injury we see with correctional officers or other employees with custodial duties is **heart trouble**.

Sheriff / Deputy Sheriff Personnel

The following presumptions apply to Sheriff and Deputy Sheriff:

- Any Heart Trouble (L.C. §3212.5)
- Hernia (L.C. § 3212)
- Low Back (L.C. § 3213.2)
- Cancer (L.C. § 3212.1)
- Pneumonia (L.C. §3212.5)

- Tuberculosis (L.C. §3212.6)
- Meningitis (L.C. §3212.9)
- Bloodborne Diseases / MRSA (L.C. §3212.85)
- Biochemical Exposure (L.C. §3212.85)

The most common presumptive injuries we see is **low back** and **hernia** based on use of the duty belt. **Heart trouble** is also common with Sheriff personnel.

California High Patrol

The following presumptions apply to CHP officers:

- Any Heart Trouble (L.C. §3212.3 / L.C. §3212.5)
- Hernia (L.C. § 3212)
- Low Back (L.C. § 3213.2)
- Cancer (L.C. § 3212.1)
- Pneumonia (L.C. §3212.3 / L.C. §3212.5)
- Tuberculosis (L.C. §3212.6)
- Meningitis (L.C. §3212.9)
- Bloodborne Diseases / MRSA (L.C. §3212.8)
- Biochemical Exposure (L.C. §3212.85)

The most common presumptive injuries we see is low **back** and **hernia** based on use of the duty belt. **Heart trouble** is also common with CHP personnel.

Police Officers

The following presumptions apply to police officers:

- Any Heart Trouble (L.C. §3212.5)
- Hernia (L.C. § 3212)
- Low Back (L.C. § 3213.2)
- Cancer (L.C. § 3212.1)
- Pneumonia (L.C. §3212.5)
- Tuberculosis (L.C. §3212.6)
- Meningitis (L.C. §3212.9)
- Bloodborne Diseases / MRSA (L.C. §3212.8)
- Biochemical Exposure (L.C. §3212.85)

The most common presumptive injuries we see is **low back** and **hernia** based on use of the duty belt. **Heart trouble** is also common with police officers.

County and City Firefighters

The following presumptions apply to county and city firefighters:

- Any Heart Trouble (L.C. §3212)
- Hernia (L.C. § 3212.7)
- Cancer (L.C. § 3212.1)
- Pneumonia (L.C. §3212)

- Meningitis (L.C. §3212.9)
- Tuberculosis (L.C. §3212)
- Bloodborne Diseases / MRSA (L.C. §3212.8)
- Biochemical Exposure (L.C. §3212.85)

The most common presumptive injury is **heart trouble, cancer, and hernias.**

CAL Fire Firefighters

The following presumptions apply to firefighters that work with CAL Fire:

- Any Heart Trouble (L.C. §3212)
- Hernia (L.C. § 3212.7)
- Cancer (L.C. § 3212.1)
- Pneumonia (L.C. §3212)
- Lyme Disease (L.C. §3212.12)
- Tuberculosis (L.C. §3212)
- Bloodborne Diseases / MRSA (L.C. §3212.8)
- Biochemical Exposure (L.C. §3212.85)

The most common presumptive injury is **heart trouble, cancer, and hernias.** We have also seen a lot more **Lyme disease** claims.

District Attorney Investigator / Inspector

The following presumptions apply to District Attorney Investigators or Inspectors:

- Any Heart Trouble (L.C. §3212.5)
- Hernia (L.C. § 3212)
- Cancer (L.C. § 3212.1)
- Pneumonia (L.C. §3212.5)
- Tuberculosis (L.C. §3212.6)
- Meningitis (L.C. §3212.9)
- Bloodborne Diseases / MRSA (L.C. §3212.8)
- Biochemical Exposure (L.C. §3212.85)

The most common presumptive injury is **heart trouble** for DA Investigators or Inspectors.

Department of Justice Personnel

The following presumptions apply to DOJ personnel who are considered safety:

- Any Heart Trouble (L.C. §3212.7)
- Hernia (L.C. § 3212.7)
- Cancer (L.C. § 3212.1)
- Pneumonia (L.C. §3212.7)
- Tuberculosis (L.C. §3212.7)

- Blood-Born Diseases / MRSA (L.C. §3212.8)
- Biochemical Exposure (L.C. §3212.85)

The most common presumptive injury is **heart trouble** for DA Investigators or Inspectors.

UC College System Police Officers

The following presumptions apply to UC police officers:

- Any Heart Trouble (L.C. §3213)
- Cancer (L.C. § 3212.1)
- Pneumonia (L.C. §3212.7)
- Low Back (L.C. §3213.2)
- Bloodborne Diseases / MRSA (L.C. §3212.8)
- Biochemical Exposure (L.C. §3212.85)

The most common presumptive injury is **heart trouble** and **low back** injuries for police that work in the university system.

Cal State College System Police Officers

The following presumptions apply to Cal State police officers:

- Cancer (L.C. § 3212.1)

- Biochemical Exposure (L.C. §3212.85)

The most common presumptive injury is **heart trouble** and **low back** injuries for police that work in the university system.

UC College Fire Firefighters

The following presumptions apply to firefighters that work in the UC college system:

- Any Heart Trouble (L.C. §3212.4)
- Hernia (L.C. § 3212.4)
- Cancer (L.C. § 3212.1)
- Pneumonia (L.C. §3212.4)
- Lyme Disease (L.C. §3212.12)
- Bloodborne Diseases / MRSA (L.C. §3212.8)
- Biochemical Exposure (L.C. §3212.85)

The most common presumptive injury is **heart trouble, cancer, and hernias.**

Cal State College Fire Firefighters

The following presumptions apply to firefighters who work for Cal State colleges:

- Cancer (L.C. § 3212.1)
- Bloodborne Diseases / MRSA (L.C. §3212.8)
- Biochemical Exposure (L.C. §3212.85)

The most common presumptive injury is **cancer**.

Security Officer | Atascadero State Hospital

The following presumptions apply to safety personnel at Atascadero State Hospital:

- Any Heart Trouble (L.C. §3212)
- Bloodborne Diseases / MRSA (L.C. §3212.8)
- Biochemical Exposure (L.C. §3212.85)

The most common presumptive injury is **heart trouble** for safety personnel at Atascadero State Hospital.

County Probation Officer

The following presumptions apply to county probation officers:

- Any Heart Trouble (L.C. §3212.10)
- Hernia (L.C. § 3212)
- Cancer (L.C. § 3212.1)
- Pneumonia (L.C. §3212.10)

- Tuberculosis (L.C. §3212.0)
- Meningitis (L.C. §3212.9)
- Bloodborne Diseases / MRSA (L.C. §3212.8)
- Biochemical Exposure (L.C. §3212.85)

The most common presumptive injuries we see are **hernias** and **heart trouble**.

Fish & Game Warden

The following presumptions apply to Fish & Game wardens:

- Any Heart Trouble (L.C. §3212)
- Hernia (L.C. § 3212)
- Cancer (L.C. § 3212.1)
- Pneumonia (L.C. §3212)
- Lyme Disease (L.C. §3212.12)
- Meningitis (L.C. §3212.9)
- Bloodborne Diseases / MRSA (L.C. §3212.8)
- Biochemical Exposure (L.C. §3212.85)

The most common presumptive injuries we see are **hernias** and **heart trouble**.

Dept of Parks & Recreation Peace Officers

The following presumptions apply to peace officers that work for Parks and Recreation:

- Lyme Disease (L.C. §3212.12)
- Meningitis (L.C. §3212.9)
- Bloodborne Diseases / MRSA (L.C. §3212.8)
- Biochemical Exposure (L.C. §3212.85)

Cal Conservation Corps / Corsmembers

CCC personnel have a presumption for Lyme Disease (L.C. §3212.12).

Lifeguard

Lifeguards have a presumption for skin cancer (L.C. §3212.11).

Conclusion

If you work in any of the type of employments mentioned and have one of these injuries discussed, it's advisable to contact an attorney immediately.