



File Number: \_\_\_\_\_

Employee: \_\_\_\_\_

**LONG FORM STATEMENT OF RECOVERY**

(See following pages for instructions)

- 1. Gross Recovery (Entire Amount of the Award) \$ \_\_\_\_\_
- 2. Amount of Real or Personal Property Damage (Must be approved) \_\_\_\_\_
- 3. Subtotal A (Line 1 minus Line 2) \_\_\_\_\_
- 4. Amount Allocated for Loss of Consortium ( \_\_\_\_\_ % of Line 3) \_\_\_\_\_
- 5. Subtotal B (Line 3 minus Line 4) \_\_\_\_\_
- 6. Amount Allocated for Wrongful Death\* ( \_\_\_\_\_ % of Line 5) \_\_\_\_\_
- 7. Amount Allocated for Survival Action\* ( \_\_\_\_\_ % of Line 5) \_\_\_\_\_
- 8. Subtotal C (for Wrongful Death enter Line 6; for a Survival Action enter Line 7; if neither enter Line 5) \_\_\_\_\_
- 9. Attorney's Fees – Enter the percentage charged by the attorney OR enter the actual fees paid to the attorney. The amount entered in the designated space will automatically calculate Line 9. (SEE INSTRUCTIONS)  
( \_\_\_\_\_ % ) OR ( \$ \_\_\_\_\_ ) \_\_\_\_\_
- 10. Subtotal D (Line 8 minus Line 9) \_\_\_\_\_
- 11. Costs of suit or settlement - (Insert total costs here: \$ \_\_\_\_\_ ) Required adjustments for loss of consortium and/or wrongful death or survival will be calculated automatically and entered on Line 11, if any percentages were entered on Lines 4, 6 or 7. SEE PAGE 4 OF INSTRUCTIONS FOR AN EXPLANATION OF THE CALCULATIONS. \_\_\_\_\_
- 12. Subtotal E (Line 10 minus Line 11) \_\_\_\_\_
- 13. 20% of Subtotal E (Line 12 x .20)\*\* \_\_\_\_\_
- 14. Subtotal F (Line 12 minus Line 13) \_\_\_\_\_
- 15. Refundable Disbursements \_\_\_\_\_
- 16. Subtotal G (Lower of Line 14 or Refundable Disbursements) \_\_\_\_\_
- 17. Government's Allowance for Attorney's Fees (% on Line 9 x Line 16) (This amount does not include any deductions for costs)\*\* \_\_\_\_\_
- 18. **Refund to be paid to the United States** (Line 16 minus Line 17) \_\_\_\_\_
- 19. Credit Against Future Benefits (Surplus) (If Line 14 is greater than Line 15, then Line 14 minus Line 15, otherwise enter "0")\*\* \_\_\_\_\_

\* (NOTE: If the recovery was from both a Wrongful Death action and a Survival action, a separate CA-1108 must be prepared for each cause of action.)

\*\* Pursuant to the statute, "the beneficiary is entitled to retain, as a minimum, at least one-fifth of the net amount of the money or other property remaining after the expenses of a suit or settlement have been deducted; and in addition to this minimum and at the time of distribution, an amount equivalent to a reasonable attorney's fee proportionate to the refund to the United States." This is captured in Lines 13 and 17.

**CERTIFICATION**

I understand that anyone who fraudulently conceals or fails to report information that would have an effect on any benefits, or who makes a false statement or misrepresentation of a material fact in claiming a payment or benefit under the Federal Employees' Compensation Act may be subject to criminal prosecution, from which a fine and/or imprisonment may result.

I certify that the above statements made on this Form CA-1108 are true, complete and correct to the best of my knowledge and belief. I also certify that the information on this form **does/does not** (circle one) represent my settlement with all defendants in the case, and that I **have/do not have** (circle one) other cases or claims pending or unresolved against any other third parties liable for the same injuries for which FECA benefits have been paid or are payable.

\_\_\_\_\_  
Signature of Beneficiary or Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
(This space for use by the Dept. of Labor or U.S. Postal Service only)

Approved: \_\_\_\_\_

Date: \_\_\_\_\_

**WARNING**

A FALSE OR EVASIVE ENTRY ON FORM CA-1108, OR THE OMISSION OF AN ENTRY ON THE FORM, MAY SUBJECT YOU TO CIVIL LIABILITY. A FRAUDULENT ENTRY MAY RESULT IN CRIMINAL PROSECUTION. ALL ENTRIES ON FORM CA-1108 ARE SUBJECT TO INVESTIGATION FOR VERIFICATION.

## **PRIVACY ACT STATEMENT**

The following statement is made in accordance with the Privacy Act of 1974 (5 U. S. C. 552a). The authority for requesting the information is the Federal Employees' Compensation Act (5 U. S. C. 8101 et seq). Information collected will be handled and stored in compliance with the Freedom of Information Act and the Privacy Act of 1974, as amended (5 U.S.C. 552a). The information will be used to determine the amount of refund due to the United States out of the proceeds of a third party action. Failure to furnish the requested information will result in a delay in processing the third party recovery. In addition to those Department-wide routine uses set forth above in the General Prefatory Statement to this document, disclosure of information from this system of records may be made to the following individuals and entities for the purposes noted when the purpose of the disclosure is both relevant and necessary and is compatible with the purpose for which the information was collected: to any attorney or other representative of a FECA beneficiary for the purpose of assisting in a claim or litigation against a third party or parties potentially liable to pay damages as a result of the FECA beneficiary's FECA-covered injury and for the purpose of administering the provisions of sections 8131-8132 of the FECA. Any such third party, or a representative acting on that third party's behalf, may be provided information or documents concerning the existence of a record and the amount and nature of compensation paid to or on behalf of the FECA beneficiary for the purpose of assisting in the resolution of the claim or litigation against that party or administering the provisions of sections 8131-8132 of the FECA. DOL/GOVT-1 (Office of Workers' Compensation Programs, Federal Employees' Compensation Act File) 67 F.R. 16827, 4/8/02.

## **PUBLIC BURDEN STATEMENT**

We estimate that it will take an average of 30 minutes to respond to this collection of information, which includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. A respondent's obligation to respond is required in accordance with 5 U. S. C. 8131-8132 of the FECA to obtain or retain benefits. If you have any comments regarding this estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the U.S. Department of Labor, OWCP, Room S-3229, 200 Constitution Avenue, NW, Washington, DC 20210 and reference the OMB control number. **DO NOT SEND THE COMPLETED FORM TO THIS ADDRESS.** According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of the information unless such collection displays a valid OMB control number.

## **NOTICE**

If you have a disability (a substantially limiting physical or mental impairment), please contact our office/claims examiner for information about the kinds of help available such as communication assistance (alternate formats or sign language interpretation), accommodations and modifications.

## INSTRUCTIONS FOR FORM CA-1108

\*Distribution of the proceeds from the third party recovery must be made in accordance with 5 U.S.C. 8132.\*

**Line 1 - GROSS RECOVERY** – The entire amount of any award received as a result of a judgment entered in a lawsuit, settlement of a lawsuit, or any other settlement or recovery from a responsible third party, must be entered on Line 1 as the gross recovery.

**Line 2 - REAL OR PERSONAL PROPERTY DAMAGE** – A reasonable amount for real or personal property, such as clothing or other personal belongings that are damaged or destroyed in an accident may be deducted. These amounts must be itemized. If an automobile or other vehicle is damaged or destroyed, furnish the year, make and model, and the Blue Book value of the vehicle, along with your insurance company's estimate of the damage declaring the vehicle to be a total loss. A copy of the repair bill will suffice if the vehicle was not totally destroyed.

**Line 4 - LOSS OF CONSORTIUM** – OWCP or SOL (or whoever else has been delegated the authority) will determine a reasonable allocation of the judgment or settlement for loss of consortium, unless the judgment is from a contested verdict, then those allocations will be used. The amount allocated for loss of consortium must be a percentage of the amount on Line 3, and must be approved by OWCP or SOL (or other delegated authority). In a non-death case or a death case where no cause of action for wrongful death is asserted, a reasonable allocation for a spouse's loss of consortium will be up to 25% of Line 3 and for a child or children's loss of consortium up to 5% per child, to a maximum of 15% for all children of Line 3 (total combined 40%). In a death case alleging wrongful death, a reasonable allocation for a spouse's loss of consortium will be up to 15% of Line 3 and for a child or children's loss of consortium up to 5% per child, to a maximum of 10% for all children for a child or children's loss of consortium (total combined 25%). In cases where loss of consortium has been asserted for both a spouse and child or children, multiply the combined total by Line 3. The beneficiary must establish that loss of consortium was asserted in the suit or claim, and that loss of consortium claims are permitted under the state law where the action was brought. FECA beneficiaries may accept the determination of the percentage allocated or demonstrate good cause in writing for a different percentage to be allocated for loss of consortium.

**Lines 6 & 7 - WRONGFUL DEATH OR SURVIVAL** – Amounts received where both wrongful death and survival actions have been asserted must be allocated between the two actions, and separate CA-1108s must be filed for each cause of action. OWCP or SOL will determine a reasonable allocation of the judgment or settlement for the wrongful death action and the survival action, unless the judgment is from a contested verdict, then those percentages will be used. The amount allocated for wrongful death and survival must be a percentage of the amount on Line 5 and must be approved by OWCP or SOL. For a wrongful death action, a reasonable allocation is 65% of the amount on Line 5. For a survival action, a reasonable allocation is 35% of the amount on Line 5. FECA beneficiaries may accept the determination of the percentage allocated or demonstrate good cause in writing for different percentages to be allocated for wrongful death and survival.

**Line 9 - ATTORNEY'S FEES** – Reasonable attorney's fees actually paid, up to a maximum of 40% of the gross recovery, may be deducted from Subtotal C. OWCP or SOL (or whoever else has been delegated the authority) determines whether a fee is reasonable. The fee will be calculated automatically when the attorney's fee percentage is entered in the designated space on Line 9. If a percentage is not entered but the amount of the fees paid is entered, the percentage will be calculated automatically by dividing the amount of the total fee charged by the amount of the gross recovery on Line 1 (total fee divided by gross recovery). The amount automatically entered on Line 9 will be calculated by multiplying Line 8 (Subtotal C) by the attorney's fees percentage.

**Line 11 - COURT COSTS** - These consist of items such as filing fees, witness fees, actual out-of-pocket costs of the suit or settlement or any payments for expert testimony. They do not include items such as payments for overhead or medical treatment. COSTS OF SUIT OR SETTLEMENT MUST BE ITEMIZED AND APPROVED BY OWCP OR SOL (OR WHOEVER ELSE HAS BEEN DELEGATED THE AUTHORITY). The form will automatically calculate costs. Costs will be reduced based upon the percentage(s) entered on this form for loss of consortium, wrongful death, or survival. If loss of consortium is claimed, the total court costs will be multiplied by the percentage entered on Line (4), and the result will be subtracted from the total court costs. Then, the remaining amount will be entered automatically on Line (11). For example, if the total court costs are \$48,000 and the allocation for loss of consortium is 25%, the calculation would be \$48,000 – (\$48,000 x 25%) = \$36,000.

If wrongful death is asserted but there is no claim for loss of consortium, the total court costs will be multiplied by the percentage entered on Line(6) and the result will be entered automatically on Line (11). If a survival claim is asserted but there is no claim for loss of consortium, the total court costs will be multiplied by the percentage entered on Line (7), and the result will be entered automatically on Line (11). For example, if court costs are \$48,000 and 65% is entered on Line (6) of the wrongful death CA-1108, the calculation would be  $\$48,000 \times 65\% = \$31,200$ ; then, \$31,200 would be entered automatically on Line 11. If court costs are \$48,000 and 35% is entered on Line (7) of the survival CA-1108, the calculation would be  $\$48,000 \times 35\% = \$16,800$ ; then \$16,800 would be entered automatically on Line (11).

If wrongful death or survival actions are asserted in addition to loss of consortium, first, the costs will be reduced for loss of consortium. Next, the result will be multiplied by the percentage entered on either Line (6) for the wrongful death CA-1108 or Line (7) for the survival CA-1108, and that result will be entered automatically on Line (11). For example, if the total court costs are \$48,000, 25% is allocated for loss of consortium, and 65% for wrongful death, first, the total costs would be reduced by 25% for loss of consortium, and then 65% of that amount would be entered automatically on Line (11). The calculations performed automatically would be  $\$48,000 - (\$48,000 \times 25\%) = \$36,000.00$ ; next  $(\$36,000 \times 65\%) = \$23,400$ ; and \$23,400 would be entered automatically on Line (11) of the wrongful death CA-1108. If court costs are \$48,000, 25% is allocated for loss of consortium and 35% for the survival action, the calculations performed automatically would be  $\$48,000 - (\$48,000 \times 25\%) = \$36,000.00$ ; next  $(\$36,000 \times 35\%) = \$12,600$ ; and \$12,600 would be entered automatically on Line (11) of the survival CA-1108.

**Line 13 - 20% GUARANTEE** – Multiply Subtotal E by 20% (.20). This amount is turned over to the claimant and is not subject to any deductions.

**Line 15 - REFUNDABLE DISBURSEMENTS** – Enter all amounts paid by OWCP (for compensation and medical benefits but not Continuation of Pay), less any amounts of refundable disbursements listed on any prior Forms EN-1108 or CA-1108, in the space provided.

**Line 16 - SUBTOTAL G** – Compare Subtotal F (Line 14) with the refundable disbursements (Line 15), and enter the lower of the two on Line 16. The lower amount is Subtotal G.

**Line 17 - GOVERNMENT ALLOWANCE FOR ATTORNEY'S FEES** – The Government contributes a portion of its refund to the claimant toward payment of attorney's fees. This is computed by multiplying Subtotal G (Line 16) by the attorney's fees percentage entered on Line 9.

**Line 18 - REFUND AMOUNT** – (Line 16 minus Line 17) - This balance is the amount to be refunded to the Government for OWCP disbursements.

**Line 19 - CREDIT AGAINST FUTURE BENEFITS (SURPLUS)** – If Subtotal F (Line 14) is less than the Refundable Disbursements (Line 15), there is no credit to be applied against future benefits. If Subtotal F (Line 14) is greater than the refundable disbursements (Line 15), a credit against future benefits must be applied and is determined by subtracting the refundable disbursements (Line 15) from Subtotal F (Line 14). The surplus is retained by the claimant and is the amount against which OWCP will credit future compensation, including wage loss compensation, schedule award benefits and medical expenses, on account of the same injury. OWCP will resume payment of compensation only after the awarded compensation exceeds the amount of the surplus. For this reason, all medical bills related to the injury that the claimant pays should be submitted to OWCP, regardless of when payment was made. The claimant will not be reimbursed for these payments, but the amounts paid will be used to reduce the amount of the surplus.

The refund check for the amount shown in Line 18 should be made payable to the "United States Department of Labor, OWCP". PLEASE INCLUDE THE OWCP FILE NUMBER ON THE CHECK.

Unless directed otherwise, send refund check to:

U.S. Department of Labor  
Office of the Solicitor  
200 Constitution Avenue NW  
Room S4325  
Washington, DC 20210