

Draft Minutes  
CIVIL COMMISSION  
Workgroup on Standard Interrogatories and Requests for Production  
for Intervening Workers' Compensation Lien Holders

225 Spring Street, room 206  
Wethersfield, CT  
Monday, April 2, 2012  
9:00 AM

**Conference Call participants:** David Cooney, Martha Triplett, Rick Roberts

1. Welcome and call to order
2. Review of AG's proposal to develop standard interrogatories and requests for production for intervening workers' compensation lien holders - Discussion among the participants covered a variety of issues. The group discussed the advantages and disadvantages of simply providing an authorization to allow the party to obtain the information directly without the necessity for responding to interrogatories or requests for production. Discussion also included the possibility of permitting the party providing along with the discovery responses the option of providing an authorization in lieu of responding to the requests. Attorney Cooney noted that the production requests ask for copies of all medical reports for the past two years, and on its own, the compensation carrier would not be able to produce those records.

After discussion, the consensus of the workgroup was that when the compensation carrier intervenes in the action, the interrogatories are fine. However, the proposal does not address the situation that occurs when the carrier does not intervene. Unless the comp carrier is a party, the only option would be to subpoena the carrier since the discovery requests would not be an option for a non-party. If these same interrogatories were propounded to the plaintiff, the plaintiff could simply say "here's my authorization. Go get it yourself."

Further discussion ensued on how to get this information when the comp carrier does not intervene. Often, the plaintiff's lawyers do not represent the client in the workers' compensation case. Attorney Roberts suggested that some of this information is accessible through viewing the workers' compensation file. Is there a downside to providing an authorization to the workers' compensation file? Attorney Cooney mentioned that providing these records to lawyers not in the comp case could be time-consuming for the comp offices.

The workgroup then discussed possibly adding to the standard set of interrogatories for the plaintiff a question about an employer at the time

of an accident. For example, add to the standard interrogatories two questions:

- Were you employed at the time of the incident/occurrence alleged in the complaint?
- Did you receive workers' compensation payments as a result of the incident/occurrence alleged in the complaint?

If the answer to the first and/or second question is "no", then no further questions would be needed. If the answer is "yes", then the interrogatories and request for production proposed for the employer could be tailored to a plaintiff and filed as standard supplemental discovery. For example, the plaintiff would not be likely to have a copy of the workers' compensation lien calculations, and he or she should not be required to obtain such information. Therefore, if it were the plaintiff and not the carrier to whom the production request is directed, production request C. should be eliminated.

Proposed discovery could include the following:

Interrogatories for Plaintiff (if employed and received benefits)

1. State your full name, home address, and business address.
2. State the workers' compensation claim number and the date of injury of each workers' compensation claim that you have filed as a result of the incident/occurrence alleged in the complaint.
3. Identify all indemnity benefits, medical benefits, and the total amount paid on your behalf on each of the claims filed as a result of the incident/occurrence alleged in the complaint and referred to in interrogatory number two.
4. Identify any voluntary agreements, approved stipulations to date, approved full and final stipulations and findings and awards, and findings and dismissals which you entered into with the workers' compensation carrier arising out of the incident/occurrence alleged in the complaint and which formed the basis for your answer to interrogatory three.
5. Which of your claims arising out of the incident/occurrence alleged in the complaint and referenced in your answer to interrogatory number two are still open?

Requests for Production:

- A. Produce a copy of all of the approved voluntary agreements, approved stipulations to date, approved full and final stipulations, findings and awards and findings and dismissals which are in your possession or control, and relate to one or more of the claims referenced in your answer to interrogatory number two.
  - B. Produce a copy of all your medical examination reports prepared within the past three years concerning any of the claims referenced in your answer to interrogatory number two.
3. Discussion -The workgroup agreed that the proposal to adopt standard interrogatories and requests for production to the intervening compensation carrier and standard supplemental interrogatories and requests for production to the plaintiff in the event the workers' compensation carrier does not intervene makes sense and a rule change to include the standard discovery should be proposed to the Rules Committee.
4. Next meeting – No additional meeting is scheduled at this time.