

Natalia Foley, Esq
Workers Defenders Law Group
5753 E Santa Ana Cyn Rd Ste G #616
Anaheim, CA 92807
Attn: Natalia Foley, Esq.

Med-Legal, LLC

955 Overland Ct, Suite 200, San Dimas, CA 91773 (800) 244-3495

COMPEL

Applicant/Plaintiff	Alan Washington
Case No.	SIF11701414, SIF11233336
Defendant	Albertsons Distribution Center
Date of Injury	11/12/2015 to 11/12/2015
File/Claim Num	Date Published 4/13/2021
Records of Location Copied	Sedgwick PO BOX 14154 LEXINGTON, KY 40512
Type of Records	Insurance Claims

Records delivered to: Control Num 22-554-2 (41) C1

1 Customer Natalia Foley, Esq
Workers Defenders Law Group
5753 E Santa Ana Cyn Rd Ste G #616
Anaheim, CA 92807
Attn: Natalia Foley, Esq.

Med-Legal, LLC

955 Overland Ct, Suite 200, San Dimas, CA 91773 (800) 244-3495

Med-Legal, LLC

955 Overland Court, Suite 200

San Dimas, CA 91773

(626) 653-5160 FAX (626) 653-5176 E-Mail info@GetRecords.com

April 12, 2021

Workers Defenders Law Group
5753 E Santa Ana Cyn Rd Ste G #616
Anaheim, CA 92807

Re: Alan Washington
WCAB No: SIF11701414
Control # 22-554-2

Dear Customer:

The facility you requested records from, Sedgwick, refuses to produce records. I've enclosed all the paperwork for an Order to Appear and Produce. **We are not the Attorneys of record so we cannot sign the petition.**

Enclosed you will find:

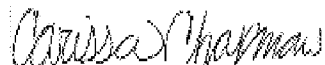
1. Declaration of Readiness
2. Petition for Order to Appear and Produce
3. Declaration
4. Original Documents served
5. Order to Appear and Produce
6. SDT
7. Proof of service

Please sign the Declaration of Readiness, petition, and proof of service. Serve as indicated on the proof of service and file with the Board.

When you receive the Order signed by an administrative judge, please serve us with a copy so that we may notify the facility and obtain the requested records.

If you have questions or concerns, please give us a call!

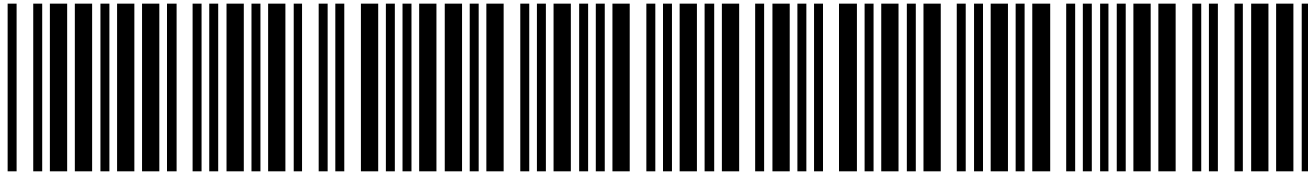
Sincerely,



Carissa Chapman
Med-Legal, LLC

STATE OF CALIFORNIA
DWC DISTRICT OFFICE

DOCUMENT COVER SHEET



Is this a new case? Yes No Companion Cases Exist Walkthrough Yes No

More than 15 Companion Cases

4/12/2021

Date:(MM/DD/YYYY)

SSN: _____

SIF11701414

Specific Injury

Case Number 1

Cumulative Injury (Start Date: MM/DD/YYYY) (End Date: MM/DD/YYYY)
(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____

Please check unit to be filed on (check only one box)

ADJ DEU SIF UEF VOC INT RSU

Companion Cases

Specific Injury

Case Number 2

Cumulative Injury (Start Date: MM/DD/YYYY) (End Date: MM/DD/YYYY)
(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

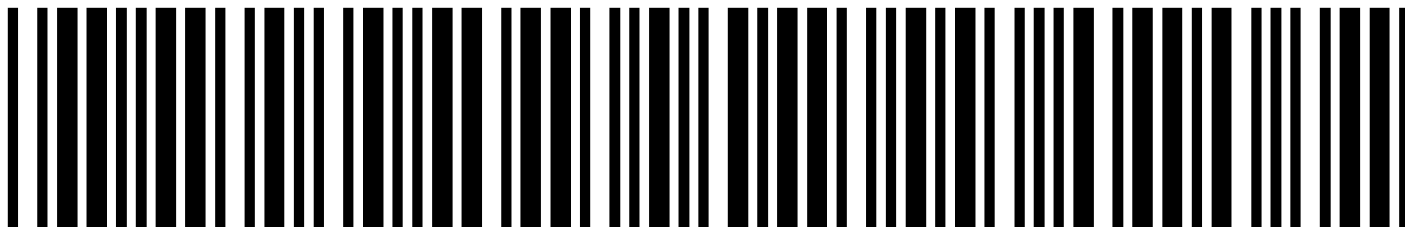
Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____

DOCUMENT SEPARATOR SHEET



Product Delivery Unit ADJ

Document Type LEGAL DOCS

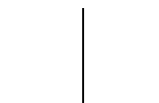
Document Title PETITION FOR DISCOVERY ORDER

Document Date _____
MM/DD/YYYY

Author _____

Office Use Only

Received Date _____
MM/DD/YYYY



STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL
WORKERS' COMPENSATION APPEALS

PETITION FOR DISCOVERY ORDER;
DECLARATION; POINTS & AUTHORITIES
PROPOSED ORDER

ID OR CASE NO.
SIF11701414

(PRINT OR TYPE NAMES AND ADDRESSES; INCLUDE ZIP CODES)

ALAN WASHINGTON

Injured Worker

11/12/2015

Date of Claimed Injury

WORKERS DEFENDERS LAW GROUP

Attorney for Injured Worker

Employer

SIBTF SACRAMENTO

Insurance Carrier or, if Self-Insured, Certificate Name

Attorney for Employer/Carrier

17628 ALBURTIS AVE APT 23

ARTESIA CA 90701

Address

567-51-8059

Social Security Number

5/15/1956

Date of Birth

5753 E SANTA ANA CYN RD STE G #616

ANAHEIM, CA 92807

Address

Address

1750 HOWE AVENUE STE 370 SACRAMENTO, CA 95825

Address Where Claim Administered

Address

I, ALAN WASHINGTON

injured

employer

other _____, in connection with the claimed injury listed

above, petitions for the following:

- Order Compelling Appearance at Medical Examination.
- Order Compelling Appearance at Deposition.
- Order Compelling Release of Documents.
- Order Prohibiting Medical Examination.
- Order Quashing Subpoena/Subpoena Duces Tecum. (Attach copy of subpoena)
- Quashing Deposition. (Attach copy of deposition notice)
- Order Suspending Proceedings (Labor Code section 4053)
- Order Barring Compensation (Labor Code section 4054)
- Other:

2. Petitioner requests the following specific action:

- Defendant's Motion to Quash be denied
- Discovery Order be issued that deponent release all records described in the original Notice of Deposition and/or Subpoena Duces Tecum to Med-Legal, Inc. during normal business hours within 10 days of service of said order.

POINTS AND AUTHORITIES

Applicant has served a Subpoena Duces Tecum/deposition notice with a notice to produce on the defendant. Applicant has requested a copy of the Insurance Claims file.

Defendant has refused to comply and has provided no documents in response to the discovery request.

Authority for Discovery

This request for discovery was done in accordance with Labor Code § 5710. It is the only formal discovery provided in the labor code. This is the authority used in workers' compensation for taking the deposition of applicant, physicians, experts, employers and claims adjusters. Subsection a of Labor Code section 5710 states: "The appeals board, a workers' compensation judge, or any party to the action or proceeding, may, in any investigation or hearing before the appeals board, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure."

The applicable section of the Code of Civil Procedure "(commencing with Section 2016)" is section 2025¹. Subsection (h) of the Code of Civil Procedure section 2025 states: "(1)The service of a deposition notice under subdivision (c) is effective to require any deponent who is a party to the action or an officer, director, managing agent, or tangible thing for inspection and copying."

A request for discovery is not done under Regs §§ 10530 and 10532. These sections apply only to the attendance of a party at trial, or of a nonparty witness to a deposition or trial that is not for records only². Neither of these situations apply in this situation.

Reg. §10530 does not apply. Reg. § 10530 incorporates CCP § 1985 and § 1987.5. These sections do not apply to depositions of a party. They only apply to a non-party witness appearing at a deposition or trial. CCP § 1985 defines an "appearance" subpoena. It is a writ or order requiring a person's attendance at a particular time and place. The appearance subpoena does not set the deposition or trial date. The deposition is set by the notice of deposition. The subpoena under CCP § 1985 is referred to as a "ticket". See for example CCP § 1987 where the word "ticket" is used. It is a ticket to get into an event. It is not the mechanism that arranges the event. Reg. §10532 incorporates CCP § 1987. Section 1987 is an alternate procedure to CCP §§ 1985 and 1987.5³. CCP § 1987 states that a subpoena is not necessary to require a

¹ CCP § 2020 only applies to nonparties. Notice to produce under CCP § 2031 does not apply because this is not a notice to produce.

² Reg. § 10530 refers to CCP § 1987.5. That section states, "This section does not apply to deposition subpoenas commanding only the production of business records for copying under subdivision (d) of Section 2020."

³ Last sentence of CCP § 1987.

party to attend a trial and to produce documents – only a written notice to appear. But, again, this section does not apply to depositions. CCP § 1987 applies to “...written notice requesting the witness to attend before a court or at a trial...”

To request a witness to bring documents to a trial under Reg. §§ 10530 and 10532, the requester must serve an affidavit showing good cause and describe exactly the things to be produced. Discovery done under LC § 5710 which incorporates CCP § 2025 does not require an affidavit showing good cause and does not require an exact description of the things to be produced.

In short, the simple procedures of a deposition of a party apply and not the more strict requirements of a subpoena.

Applicant Attorney Issued The SDT/Deposition Notice

Defendant objects that applicant attorney did not sign the SDT/deposition notice. Med-Legal, LLC cannot issue a subpoena or deposition notice and they did not. The applicant attorney’s name is clearly on the application for the SDT/deposition. Med-Legal, LLC prepared the document.

No Attorney Signature Necessary To Conduct Discovery

CCP § 2025.220 states the requirements of a deposition notice. It does not state that the applicant attorney must sign the deposition notice. Further, CCP § 128.7(g) clearly states that an attorney signature is not required for discovery purposes.

CCP § 2031 Not Used

The procedure used in this case was not done under CCP § 2031. CCP § 2031 is the notice to produce procedure that requires 30 days to respond to the notice. CCP § 2031 is not done with a subpoena or a notice of deposition. It is done with a written notice to produce directed to the party’s attorney. The response is done by the attorney for the party responding. That procedure is not used in workers’ compensation cases. There is not provision in the labor code or regulations to use the CCP § 2031 notice to produce. *Lubin v. WCAB 41 CCC 283*, *Hardesty v. McCord & Holdren, Inc. 41 CCC 111*, *Moran v. WCAB 57 CCC 273*.

Good Cause Affidavit Is Not Required

A good cause affidavit is not required for an SDT/deposition notice of a party and demand to produce. CCP § 2025.280, Cal, Civil Disc. Practice CEB § 2.57. CCP § 1985(b) does not apply as discussed above.

R § 10100.1 (r) states:

“Investigation: The process of examining and evaluating a claim to determine the nature and extent of all legally required benefits, if any, which are due under the claim. Investigation may include formal or informal methods of gathering information relevant to evaluating the claim such as: obtaining employment records, obtaining earnings records, informal or formal interviews of the employee, employer, or witnesses,

deposition of parties or witnesses, obtaining expert opinion where an issue requires an expert opinion for its resolution, such as obtaining a medical-legal evaluation.”

Reg. § 10109 states:

“(b) A reasonable investigation must attempt to obtain the information needed to determine and timely provide each benefit, if any which may be due the employee.

(1) The administrator may not restrict its investigation to preparing objections or defenses to a claim, but must fully and fairly gather the pertinent information, whether that information requires or excuses benefit payment. The investigation must supply the information needed to provide timely benefits and to document for audit the administrator’s basis for its claims decisions. The claimant’s burden of proof before the Appeal Board does not excuse the administrator’s duty to investigate the claim.

(2) The claims administrator may not restrict its investigation to the specific benefit claimed if the nature of the claim suggests that other benefits might also be due.

(c) The duty to investigate requires further investigation if the claims administrator receives later information, not covered in any earlier investigation, which might affect benefits due.

(d) The claims administrator must document in its claim file the investigatory acts undertaken and the information obtained as a result of the investigation.”

It is the duty of the claims administrator to conduct an investigation upon receiving notice or knowledge of injury. They may not restrict the investigation to preparing objections or defenses to the claim. They must fully and fairly gather pertinent information, whether that information requires or excuses benefit payment. Reg. § 10109

Applicant is entitled to that information and defendant must provide it in discovery.

Time

Defendant argues that the notice did not give them the time required by law and is therefore defective. A deposition is done under CCP § 2025.270, states that the deposition shall be scheduled for a date at least 10 days after service of the deposition notice. That was done in this case.

Notice To Consumer Statutes

Notice to consumer statutes do not apply in workers’ compensation. CCP § 1985.3 (j) CCP 1985.6 (i).

Motion To Quash

Defendant has filed a motion to quash. A motion to quash the Subpoena Duces Tecum only does not affect the efficacy of the notice of deposition and the notice to produce at the deposition.

A valid motion to quash the notice of deposition must accompany the service of written objections. Defendant has not served written objection under CCP § 2025.410.

The written objections and motion to quash the notice of deposition must be served three calendar days before the deposition date. Defendant has not served the required documents timely and has, therefore, waived any objections. CCP § 2025.410.

No Affidavit Of Good Faith Effort To Settle Dispute

The defendant failed to attach a declaration of good faith effort to settle this matter informally, as required by CCP § 2025.410. Without an attachment showing a good faith effort to settle the matter informally, defendants' motion to quash is defective. CCP § 2025.410.

No Affidavit Of Good Faith Effort To Settle Discovery Dispute

The defendant failed to attach a declaration of a good faith effort to settle this matter informally, as required by CCP § 2025.410. In fact, the defendant has made no effort to settle the matter informally. Without an attachment showing a good faith effort to settle the matter informally, defendants' motion to quash is defective.

Applicant Does Not Need Permission To Conduct Discovery

Defendant objects that applicant did not make any attempts to reduce the cost by requesting documents directly from defendant. There is no such rule or law. All parties are entitled to conduct discovery. Reg. § 10626. Asking your opponent for documents needed to prove your case is absurd.

Liberal Discovery

The purpose of discovery is to avoid surprise and fabrication of evidence at trial. *Glenfed Dev. Corp. v Sup Ct* 53 CA4th 1113, 62 CR2d 195 Discovery provisions are to be liberally construed in favor of disclosure. *Greyhound Corp. v Superior Court* 56 C2d 355, 15 CR 90 The concept of liberal discovery is codified in the Discovery Act of 1986. Cal Civil Disc. Practice CEB §2.2

It is a denial of due process to deny a party from obtaining discovery or records. Applicant is entitled to have his or her evaluation reports based upon substantial evidence. This includes a complete and accurate history. Applicant is also entitled to be apprised of all the facts that are available at trial.

Applicant's attorney has the right and the duty to conduct discovery to the same extent as the claims administrator and has a right to discovery even though resources are limited. The purpose of discovery is to take the game element out of trial preparation and guard against surprise at trial. *Hardesty v McCord & Holdren, Inc.* 41 CCC 111

Relevance

Defendant objects on the ground that the file contains irrelevant material and, therefore, applicant is not entitled to anything in the file. Based upon defendants' objection, the entire file must be irrelevant.

Discovery may be obtained regarding any matter, not privileged, that is relevant to the subject matter if it is admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence. CCP § 2017.010.

Defendants' argument that there is not one document in the file that could lead to relevant admissible evidence is absurd.

The claim file is relevant to issues such as presumption, benefits paid, penalties, withheld discovery, witness statements, injury reports, date of denial, and other issues regarding the claim. R § 10101.1

Any medical information is relevant and could have an impact on the present case. A medical evaluation that does not review medical records may not be substantial evidence. Penny v. WCAB 40 CCC 468 (false history); Williamson v. WCAB 62 CCC 1612; Guerrero v. General Motors Corp. 32 CCC 203; Rosas v. WCAB 58 CCC 313; Licari v. WCAB 61 CCC 1389 25 CWCR 15; Tribble v. WCAB 62 CCC 1327 (incorrect job duties), 22 CWCR 260 (note on importance of reviewing medical records), LC §4628 (a) (2), 4628 (c), Regs. § 9784, 10606

Relevance is determined at the time of request and not at trial. This is discovery.

Defendant has not presented any facts to show that the employment file contains irrelevant information.

Overly Broad

Defendant has objected that the discovery request is overly broad. Overly broad is not a recognized limitation on discovery by the Civil Discovery Act of 1986. CCP § et seq.

Unduly Burdensome

Defendant has objected that the request is unduly burdensome. Defendant asserts that handing the employment file to a photocopy service that has come to Defendants' facility is too much of a burden upon them.

The board may limit discovery if it determines that the burden, expense, or intrusiveness clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence. CCP § 2019.030 (a) (2); 2023.010.

The mere fact that a discovery request will create a burden will not sustain an objection. All discovery creates some burden – sometimes a substantial one. There must be quantified evidence in a declaration that the burden is undue and results in an injustice. West Pico Furniture Co. v. Superior Court 56 C2nd 407. 15 CR 119 (affidavit that 78 branch offices would have to be search did not quantify the effort required); Mead Reinsurance Co. V. Superior Court 188 CA3d 313, 232 CR 752

When records are ordered through a copy service, it can hardly be unduly burdensome to make the file available to the copier. The copy service will go to the custodian of records.

Defendant has presented no facts to support their contention that the compliance with the discovery request is unduly burdensome.

Vague And Ambiguous

Defendant has objected that the request is vague and ambiguous. The exact identity of materials to be produced is not required. The specification of what is to be produced need only to be described by category or with reasonable particularity. CCP § 2020.410, CCP § 2020.510, 2025.220.

The exact identity of materials is required under R § 10532 and CCP § 1987 but these sections are used to produce material at the time of trial. These sections do not apply for discovery under LC § 5710 and CCP § 2025 & 2020.

The description of the materials to be discovered is not vague and ambiguous. "Personnel file" is defined by LC § 1198.5. This category of documents is therefore not a term which needs speculation in order to comply. The term "Employment records" is defined by statute and is therefore not vague and ambiguous. CCP § 1985.6 (a) (1), Labor Code § 1198.5, Regs. § 10616

The term "claim file" is defined by regulation and is therefore not vague and ambiguous. Reg. 10101

Attorney-Client Privilege

Defendant has objected on the ground that the file may contain lawyer-client privileged material. Defendant has produced nothing. Defendant has not served an affidavit stating that the file in fact contains privileged material or that the entire file consists of privileged materials.

A client has a privilege to refuse to disclose, and to prevent another from disclosing a confidential communication between the client and lawyer. EC § 954 The lawyer-client privilege applies in workers' compensation proceedings. Hardesty v. WCAB 41 CCC 111

An attorney-client privilege applies only to (1) communications (2) made in confidence (3) between an attorney and his or her client and (4) was made in the course of the attorney-client relationship. EC § 950 et seq., Cal. Evid. Benchbook by Jefferson § 40 et seq., Cal. Civil Discovery Practice CEB § 3 et seq.

An objection that the records "may" contain privileged information is not a valid objection. The objection must be based upon actual knowledge that the records do contain privileged materials. Civil Proc. Before Trial, Rutter Group § 8:202

Even if the records do contain privileged materials, it is not a legal ground to refuse to produce anything. The remaining materials must be produced. By not producing anything, the deponent is stating, in effect, that the entire file contains nothing but

confidential communications from their attorney. (This obviously is not true.) If nothing is produced and the file contains non-privileged materials the attorney-client privilege is deemed waived as to the entire file. *Mize v. Atchison, Topeka & Santa Fe* 40 CCC 905; Calif. Depo. And Discovery Practice, DeMeo Matthew-Bender § 51/33[2][a][i]

Statements by witnesses are not protected by attorney-client privilege. Also, simply because material has been sent to attorney does not make it privileged. *Greyhound Corp. v. Superior Court* 56 C2d 355, 15 CR 90; *Martin v. WCAB* 50 CA4th 333, 69 CR2d 138, 62 CCC 1500, 25 CWCR 332

Materials found **not** to be protected are: (1) letter from defendant to evaluation physician requesting the doctor to provide specific responses when preparing his report, (2) a note from the adjuster to claim service company, (3) summary of recorded interview by claims adjuster, (4) handwritten note to claim file, (5) collection of adjusters' chronological history to the claim file, (6) a PD rating report from a rating service, (7) employers' first report of injury. *Winchell's Donut Houses v. WCAB* 62 CCC 1185
Statements by other employees who are not speaking as the employer are not privileged. *Martin v. WCAB* 62 CCC 1500

The order for discovery should include an order that Defendants identify and list any documents that are withheld on the basis of privilege. If further discovery of the withheld documents is warranted, the WCJ can review the listed material in camera in accordance with the procedures set forth in the last paragraph of *Martin v. WCAB* 59 Cal. App. 4th 333, 69 Cal. Rptr, 2d 138, 62 Cal. Comp. Cases 1500

Attorney Work Product

Code of Civil Procedure § 2018 (c) states that any writing that reflects an attorneys' impressions, conclusions, opinions, or legal research or theories shall not be discoverable under any circumstances. A report which is not the product of an attorney or his agents or employees is not an attorney work product, and an attorney cannot, by retroactive adoption, convert the independent work of another, already performed, into his own. *Bank of Orient v. Superior Court* 67 CA3d 588, 136 CR 741 Knowledge possessed by a witness that is later communicated to an attorney is not protected. Cal. Evid. Benchbook, Jefferson § 3.56

Witnesses' statements are not protected by work product. *Moreno v. City of Los Angeles* 21 CWCR 108

Material in the employment file that is not prepared by an attorney is not protected by work product because an attorney did not prepare it. It may be protected as attorney-client privilege if it is a confidential communication from the attorney.

Other Privileges

With respect to applicants' health file – any health information is discoverable. Defendant has not stated any valid objection. Defendant is required to file and serve all written communications from physicians in their possession. Reg. § 10622, In re

Schmidt 41 CCC 95, In re SCIF 40 CCC 674 Refusal to obey a valid subpoena is contempt Labor Code § 132, Hustedt v. WCAB 46 CCC 1284

Materials Have Already Been Supplied

Defendant objects that materials have already been supplied. This is not true. The entire contents of the employment file as defined by defined by LC § 1198.5 have not been supplied by the defendants.

Stating that the material has been supplied is not a valid objection.

Discovery Will Be Produced Informally

Defendant will provide material informally but will not provide the material as a response to the legal process.

Refusing to comply with a request to produce because discovery will be provided informally is simply refusing to comply. If the material will be produced at all, there is no valid reason to produce the material in accordance with the legal process. The reason that records will not be produced in accordance with a legal request, yet will be produced informally must be so that some material can be withheld. If records are provided informally, they will not be accompanied by an affidavit in compliance with EC § 1560, 1561.

Providing records informally does not save any money. The copy service has already charged the basic fee and the fee for serving the SDT or notice of deposition. Having an attorney do an objection or motion for protective order and appearance on the motion is not cost effective.

Refusing to comply with discovery because material was not informally requested is illogical. The notice of deposition and request for production is a request. If the deponent has no objection to producing the discovery if it was requested informally, they should supply the material when requested formally. Refusing to comply makes no sense.

Privacy

Defendant objects that applicant seeking his own records violates privacy. Applicants' own records could hardly be deemed a violation of his privacy. Applicant does not seek any other employees' records so any Evidence Code objection regarding police officer records is inapplicable. Notice to consumer statutes do not apply in workers' compensation. CCP § 1985.3 (j) and CCP § 2985.6 (i). Another frivolous objection.

The employer does not have a right of privacy in an employees' employment file. It is not private information regarding the employer that is sought. It is information regarding the employee. Since the employee is the one asking for the information, the employee is waiving any right to privacy.

A corporation does not have a right of privacy. Roberts v. Gulf Oil Corp 147 CA3d 770, 195 CR 393.

Records Must Be Obtained Through The Defense Attorney Or Insurance Adjuster

All parties are entitled to make a copy of records. Applicant is not required to obtain records from or through the insurance company. There is no authorities that discovery must be done through the defense. Regs. § 10626

The deponent must supply the requested material to the deposition officer. If the material is supplied through the insurance company or an attorney, the material is not authenticated and there is no guarantee all material has been received. An opposing attorney may say that they have supplied everything that they have received is no guarantee everything requested was produced.

Employer must permit employee or their representative to inspect personnel files. Every employer must keep a copy of each employees' personnel file at the place where the employee reports to work, or, shall make the file available at such place within a reasonable period of time after a request. Failure to do so is a misdemeanor. LC § 1198.5

All Benefits Are Being Supplied

This must mean that all benefits currently due are being supplied, i.e., the claim has been accepted and treatment and temporary disability are being provided. But not all issues have been resolved. Defendant may not even have filed an answer. This should not stop applicants' attorney from conducting discovery. Discovery must be conducted regarding issues that were checked on the application such as permanent disability and apportionment,; and issues such as substantial evidence of reports, group number, discrimination, credit, penalties, etc. that may come up. All medical records must be sent to an evaluating physician. Applicants' attorney should not have to wait until after the primary treating physician has rendered the P&S report to order records for the physician to review.

Broad Authority of Board to Issue Discovery Orders

A workers' compensation judge has broad authority to issue discovery orders. Reg. §10348, Hardesty v McCord & Holdren, Inc. 41 CCC 111 Even if the procedure to obtain discovery is defective, the workers' compensation judge has inherent authority to order the discovery produced. Labor Code § 5708, Hardesty v McCord & Holden 41 CCC 111, Injury Treatment Clinics/Terry Hunt DC v WCAB 60 CCC 502 (defective subpoena – discovery ordered anyway.)

Sanctions

It is a misdemeanor to deny the employee access to the personnel file. LC § 1198.5, Advising Cal. Employers CEB §8.89

A workers' compensation judge may order a party to pay any reasonable expenses, including attorneys' fees and costs, incurred by another party as a result of bad-faith

actions or tactics that are frivolous or solely intended to cause unnecessary delay. In addition, sanctions may be ordered not to exceed \$2500 to be paid to the general fund.

Discovery sanctions are not based on the Code of Civil Procedure sections 2023 and 2025 because those sections have not been adopted by the labor code or regulations. *Moran v. Bradford Bldg., Inc.* 57 CCC 273, *Hilton Hotels Corp. v. WCAB* 60 CCC 1112. In *Moran*, the court said, "While we agree that labor Code Section 5710 appears to incorporate the procedures of Code of Civil Procedure sections 2023 and 2025, it does so permissibly and does not specifically proscribe the application of Labor Code Section 5708." CCP § 2023 is the section that provides for sanctions for abuse of discovery. LC § 5708 says that the workers' compensation judges are not bound by common law or statutory rules of evidence and procedure.

Although the workers' compensation judge is not bound by CCP § 2023, the code of civil procedure section can serve as a guideline. Subsection (a) (9) of Code of Civil Procedure 2023 that sanction may be imposed on a party for failing to confer in person by telephone, or by letter with an opposing party of attorney in a reasonable and good faith attempt to resolve informally any dispute concerning discovery. Defendant has made no efforts to resolve the dispute and refuses to supply any documents whatsoever.

All of Defendants' objections are without merit and frivolous. Defendant did not file and serve an affidavit showing a factual basis for any of its objections. Defendant has presented no good reasons for their refusal to provide discovery. Their action is frivolous and is solely intended to cause unnecessary delay.

The Defendant should be ordered to provide the requested discovery and pay sanctions and attorneys' fees.

Proposed Order

1 Workers Defenders Law Group
2 5753 E Santa Ana Cyn Rd Ste G #616
3 Anaheim, CA 92807

4 Attorney for applicant

5 WORKERS' COMPENSATION APPEALS BOARD
6 STATE OF CALIFORNIA

7 Alan Washington,) EAMS NO: SIF11701414
8 Applicant,)
9 vs.)
10 SIBTF SACRAMENTO)
11 Defendant.)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)

To the Workers' Compensation Appeals Board and to Sedgwick:

Applicant petitions for an order that Sedgwick be ordered to appear before the Workers' Compensation Appeals Board and produce records.

The Custodian of records or other qualified person has refused to produce the records for copying. Applicant requests the attached order, and Subpoena Duces Tecum be signed by the Workers' Compensation Administrative Law Judge of the Workers' Compensation Appeals Board, ordering Sedgwick to appear at the Board and produce the records.

WHEREFORE, applicant requests and order that the custodian of records or other qualified person for Sedgwick appear at the Workers' Compensation Appeals Board and produce the requested records.

Dated: _____
Applicant Attorney

1 Workers Defenders Law Group
2 5753 E Santa Ana Cyn Rd Ste G #616
3 Anaheim, CA 92807

4 Attorney for applicant

5 WORKERS' COMPENSATION APPEALS BOARD
6 STATE OF CALIFORNIA

7 Alan Washington,
8 Applicant,

9 vs.

10 SIBTF SACRAMENTO

11 Defendant.

) EAMS NO: SIF11701414

) **ORDER TO APPEAR AND PRODUCE**

12 _____
13
14 Good cause appearing, it is ordered that Sedgwick appear
15 at _____ on _____ at the Workers'

16 Compensation Appeals Board located at:

17
18
19 And to bring and produce all records in your possession or under your control as described in the
20 original Notice of Deposition/Subpoena or Authorization served on them in this matter. Med-
21 Legal, LLC shall be responsible for serving this Order **and the attached Subpoena Duces**
22 **Tecum** upon all parties, and personally serving said Subpoena Duces Tecum on Sedgwick.

23 Dated: _____

24 **Workers' Compensation Judge**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WCAB

SIBTF SACRAMENTO
1750 Howe Avenue Ste 370 Sacramento, CA 95825

DECLARATION IN SUPPORT OF PETITION

STATE OF CALIFORNIA, COUNTY ORANGE

The undersigned states: That he/she is: [] the petitioner [X] (one of) the attorney(s) of record/representative(s) for the petitioner. That the following facts justify the action requested:

- Exhibit 1 - Notice of Deposition
- Exhibit 2 - Proof of service of Deponent
- Exhibit 3 - Declaration of support of Petition
- Exhibit 4 - Med-Legal Letter of Deponent
- Exhibit 5 - Defendant objections (If Any)

I declare under penalty of perjury that the foregoing is true and correct, except for the allegations made on information and belief.

Executed on _____, _____, at ANAHEIM, California.

5753 E SANTA ANA CYN RD STE G #616

Signature

Address

Telephone

PROOF OF SERVICE

Proof of service may be made as follows:

- (a) affidavit or declaration of service;
- (b) written statement endorsed upon the document served and signed by the party or lien claimant making the statement;
- (c) letter of transmittal.

The Proof of Service shall set forth the names and addresses of persons served, whether such service was made personally or by mail, the date of service, the place of personal service or the address to which mailing was made."

California Code of Regulations, title 8, section 10975 (WCAB Rules of Practice and Procedure)



**STATE OF CALIFORNIA
DIVISION OF WORKERS' COMPENSATION
WORKERS' COMPENSATION APPEALS BOARD
DECLARATION OF READINESS TO PROCEED**



NOTICE: Any objection to the proceedings requested by a Declaration of Readiness to proceed shall be filed and served within ten (10) days after service of the Declaration.

SIF11701414

Case No.

Applicant

ALAN

First Name

MI

WASHINGTON

Last Name

VS

Employer Information

ALBERTSONS DISTRIBUTION CENTER

Employer Name (Please leave blank spaces between numbers, names or words)

Employer Street Address/PO Box (Please leave blank spaces between numbers, names or words)

City

State

Zip Code

Declarants: Please designate your role (Please Select Only One)

- Employee
 Applicant
 Defendant
 Lien Claimant

Declarant requests: (Please Select Only One)

- Mandatory Settlement Conference
 Status Conference
 Rating MSC*
 Priority Conference
 Lien Conference

At the present time the principal issues are: (Check all that apply)

- Compensation Rate
 Rehabilitation/SJDB
 Temporary Disability
 Self-Procured Medical Treatment
 Permanent Disability
 Future Medical Treatment
 AOE/COE
 Discovery
 Employment
 Other PETITION TO COMPEL

Declarant relies on the report(s) of:

Doctors (s) _____ date _____

MM/DD/YYYY

*For a Rating MSC, all ratable medical reports, including treating physician, QME and AME reports, must be filed with this Declaration of Readiness, unless they have been previously filed. A Rating MSC will be set only where the issues are limited to permanent disability and the need for future medical treatment.

Declarant states under penalty perjury that he or she is presently ready to proceed to hearing on the issues below and has made the following specific, genuine, good faith efforts to resolve the dispute(s) listed below:

DEPONENT REFUSES TO PRODUCE RECORDS AFTER BEING SERVED WITH A VALID DEPOSITION SUBPOENA. WCAB INTERVENTION IS REQUESTED TO COMPEL PRODUCTION OF DOCUMENTS.

Unless a status or priority conference is requested, I have completed discovery on the issues listed above, and that all medical reports in my possession or control have been filed and served as required by the rules promulgated by the Court Administrator.

Copies of this Declaration have been served this date as shown on the attached proof of service.

Declarant's Signature _____

WORKERS DEFENDERS ANAHEIM

Name of declarant or name of the law firm of the declarant (Print or Type)

8018 E SANTA ANA CANYON RD STE 100 215 ANAHEIM CA 92808

Address (Please leave blank spaces between numbers, names or words)

(714) 948-5054

Phone Number

Date _____
MM/DD/YYYY

INSTRUCTIONS

1. This Declaration must be completed and filed before any case will be set for hearing at the request of any party.

A party may request a mandatory settlement conference hearing, status conference hearing, rating mandatory settlement conference hearing, or a priority conference hearing.

A **mandatory settlement conference** is held to assist the parties in resolving the dispute. If the dispute cannot be resolved at that time, the parties should be ready to frame issues, record stipulations, list exhibits, and list the witnesses who will testify at trial. A trial is set only at the discretion of the judge and is set for the purpose of receiving evidence.

A **rating mandatory settlement conference** is a mandatory settlement conference but ratings of the medical reports will be available at the time of the conference.

A **status conference** is not a mandatory settlement conference but a proceeding for which judicial attention is required. It can include, but is not limited to, a lien conference or conference in a complicated case in which discovery is not complete and the parties need the judge's guidance.

A **priority conference** is a conference held under Labor Code section 5502(c) in which the injured worker is represented by an attorney and the issues include employment and/or injury arising out of and in the course of employment.

2. Unless notified otherwise, no witness other than the applicant need attend **conference** hearings. **Claims adjusters and lien claimants must be present or available by telephone.**
3. The party requiring an interpreter must arrange for the presence of an interpreter, except that the defendant(s) must arrange for the presence of the interpreter if the injured worker is not represented by an attorney.
4. Continuances are not favored and none will be granted after the filing of this Declaration without a clear and timely showing of good cause.
5. The Workers' Compensation Appeals Board favors the presentation of medical evidence in the form of written reports.
6. The WCJ, upon the receipt of the Declaration of Readiness, may set the case for a type of proceeding other than the one requested (Rule 10417).

Exhibit 1 – Notice of Deposition

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION

WORKERS' COMPENSATION APPEALS BOARD

Alan Washington
DOB: 05/15/56
AKA:
File: DOI: 11/12/2015 - 11/12/

Claimant/Applicant,

vs.

Albertsons Distribution Center

Employer/Insurance Carrier/Defendant.

Case No. SIF11701414, SIF11233336
(IF APPLICATION HAS BEEN FILED, CASE NUMBER
MUST BE INDICATED REGARDLESS OF DATE OF INJURY)

SUBPOENA DUCES TECUM

(When records are mailed, identify them by using above case number or attaching a copy of subpoena)

Where no application has been filed for injuries on or after January 1, 1990 and before January 1, 1994, subpoena will be valid without a case number, but subpoena must be served on claimant and employer and/or insurance carrier.

See instructions below.*

The People of the State of California Send Greetings to: Sedgwick Claims Management Sys, Inc

WE COMMAND YOU to appear before A Deposition Officer -- Med-Legal, LLC

at 1100 Melody Lane, Ste 210, Roseville, CA 95678, Phone 800-244-3495

on the 03/01/21 day of _____, at 10:00 o'clock AM., to testify in the above-entitled matter and to bring with you and produce the following described documents, papers, books and records.
See Attachment for a list of records to be produced subject to this subpoena, to make available for inspection and copying or transmit/transfer electronically.

(Do not produce X-rays unless specifically mentioned above.)

For failure to attend as required, you may be deemed guilty of a contempt and liable to pay to the parties aggrieved all losses and damages sustained thereby and forfeit one hundred dollars in addition thereto.

This subpoena is issued at the request of the person making the declaration on the reverse hereof, or on the copy which is served herewith.

Date 02/08/21

WORKERS' COMPENSATION APPEALS BOARD
OF THE STATE OF CALIFORNIA



Secretary, Assistant Secretary, Workers' Compensation Judge



***FOR INJURIES OCCURRING ON OR AFTER JANUARY 1, 1990,
AND BEFORE JANUARY 1, 1994**

If no Application for Adjudication of Claim has been filed, a declaration under penalty of perjury that the Employee's Claim for Workers' Compensation Benefits (Form DWC-1) has been filed pursuant to Labor Code Section 5401 must be executed properly.

**SEE REVERSE SIDE
[SUBPOENA INVALID WITHOUT DECLARATION]**

You may fully comply with this subpoena by mailing the records described (or authenticated copies, Evid. Code 1561) to the person and place stated above within ten (10) days of the date of service of this subpoena.

This subpoena does not apply to any member of the Highway Patrol, Sheriff's Office or city Police Department unless accompanied by notice from this Board that deposit of the witness fee has been made in accordance with Government Code 68097.2, et seq.

DWC WCAB 32 (Side 1) (REV. 06/18)

HIPAA Compliant Request

Control #: **22-554-2**

Do not appear! Simply call (800) 244-3495 and somebody will copy the records for you at your office.

DECLARATION FOR SUBPOENA DUCES TECUM

Case No. SIF11701414, SIF11233336

STATE OF CALIFORNIA, County of Los Angeles

The undersigned states: That Med-Legal, LLC has been authorized to obtain records by

Natalia Foley, Esq Workers Defenders Law Group

That he /she is (one of) the attorney(s) of record / representative(s) for the applicant/defendant in the action captioned on the reverse hereof. That Sedgwick Claims Management Svs, Inc has in his/her possession or under his/her control the documents described on the reverse hereof. That said documents are material to the issues involved in the case for the following reasons:

Based on the information and belief to resolve any dispute in the above referenced case.

Declaration for Injuries on or After January 1, 1990 and Before January 1, 1994

That an Employee's Claim for Workers' Compensation Benefits (DWC Form 1) has been filed in accordance with Labor Code Section 5401 by the alleged injured worker whose records are sought, or if the worker is deceased, by the dependent(s) of the decedent, and that a true copy of the form filed is attached hereto. (Check box if applicable and part of declaration below. See instructions on front of subpoena.)

I declare under penalty of perjury that the foregoing is true and correct

Executed on 02/08/21, at San Dimas, California.

955 Overland Court, Suite 200, San Dimas, CA 91773

(626) 653-5160

Signature

Address

Telephone

Victor Landero, Operations

DECLARATION OF SERVICE

STATE OF CALIFORNIA, County of Los Angeles

I, the undersigned, state that I served the foregoing subpoena by showing the original and delivering a true copy thereof, together with a copy of the Declaration in support thereof, to each of the following named persons, personally, at the date and place set forth opposite each name.

Name of Person Served

Date

Place

<u>Name of Person Served</u>	<u>Date</u>	<u>Place</u>

I declare under penalty of perjury that the foregoing is true and correct

Executed on _____, at _____, California.

Signature

Attachment

Re:

Patient/Applicant: Alan Washington
AKA:

Social Security #: 567-51-8059

D.O.B.: 05/15/56

Ordered By:

Natalia Foley, Esq
Workers Defenders Law Group
5753 E Santa Ana Cyn Rd Ste G #616
Anaheim, CA 92807

Records to produce:

Deponent's file #: DOI: 11/12/2015 - 11/12/
Exclusions (if any):

Date Range (if any):

For each injury alleged by the Applicant named on the Subpoena, produce the following:

A signed "Declaration of Custodian of Records" must accompany the records.

Record Copy Request – Insurance Claims File

This demand to produce is not limited to the dates of injuries that are the subject of the case numbers listed on the attached Notice but includes all dates of occurrences and all periods of time for the specific documents demanded:

All documents contained in any file however designated in any location under your the possession or control or under the possession or control of any employee or agent of the employer wherein Applicant is the subject including but not limited to any and all employment files, personnel files, claim files, injury files, medical files, investigation files, disciplinary files, and workers' compensation files.

All documents contained in all claims files and investigation files as defined by Title 8, California Code of Regulations §10101.1, §10103.1 and §10109 for all injuries claimed by applicant.

A printout of all electronic records such as notes, emails and memos which are not duplicated in the claims file already being produced.

A copy of all Employee Notification documents required per Regulation 9767.12 (Medical Provider Network notification).

All documentation and evidence that you have complied with Labor Code Section 3550.

All documentation related to **utilization review** performed in this matter.

Any and all documentation that will be relied upon by the defendants in their determination / assessment of applicability of percentage reduction in the event the Applicant is returned to work with defendant-employer.

Notice: For Subpoenas of claim files, you are to send the claim file directly to Med-Legal only. Sending the claim file to other than Med-Legal will be considered to be in non-compliance of the subpoena.

If any of the documents described above that are in your possession or control are not being produced then a detailed list of each withheld document must be included with the records production or listed on your declaration.

Where used, the terms "writing", "record", "document" and other words of similar meaning include (but are not limited to) electronically maintained image files, documents, notes, faxes, emails and other similar types of electronically held information. If the subpoenaed records exist in paper they are to be provided for inspection and copying. If the subpoenaed records exist electronically then they are to be provided either electronically through our Internet portal at upload.getrecords.com or on CD.

This demand does not include correspondence between an attorney representing the deponent and any employee of the deponent, nor does it include any attorney's impressions, conclusions, opinions, or legal research theories.

Form C2 (4/17/98)

Notice: For Subpoenas of claim files, you are to send the claim file directly to Med-Legal only. Sending the claim file to other than Med-Legal will be considered to be in non-compliance of the subpoena.

If any of the documents described above that are in your possession or control are not being produced then a detailed list of each withheld document must be included with the records production or listed on your declaration.

Where used, the terms "writing", "record", "document" and other words of similar meaning include (but are not limited to) electronically maintained image files, documents, notes, faxes, emails and other similar types of electronically held information. If the subpoenaed records exist in paper they are to be provided for inspection and copying. If the subpoenaed records exist electronically then they are to be provided either electronically through our Internet portal at upload.getrecords.com or on CD.

Form M2 (9/3/98)

Attachment

Control #: 22-554-2

Sed000027

Case Name: Alan Washington v. Albertsons Distribution Center

Case Number: SIF11701414, SIF11233336

PROOF OF SERVICE BY MAIL

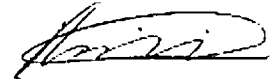
Deposition Notice

I declare that I am employed in the County of Los Angeles, over the age of 18 years and not a party to this action. My business address is: 955 Overland Court, Ste. 200 San Dimas, California 91773.

On 2/9/2021 I caused to be served, at my direction and following ordinary business practices, true copies of the document(s) referenced above for collection and mailing in a sealed envelope and addressed to the parties listed below. I am readily familiar with the business practices of Med-Legal, LLC for collection and processing of correspondence for mailing. The document was set for same day mail processing and collection, with postage fully paid, for delivery by the United States Postal Service or private delivery service following ordinary business practices.

SIBTF SACRAMENTO
1750 HOWE AVENUE STE 370
SACRAMENTO CA 95825

I declare under penalty under the penalty of perjury under the laws of the State of California, the foregoing is a true and correct statement. Executed on 2/9/2021 at San Dimas, California.



/s/ Roderic B. Davis
Business Document Manager
Med-Legal, LLC
22-554-2

**Exhibit 2 – Proof of Service /
Notice of Deposition to Deponent**

APPLICANT/PLAINTIFF/PETITIONER: Alan Washington DEFENDANT/RESPONDENT: Albertsons Distribution Center	CASE NUMBER: SIF11701414
---	-----------------------------

PROOF OF SERVICE

1. I served this Subpoena Duces Tecum by delivering a copy to the person served as follows:

- Personal Delivery
 Certified Mail
 Regular Mail
 Via Facsimile

a. Person served (name): Koy Saecheo

b. Address where served: 2710 GATEWAY OAKS DR STE 150N, SACRAMENTO, CA, 95833

c. Date of delivery: 02/08/2021 Time of delivery: 10:39 AM

d. Deposition date is: 03/01/2021

e. (1) Witness fees were paid.
 Amount: \$ 15 Check Number: 3299143

(2) Copying fees were paid.
 Amount: \$

f. Fee for service: \$

2. I received this subpoena for service on (date): 02/08/2021

3. Person serving:

- a. Not a registered California process server.
- b. California sheriff or marshal
- c. Registered California process server.
- d. Employee or independent contractor of a registered California process server.
- e. Exempt from registration under Business and Professions Code Section 22350(b).
- f. Registered professional photocopier.
- g. Exempt from registration under Business and Professions Code section 22451.

4. Name, address, telephone number, and, if applicable, county of registration and number:

Sean Ziswasser , LA – 7235
 955 Overland Ct, Suite 200, San Dimas, CA, 91773

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff or marshal use only)
 I certify that the foregoing is true and correct.

Date: 02/08/2021

Date: _____

/s/ Sean Ziswasser

▶ _____

▶ _____

(SIGNATURE)

(SIGNATURE)

Exhibit 3 – Declaration in Support of Discovery Order

DECLARATION OF VICTOR LANDERO IN SUPPORT OF PETITION FOR DISCOVERY ORDER

Applicant/Employee: Alan Washington
Case Number: SIF11701414
Our file number: 22-554-2

I, Victor Landero, declare as follows:

1. I am an employee of Med-Legal, LLC a registered professional process service and professional photocopy service;
2. I am the duly authorized custodian of records for Med-Legal, LLC in this matter and I am qualified and authorized to state the facts as they have occurred.
3. A SDT/Notice of Deposition was issued to "Sedgwick", setting the deposition of the Custodian of Records or person designated as most qualified to appear at 1100 Melody Lane, Ste 210, Roseville, CA, 95678, on 3/1/2021 at 10:00AM. The deposition had an attachment showing which records were to be produced at the deposition. Copies of the document were served on all known parties. **Exhibit 1**
4. On 2/8/2021 10:39:00 AM the SDT/Notice of Deposition documents were personally served on Koy Saecheo, the person apparently in charge who accepted service at the deponents offices on 2710 Gateway Oaks Dr, Ste 150N, Sacramento, CA, 95833, or their respective agent of service as per **Exhibit 2**
5. Med-Legal LLC has made several attempts to secure compliance or a copy date for the above referenced SDT/Notice of Deposition from the deponent.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct and this declaration was executed at San Dimas, California on 04/12/2021.



Victor Landero
Director of Operations
Med-Legal, LLC

Exhibit 4 – Med-Legal Letter to Deponent

Med-Legal, LLC

955 Overland Court, Suite 200

San Dimas, CA 91773

(626) 653-5160 FAX (626) 653-5176 E-Mail info@GetRecords.com

April 12, 2021

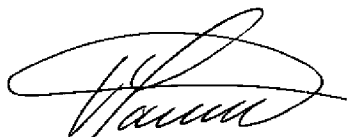
Sedgwick
PO BOX 14154
LEXINGTON, KY 40512

Re: Alan Washington
WCAB No: SIF11701414
Control # 22-554-2

Dear Custodian of Records:

If we do not receive a response or the requested records within **2 Business days**, then a motion to compel will be filed by the requesting attorney. To avoid this motion to compel from being filed and possible legal sanctions, please contact us immediately at (800) 244-3495.

Sincerely,



Victor Landero
Director of Operations
Med-Legal LLC



Med-Legal, LLC

Covina
Fresno
Redding
Sacramento
San Diego
San Mateo

**955 Overland Court, Suite 200
San Dimas, CA 91773**

Phone 800 244-3495
FAX 800 962-4896
www.GetRecords.com
info@GetRecords.com

March 11, 2021

To **Koy Saecheo**
Sedgwick
PO BOX 14154
LEXINGTON, KY 40512

Injured person: Alan Washington
Social Security #: xxx-xxx-8059
Date of Birth: 05/15/1956
Case number: SIF11701414
File Number : DOI: 11/12/2015 - 11/12/

Request for copy date

You were served with a Deposition Subpoena on 2/8/2021 10:39:00 AM asking you to produce records on the above named case. You are required by California Evidence Code §1560(e) to provide a date the records can be copied **within 5 days**. That time limit is now past due.

Please contact us **ASAP** with a date and time (a 6 hour time window is required by Evidence Code §1560e) that these records can be copied.

If you have already called in with a copy date, please disregard this letter.

Thank you,

Jennie Mason
Copy Scheduler 22-554-2

Fax-Back Copy Date Confirmation

Complete and fax this form to (800) 962-4896(800) 962-4896 or call (800) 244-3495

- Come out and copy/pickup the records on _____
- This company/facility has more than one location, the requested records are at the new address.
- I am not going to comply with this request.

Print your name: _____ Date: _____

Signature: _____

**Exhibit 5 – Defendant Objections
(if any)**

Sedgwick Claims Management Services, Inc.

To:
Fax: 18009624896
From: Frederick, Leah
Fax:
Date: April 07, 2021
Subject: Control/Subpoena No.: 22-554-2 - Alan Washington

Please see the attached letter, which was previously sent on February 10.

Thanks!

Leah Frederick | Senior Paralegal - Litigation
Sedgwick Claims Management Services, Inc.
DIRECT (901) 415-7465 | FAX (901) 415-7409
Email Leah.Frederick@sedgwick.com<mailto:Leah.Frederick@sedgwick.com>
www.sedgwick.com<http://www.sedgwickcms.com/> | Caring counts.â,
[http://cdn-ci36.actonsoftware.com/acton/attachment/4952/f-0958/1/-/-/-/SDWK_email-s
ignature-v3.png]

IMPORTANT NOTICE: This electronic mail message (including any attachments) is intended only for the use of the addressee named above and may contain legally privileged and/or confidential information. If you are not the intended recipient of this message, or the employee or agent responsible for delivering this message to the addressee, you are hereby notified that any dissemination, distribution, or copying of this message is strictly prohibited. If you received this message in error, please call the sender immediately at (901) 415-7465 and destroy the original electronic mail message. Thank you.

CONFIDENTIALITY NOTE

The information contained in the facsimile message may be legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this telecopy is strictly prohibited. If you have received this telecopy in error, please notify us immediately by calling the number listed above and return the original message to us at the address above by the United States Postal Service.

Garrett, Jonathan

From: Fax Administrator <FaxAdmin@SedgwickCMS.com>
Sent: Wednesday, February 10, 2021 1:52 PM
To: Garrett, Jonathan
Subject: Fax: Tx 'ok' Report

This message was sent via FAXCOM, a product from Biscom Inc. <http://www.biscom.com/>

-----Fax Transmission Report-----

To: Recipient at 8009624896
Subject: ICON - Alan Washington for Albertsons is Self-Admin for WC only/ Sedgwick is not TPA
Result: The transmission was successful.
Explanation: All Pages Ok
Pages Sent: 32
Connect Time: 27 minutes, 52 seconds
Transmit Time: 02/10/2021 13:24
Transfer Rate: 9600
Status Code: 0000
Retry Count: 0
Job Id: 2279
Unique Id: LTR1FX03_SMTPFaxQ_2102101924091906
Fax Line: 31
Fax Server: LTR1FX05



sedgwick®

1100 Ridgeway Loop Road, Suite 200
Memphis, Tennessee 38120
901.415.7400

February 10, 2021

Med-Legal
955 Overland Court Suite #200
San Dimas, CA 91773

Fax # 800-962-4896

RE: **Inactive Client Objective Notice**

Matter Name: Washington, Alan
Control/Subpoena No.: 22-554-2

To Whom It May Concern:

This letter acknowledges receipt of the subpoena for the above referenced matter. A thorough review of our claim systems confirms that Sedgwick is no longer the third party claim administrator for the claim or the custodian of records for the information sought by the subpoena. A complete copy of the claim file was transferred from Sedgwick to the subsequent third party claim administrator or returned to the client upon termination of the Service Agreement with the client.

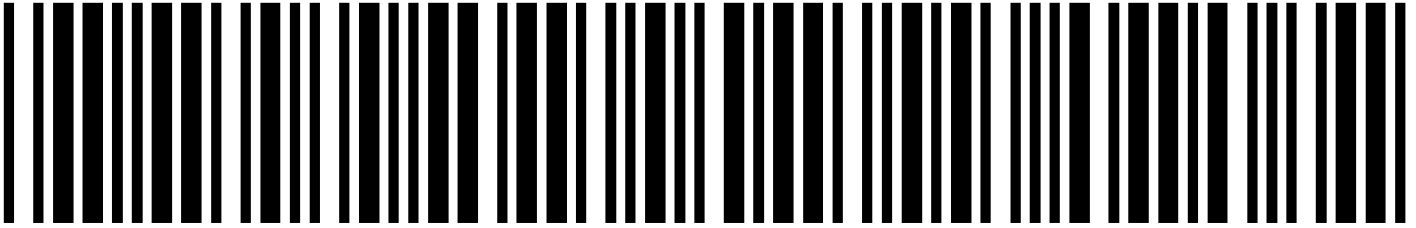
While Sedgwick's electronic claim system may have retained some claim data that may be responsive to the subpoena, Sedgwick objects to the production of the inactive and partial claim file material. Sedgwick cannot produce the material without undue burden and expense. The claims administration staff within the jurisdiction of the subpoena no longer has access to the material. The documents may be archived in our information technology systems and, if they are available, would require an extensive recovery project to produce. Sedgwick cannot verify the completeness or accuracy of the documents requested based on the limited information that may be stored in our inactive electronic claim systems.

Upon information and belief, the records sought belong to:

Albertsons is Self-Admin for WC only/ Sedgwick is not TPA

Sincerely,
Sedgwick Claims Management Services, Inc.

DOCUMENT SEPARATOR SHEET



Product Delivery Unit ADJ

Document Type LEGAL DOCS

Document Title PROOF OF SERVICE

Document Date _____
MM/DD/YYYY

Author _____

Office Use Only

Received Date _____
MM/DD/YYYY



STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 5753 E Santa Ana Cyn Rd Ste G #616, Anaheim, CA 92807.

I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service; that the correspondence would be deposited, postage prepaid, with the United States Postal Service the same day in the ordinary course of business.

On _____, I served the foregoing documents described as: **Declaration of Readiness To Proceed, Petition for Discovery Order; Declarations; Points and Authorities; Proposed Discovery Order**, to all the parties listed below, by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

WCAB

SIBTF SACRAMENTO
1750 Howe Avenue Ste 370
Sacramento, CA 95825

and placed the envelope for collection for deposit in the United States Postal Service at my place of employment for mailing following ordinary business practices.

Executed on _____, at _____.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

22-554-2