

company regarding all injuries or illnesses prior and subsequent to any alleged date of injury.

- 2. A copy of any and all records regarding applicant. Demand is made for immediate delivery of a copy of any records that are in the possession of or that come into the possession of the employer or insurance company in the future, All summaries or analysis of medical records prepared by any person other than attorneys.
- 3. Any correspondence, notes, notes of telephone conversations to or from any medical facility or physician.
- 4. All documents of applicant's employer that the purport to set forth or pertain to any wage, salary, income, or any amount paid to applicant as earnings for the one year prior to the last day applicant worked for employer.
- 5. A wage statement for the one year period prior to the last day applicant worked for employer showing for each pay period the hours worked, the hourly rates, hours of paid sick and vacation leave, benefits payments, and itemized deductions.
- 6. All employment records, including personnel records, in all file where ever located, in all files wherever located, including supervisor files, and all employment records as defined by Labor Code Section I198.5.
- 7. All documents in compliance with employer's repetitive motion injuries (RMI) program as required by Title 8, California Code of Regulations Section 5110.
- 8. All documents posted by employer and presented to applicant in compliance with Labor Code Section 3550 and 3551. Labor Code section 3550 states: "The notice shall also include, in non-technical language, advice as to the injured employee's right to receive medical care, to select or change the treating physician pursuant to the provisions of Section 4600, and the right to receive temporary disability indemnity, permanent disability indemnity, vocational rehabilitation services, and death benefits, as appropriate. The notice shall also identify to whom injuries should be reported, and the location and telephone number of the nearest information and assistance officer. "Labor Code

3551 states: "Every employer subject to the compensation provisions of this code, except employers of employees defined in subdivision (d) of Section 3351, shall give every new employee, either at the time the employee is hired or by the end of the first pay period, written notice of the information contained in Section 3550."

- 9. All personnel manuals, collective bargaining agreements, employment policy manuals, and employment agreements.
- 10. All documents that applicant has chosen a predesignated treating physician before the injuries alleged in this matter.
- 11. All documents showing the employer has contracted with health care organizations to provide services and medical treatment to injured employees that include applicant.
- 12. All statements by any person whether a percipient witness to any alleged injuries or with any knowledge regarding any accidents or injuries involving applicant whether written, recorded or notes of the conversation.
- 13. All investigation reports regarding any accident or injury involving applicant.
- 14. All photographs or images of any scenes or locations or of any objects or equipment regarding any accident or injury involving applicant.
- 15. All ergonomic studies of applicant's work area.
- 16. All photographs or images of applicant, including, but not limited to, those depicting any possible visible signs of injuries or disabilities or the lack thereof.
- 17. All films, movies, motion pictures, video tapes in any format or form purporting to depict applicant in any manner whether depicting disability or lack of disability taken at any time. Demand is made for a copy to be delivered immediately to applicant of any motion pictures or videos that are in the possession of or that come into the possession of the employer or the insurance company or any agent thereof in the future.
- 18. All documents including billing statements and reports regarding any surveillance of applicant by any agent or investigator hired by employer, insurance company or any agent of employer or insurance company. The documents are to show the name of the person

conducting the surveillance, his or her employer, address of his or her employer, date, starting time of surveillance, and ending time of surveillance, minutes of filming or video taping, and any written notes or reports regarding the surveillance.

- 19. Any documents or records from any index or data base of accidents attributed to or claimed by applicant, at any time.
- 20. The names and addresses of all witnesses that employer or insurance company intend to list as witnesses on the pretrial conference statement for the mandatory settlement conference and that may be called to testify at any trial in this matter.
- 21. All documents showing an accountability of benefits applicant has received as a result of any work related injury or illness. The accounting is to show the date of payment, the amount of payment, the species of benefit, the period covered, and any related penalty. The accounting is to be in compliance with Title 8 of California Code of Regulations section 9812 (d). The section states:

"(d) Notice that Benefits Are Ending (TD, SC, PD, VRTD, VRMA). With the last payment of temporary disability indemnity, permanent disability, salary continuation, or vocational rehabilitation temporary disability indemnity or maintenance allowance, the claims administrator shall advise the employee of the ending of indemnity payments and the reason, and shall make an accounting of all compensation paid to or on behalf of the employee in the species of benefit to which the notice refers, including the dates and amounts paid and any related penalties."
- 22. All vocational rehabilitation documents or reports or job descriptions or job analysis prepared by any Qualified Rehabilitation Representative or vocational rehabilitation expert or nurse.
- 23. All documents showing proof of compliance with Title 8, California Code of Regulations section 9492.6 for any Utilization Review of any medical request by a physician in this matter.
- 24. If liability for the claim has not been accepted a copy of all investigation and medical evidence considered or relied upon as the basis for not accepting liability.

25. The entire contents of the claim file as defined by Title 8, California Code of Regulations Sections 10101.1. This section states:

"Every claims administrator shall maintain a claim file of each work-injury claim including claims which were denied. All open claim files shall be kept at the adjusting location for the file. The file shall contain but not be limited to:

(a) Either (1) a copy of the Employee's Claim for Workers' Compensation Benefits, DWC Form 1, showing the employer's date of knowledge of injury, the date the employer provided the form to the employee and the date the employer received the completed form from the employee; or (2) if the employee did not return the claim form, documentation of the date the employer provided a claim form to the employee. Of the administrator cannot obtain the form or determine that the form was provided to the employee by the employer, the file shall contain documentation that the administrator has provided the claim form to the employee as required by Title 8, California Code of Regulations Section 10119.

(b) A copy of the Employer's Report of Occupational Injury or Illness, DLSR Form 5020, or documentation of reasonable attempts to obtain it;

(c) A copy of every notice or report sent to the Division of Workers' Compensation.

(d) A copy of every Doctor's First Report of Occupational Injury or Illness, DSLR Form 5020, or documentation of reasonable attempts to obtain it;

(e) The original or a copy of every medical report pertaining to the claim, or documentation of reasonable attempts to obtain them.

(f) All orders or awards of the Workers' Compensation Appeals Board or the Rehabilitation Unit pertaining to the claim.

(g) A record of payment of compensation.

(h) A copy of the application(s) for adjudication of claim filed with the Workers' Compensation Appeals Board, if any.

(i) Copies of the following notices sent to the employee:

- (1) Benefit notices, including vocational rehabilitation notices, required by Title 8, California Code of Regulations, Division 1, Chapter 4.5, Subchapter 1, Article 8, beginning with Section 9810, or by Title 8, California Code of Regulations, Division 1, Chapter 4.5, Subchapter 1.5, Article 7, beginning with Section 10122;
- (2) Notices related to the Qualified Medical Evaluation process required by Labor Code Section 4061;

(j) Documentation sufficient to determine the injured worker's average weekly earnings in accordance with Labor Code Sections 4453 through 4459. Unless the claims administrator accepts liability to pay the maximum temporary disability rate, including any increased maximum due under the Labor Code §4661.1, the information shall include:

(1) Documentation whether the employee received the following earnings, and if so the amount of fair market value of each: tips, commissions, bonuses, overtime, and the market value of board, lodging, fuel, or other advantages as part of the worker's remuneration, which can be estimates in money, said documentation to include the period of time, not exceeding one year, as may conveniently be taken to determine an average weekly rate of pay;

(2) Documentation of concurrent earnings from employment other than that in which the injury occurred, or that there were no concurrent earnings, or of reasonable attempts to determine this information

(3) If the earnings at the time of injury were irregular, documentation of earnings from all sources of employment for one year prior to the injury, or of reasonable attempts to determine this information.

(4) If the foregoing information results in less than maximum earnings, documentation of the worker's earning capacity, including documentation of any increase in earnings likely to have occurred but for the injury (such as periodic salary increases or increased earnings upon completion of training status), or of reasonable attempts to determine this information.

(k) Notes and documentation related to the provision, delay, or denial of benefits , including any electronically stored documentation.

(l) Notes and documentation evidencing the legal, factual, or medical basis for non-payment or delay in payment of compensation benefits or expenses.

(m) Notes describing telephone conversations relating to the claim which are of significance to claims handling, including the dates of calls, substance of calls, and identification of parties to the calls " Title 8 California Code of Regulations States:" § 10109. Duty to Conduct Investigation; Duty of Good Faith.

(a) To comply with the time requirements of the Labor Code and the Administrative Director's regulations, a claims administrator must conduct a reasonable and timely investigation upon receiving notice or knowledge of an injury or claim for a workers' compensation benefit.

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

(e) Insurers, self-insured employers and third-party administrators shall deal fairly and in good faith with all claimants, including lien claimants."

Dated: _____
Attorney for Applicant