

# The Waiver Enforceability Checklist

10 questions a California personal injury lawyer asks before assuming a signed release is valid

Signing a waiver does not automatically end your claim. California courts read releases narrowly, and a release that fails even one of these tests can be void — in whole or in part.



**1. Does it specifically describe the activity and the risks?**

Vague, catch-all language doesn't automatically cover risks or injuries outside what was actually described.



**2. Is the language clear, unambiguous, and easy to find?**

Fine print, buried clauses, or contradictory terms elsewhere in the document weaken enforceability.



**3. Does it correctly name the party being released?**

A release that misidentifies or omits the defendant may not protect that defendant at all.



**4. Does it try to excuse gross negligence?**

Releases for future gross negligence are categorically unenforceable in California, in any context.



**5. Does it try to excuse fraud, willful injury, or a statutory violation?**

Civil Code section 1668 voids these releases outright, regardless of how they're worded.



**6. Was it signed voluntarily, without unequal bargaining power?**

A take-it-or-leave-it condition of service invites closer scrutiny than a freely negotiated term.



**7. Was there real consideration for signing it?**

A release needs something of value exchanged — not just a formality tacked onto paperwork.



**8. Does the transaction affect the public interest?**

Medical care, common carriers, and certain essential services get a stricter six-factor test before a release is enforced.



**9. Did a minor sign it, or was it signed on a minor's behalf?**

California limits how far a parent can waive a child's own future injury claims.



**10. Does it match the injury that actually happened?**

A release for one category of risk doesn't necessarily cover an unrelated or unforeseeable mechanism of harm.

Authority: Cal. Civ. Code § 1668 · Tunkl v. Regents of Univ. of Cal. (1963) 60 Cal.2d 92 · City of Santa Barbara v. Superior Court (2007) 41 Cal.4th 747 · Sanchez v. Bally's Total Fitness Corp. (1998) 68 Cal.App.4th 62 · Jimenez v. 24 Hour Fitness USA, Inc. (2015) 237 Cal.App.4th 546

## A signed waiver rarely ends the conversation.

A free consultation with a California injury lawyer can tell you whether the release in your case actually holds up. Se habla español.

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