



# Subpoena Checklist

Requested Document	Examples	Must you Produce?	Can you Object?
<b>WCAB Documents</b>	All docs filed at the WCAB, hearing notices, awards, orders, liens, C&R documents, Stips, depo transcripts, Liens,	Yes	No Basis
<b>Benefit Transaction Ledgers</b>	Benefit payment history that excludes ULAE/legal expenses	Yes	No Basis
<b>Defense Attorney Communication</b>	Any correspondence, memos, emails, legal billing, phone messages, communication between carrier/TPA and attorneys	No	Attorney-Client Privilege
<b>Reserves/Company Internal Communication</b>	Reserve worksheets, company internal communications, client file notes/claim notes	No	Work Produce Doctrine
<b>Injured Worker Notices</b>	Benefit notices, fact sheets, job analyses/vocational assessments	Yes	No Basis
<b>Employment Information</b>	Wage statement, hiring information, disciplinary notices and performance reviews, personnel handbook, MPN notices	Yes	No Basis
<b>Investigative Reports</b>	Investigation reports from the employer, employee, witness, correspondence to/from investigator, surveillance reports, recorded statements, videos, photos	Production usually no later than MSC	Work product doctrine to apply to documents obtained by ER/ Claims Examiner before assigning to an attorney in anticipation of litigation and at the direction of an attorney while in litigation.

## Subpoena Duces Tecum

1. Subpoenas must have a valid ADJ number.
2. Subpoenas are governed by CA Code of Civil Procedure sections 1985-1987.5.
3. Was it properly served pursuant to CCP 1987? Must be by personal service (not by fax or mail).
4. Collectively Bargained Workers' Compensation/ADR Programs require an ADR program subpoena. WCAB subpoena is NOT valid as WCAB has no jurisdiction.
5. Respond **TIMELY!!** You have 10 days plus 5 days for mailing to respond to the subpoena, specifically, if the subpoena requests business records be produced, under CCP 2020.430, you have 20 days after issuance to respond or 15 days after service, whichever is later.
6. Be aware of HIPAA requirements. While most HIPAA rules don't pertain to WC, protected health information may not be disclosed without a medical release and without the injured workers knowledge and permission.