

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  
26  
27  
28

**WORKERS' COMPENSATION APPEALS BOARD  
STATE OF CALIFORNIA**

vs. *Applicant,*  
  
*Defendant.*

Case No.

EX PARTE PETITION FOR ORDER TO  
SERVE SECRETARY OF STATE ON  
BEHALF OF A CORPORATION  
(California Code of Civil Procedure section  
416.10 (d))

Applicant, through Applicant's attorney of record, hereby applies for an order to serve the secretary of the state of California on behalf of the above named defendant.

Such petition is made upon the ground that said defendant cannot with reasonable diligence be located and served in any other manner specified in the Code of Civil Procedure and that as shown by the Application for Adjudication on file herein, Applicant has a claim against said defendant.

This Petition is based on the attached declaration and the Workers' Compensation Appeals Board file for this case.

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

Attorney for Applicant

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  
26  
27  
28

**WORKERS' COMPENSATION APPEALS BOARD  
STATE OF CALIFORNIA**

*Applicant,*

*Defendant.*

Case No.

DECLARATION IN SUPPORT OF  
PETITION FOR ORDER TO SERVE  
SECRETARY OF STATE ON BEHALF  
OF A CORPORATION

I, the undersigned, declare as follows:

I am an employee of Med-Legal, Inc. and have personal knowledge of each of the facts set forth in this Declaration, and can testify competently thereto, except as to the matters stated on information and belief, and as to such matters I believe them to be true.

This declaration is being submitted in support of applicant's Petition for Order to Serve Secretary of State on Behalf of Corporation pursuant to CCP 416.10(d).

Applicant has filed an Application for Adjudication alleging an injury while in the course and scope of employment and arising out of employment while employed by defendant employer.

//////

1 I have made the following attempts to locate and serve copies of the Special Notice of  
2 Lawsuit, Application for Adjudication and accompanying documents to the employer  
3 personally, all of which attempts have been unsuccessful:

4 A process server went to the last known address of defendant. Defendant could not be  
5 served at that address. No current address could be determined. Attached is the declaration of  
6 the process server.

7 Service by substituted service could not be made because the defendant was no longer at  
8 the last known address.

9 I have attempted to serve copies of the documents on defendant by mail with  
10 acknowledgment of receipt, and pursuant to the provisions of CCP section 414.30, all of  
11 which attempt was unsuccessful.

12 I have been unable to locate said defendant, within or outside the State of California,  
13 despite reasonable efforts and diligence. The following is a description of the records that I  
14 have checked, the persons whom I have asked, and the other investigation I have made, in the  
15 effort to locate said defendant, all of which have been unsuccessful: the telephone information  
16 operator (411), and the Secretary of State world wide web site (ss.ca.gov/). I have searched  
17 the following world wide web databases: Board of Equalization, ABC Licenses, Corporations  
18 and Limited Partnerships, Fictitious Business Names, Professional Licenses, Contractors,  
19 Realtors, Property Ownership, UCC Index, Marriages, Bankruptcy Index, Criminal Index,  
20 Civil Index and have been unsuccessful in locating defendant.

21 To the best of my knowledge, no person, firm, or entity other than as mentioned  
22 above knows, or is likely to know, the whereabouts of said defendant, and I know of no other  
23 source which the defendant's whereabouts can be ascertained.

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

26 Executed on: \_\_\_\_\_ at \_\_\_\_\_

27  
28 \_\_\_\_\_  
Declarant

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  
26  
27  
28

**WORKERS' COMPENSATION APPEALS BOARD  
STATE OF CALIFORNIA**

vs. *Applicant,*  
  
*Defendant.*

Case No.

**ORDER TO SERVE SECRETARY OF  
STATE ON BEHALF OF A  
CORPORATION**  
(California Code of Civil Procedure  
section 416.10 (d))

The court having reviewed the petition of applicant for an order to serve the Secretary of State on behalf of the employer finds that, after due diligence, service cannot be effected on the defendant under California Code of Civil Procedure section 416.10 subsections (a) and (b).

Good cause appearing,

IT IS ORDERED that applicant serve the Secretary of State on behalf of the employer with the following documents:

Dated: \_\_\_\_\_

Workers' Compensation Administrative Law Judge

**PROOF OF SERVICE**

*(Use separate proof of service for each person served)*

1) I served all documents listed on the ORDER TO SERVE SECRETARY OF STATE ON BEHALF OF CORPORATION

a.  Other (specify):

b. on defendant (name):

c. by serving  defendant  other (name and title or relationship to person served): Secretary of State  
State of California

d.  by delivery  at home  at business

- (1) date:
- (2) time:
- (3) address:

e.  by mailing

- (1) date:
- (2) place:

2) Manner of service (check proper box):

a.  **Personal service.** By personally delivering copies. (CCP 415.10)

b.  **Substituted service on corporation, unincorporated association (including partnership), or public entity.** By leaving, during usual office hours copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(a))

c.  **Substituted service on natural person, minor, conservatee, or candidate.** By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b)) (Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first attempting personal service.)

d.  **Mail and acknowledgment service.** By mailing (by first-class mail or airmail, postage prepaid) copies to the person served, together with two copies of the form of notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30) (Attach completed acknowledgment of receipt.)

e.  **Certified or registered mail service.** By mailing to an address outside California (by first-class mail postage prepaid, requiring a return receipt) copies to the person served. (CCP 415.40) (Attach signed return receipt or other evidence of actual delivery to the person served.)

f.  **Other (specify code section):**

additional page is attached.

3. The "Notice to the Person Served" (on the summons) was completed as follows (CCP 412.30, 415.10, and 474):

a.  as an individual defendant.

b.  as the person sued under the fictitious name of (specify):

c.  on behalf of (specify):

- under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  other:
- CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)
- CCP 416.40 (association or partnership)  CCP 416.90 (individual)

d.  by personal delivery on (date):

4. At the time of service I was at least 18 years of age and not a party to this action.

5. Fee for service: \$

6. Person serving:

- a.  California sheriff, marshal, or constable.
- b.  Registered California process server.
- c.  Employee or independent contractor of a registered California process server.
- d.  Not a registered California process server.
- e.  Exempt from registration under Bus. & Prof. Code 22350(b).

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

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

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

Date:

Date:

▶ \_\_\_\_\_

▶ \_\_\_\_\_

(SIGNATURE)

(SIGNATURE)

## **Authority for Service on California Corporations**

### **CCP§416.10. Corporations--On Designated Agent--On President or Other Officer--On Cashier, If Bank--Other.**

A summons may be served on a corporation by delivering a copy of the summons and of the complaint:

- (a) To the person designated as agent for service of process as provided by any provision in Section 202, 1502, 2105 or 2107 of the Corporations Code (or Sections 3301 to 3303, inclusive or Sections 6500 to 6504, inclusive, of the Corporations Code as in effect on December 31, 1976 with respect to corporations to which they remain applicable);
- (b) To the president or other head of the corporation, a vice president, a secretary or assistant secretary, a treasurer or assistant treasurer, a general manager, or a person authorized by the corporation to receive service of process;
- (c) If the corporation is a bank, to a cashier or assistant cashier or to a person specified in subdivision (a) or (b); or
- (d) When authorized by any provision in Section 1701, 1702, 2110 or 2111 of the Corporations Code (or Sections 3301 to 3303, inclusive, or Sections 6500 to 6504, inclusive, of the Corporations Code as in effect on December 31, 1976, with respect to corporations to which they remain applicable), as provided by such provision.

### **CorpC§1701. Valid Service.**

Delivery by hand of a copy of any process against the corporation (a) to any natural person designated by it as agent or (b), if a corporate agent has been designated, to any person named in the latest certificate of the corporate agent filed pursuant to Section 1505 at the office of such corporate agent shall constitute valid service on the corporation.

### **CorpC§1702. Service on Secretary of State.**

(a) If an agent for the purpose of service of process has resigned and has not been replaced or if the agent designated cannot with reasonable diligence be found at the address designated for personally delivering the process, or if no agent has been designated, and it is shown by affidavit to the satisfaction of the court that process against a domestic corporation cannot be served with reasonable diligence upon the designated agent by hand in the manner provided in Section 415.10, subdivision (a) of Section 415.20 or subdivision (a) of Section 415.30 of the Code of Civil Procedure or upon the corporation in the manner provided in subdivision (a), (b) or (c) of Section 416.10 or subdivision (a) of Section 416.20 of the Code of Civil Procedure, the court may make an order that the service be made upon the corporation by delivering by hand to the Secretary of State, or to any person employed in the Secretary of State's office in the capacity of assistant or deputy, one copy of the process for each defendant to be served, together with a copy of the order authorizing such service. Service in this manner is deemed complete on the 10th day after delivery of the process to the Secretary of State. (b) Upon the receipt of any such copy of process and the fee therefore, the Secretary of State shall give notice of the service of the process to the corporation at its principal executive office, by forwarding to such office, by registered mail with request for return receipt, the copy of the process or, if the records of the Secretary of State do not disclose an address for its principal executive office, by forwarding such copy in the same manner to the last designated agent for service of process who has not resigned. If the agent for service of process has resigned and has not been replaced and the records of the Secretary of State do not disclose an address for its principal executive office, no action need be taken by the Secretary of State. (c) The Secretary of State shall keep a record of all process served upon the Secretary of State under this chapter and shall record therein the time of service and the Secretary of State's action with reference thereto. The certificate of the Secretary of State, under the Secretary of State's official seal, certifying to the receipt of process, the giving of notice thereof to the corporation and the forwarding of such process pursuant to this section, shall be competent and prima facie evidence of the matters stated therein. (d) The court order pursuant to subdivision (a) that service of process be made upon the corporation by delivery to the Secretary of State may be a court order of a court of another state, or of any federal court if the suit, action, or proceeding has been filed in that court.

## **Authority for Service on Non-California Corporation**

### **CorpC§2110. Valid Service of Process.**

Delivery by hand of a copy of any process against a foreign corporation (a) to any officer of the corporation or its general manager in this state, or if the corporation is a bank to a cashier or an assistant cashier, (b) to any natural person designated by it as agent for the service of process, or (c), if the corporation has designated a corporate agent, to any person named in the latest certificate of the corporate agent filed pursuant to Section 1505 shall constitute valid service on the corporation. A copy of the statement and designation, or a copy of the latest statement filed pursuant to Section 2117, certified by the Secretary of State, is sufficient evidence of the appointment of an agent for the service of process.

### **CorpC§2110.1. Authority for Service of Process.**

In addition to the provisions of Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure, process may be served upon a foreign corporation as provided in this chapter.

**CorpC§2111. Service by Delivery to Secretary of State.** (a) If the agent designated for the service of process is a natural person and cannot be found with due diligence at the address stated in the designation or if the agent is a corporation and no person can be found with due diligence to whom the delivery authorized by Section 2110 may be made for the purpose of delivery to the corporate agent, or if the agent designated is no longer authorized to act, or if no agent has been designated and if no one of the officers or agents of the corporation specified in Section 2110 can be found after diligent search and it is so shown by affidavit to the satisfaction of the court, then the court may make an order that service be made by personal delivery to the Secretary of State or to an assistant or deputy secretary of state of two copies of the process together with two copies of the order, except that if the corporation to be served has not filed the statement required to be filed by Section 2105 then only one copy of the process and order need be delivered but the order shall include and set forth an address to which the process shall be sent by the Secretary of State. Service in this manner is deemed complete on the 10th day after delivery of the process to the Secretary of State. (b) Upon receipt of the process and order and the fee therefore the Secretary of State forthwith shall give notice to the corporation of the service of the process by forwarding by registered or certified mail, with request for return receipt, a copy of the process and order to the address specified in the order if the corporation has not filed the statement required by Section 2105 or to the two stated addresses of the corporation set forth in the latest statement filed pursuant to Section 2105 or 2117, or if only one address is set forth in the latest statement, to the sole stated address of the corporation. (c) The Secretary of State shall keep a record of all process served upon the Secretary of State and shall record therein the time of service and the Secretary of State's action with respect thereto. The certificate of the Secretary of State, under the Secretary of State's official seal, certifying to the receipt of process, the giving of notice thereof to the corporation, and the forwarding of the process pursuant to this section, shall be competent and prima facie evidence of the matters stated therein.