



Subpoena Checklist

Requested Document	Examples	Must you Produce?	Can you Object?
WCAB Documents	All docs filed at the WCAB, hearing notices, awards, orders, liens, C&R documents, Stips, depo transcripts, Liens,	Yes	No Basis
Benefit Transaction Ledgers	Benefit payment history that excludes ULAE/legal expenses	Yes	No Basis
Defense Attorney Communication	Any correspondence, memos, emails, legal billing, phone messages, communication between carrier/TPA and attorneys	No	Attorney-Client Privilege
Reserves/Company Internal Communication	Reserve worksheets, company internal communications, client file notes/claim notes	No	Work Produce Doctrine
Injured Worker Notices	Benefit notices, fact sheets, job analyses/vocational assessments	Yes	No Basis
Employment Information	Wage statement, hiring information, disciplinary notices and performance reviews, personnel handbook, MPN notices	Yes	No Basis
Investigative Reports	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- It must be served by personal service (not via fax or mail) if the case is filed on or before December 31, 2018:
 - a. Electronic service is acceptable if agreed upon by the parties to accept service by fax or mail; or
 - b. Pursuant to CCP 1010.6 (as of January 1, 2019): Represented parties, who have appeared in an action or proceeding, shall accept electronic service via fax or mail. The serving party must confirm the service address by telephone or email before completing the service.
 - (i) Unrepresented persons are exempt from mandatory electronic filing and service rules.
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.