

COPY

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY OR GOVERNMENTAL AGENCY (under Family Code, §§ 17400, 17406) (Name, state bar number, and address):</p> <p>BARBARA CLARK R.N. N.P. 8200 STOCKDALE HWY (M10) #230 BAKERSFIELD, CA 93311</p> <p>TELEPHONE NO.: _____ FAX NO.: _____</p> <p>ATTORNEY FOR (Name): APPLICANT IN PRO PER</p>	<p>FOR COURT USE ONLY</p> <p>RECEIVED BAKERSFIELD 2011 FEB 10 AM 10:59 DEPT OF INDUST RELATIONS DRICT/CAB</p>
<p>STATE OF CALIFORNIA, WORKERS' COMPENSATION APPEALS BOARD</p> <p>STREET ADDRESS: 1800 30TH STREET, SUITE 100</p> <p>MAILING ADDRESS:</p> <p>CITY AND ZIP CODE: BAKERSFIELD, CALIFORNIA, 93301</p> <p>BRANCH NAME:</p>	
<p>PETITIONER/PLAINTIFF: BARBARA CLARK, R.N.</p> <p>RESPONDENT/DEFENDANT: SAN JOAQUIN COMMUNITY HOSPITAL</p> <p>OTHER PARENT: ADVENTIST HEALTH SYSTEM WEST</p>	
<p>PROOF OF SERVICE BY MAIL</p>	<p>CASE NUMBER: WCAB BAK 112784</p>

ADJ 1153404

NOTICE: To serve temporary restraining orders you must use personal service (see form FL-330).

1. I am at least 18 years of age, not a party to this action, and I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:
9508 STOCKDALE HWY #110. BAKERSFIELD CA 93311
3. I served a copy of the following documents (specify):

Motion to Quash Defendants Supeona to Google

by enclosing them in an envelope AND

- depositing the sealed envelope with the United States Postal Service with the postage fully prepaid.
- placing the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

4. The envelope was addressed and mailed as follows:

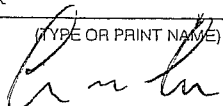
- Name of person served: see mailing list
- Address: see list
- Date mailed:
- Place of mailing (city and state): BAKERSFIELD, CALIFORNIA, 93301

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

Date:

ARTHUR M. PARK

(TYPE OR PRINT NAME)

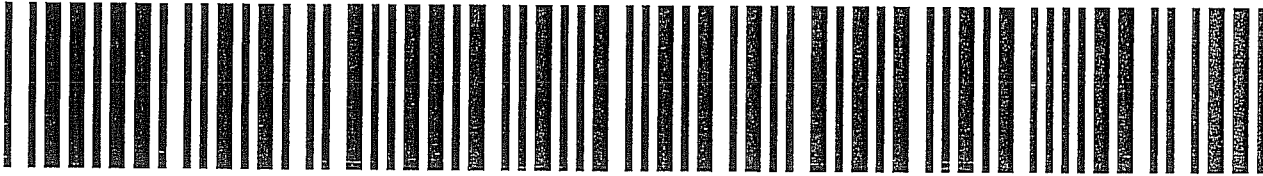


Feb 10, 2011

(SIGNATURE OF PERSON COMPLETING THIS FORM)

STATE OF CALIFORNIA
DWC DISTRICT OFFICE

DOCUMENT COVER SHEET



Is this a new case? Yes No Companion Cases Exist Walkthrough Yes No

More than 15 Companion Cases

02/10/2011
Date:(MM/DD/YYYY)

SSN: 527-87-2650

ADJ 1153404
Case Number 1

Specific Injury

02-16-1994
(Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Cumulative Injury

Body Part 1: _____

Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____

Please check unit to be filed on (check only one box)

ADJ DEU SIF UEF VOC INT RSU

Companion Cases

Specific Injury

Case Number 2 _____

Cumulative Injury (Start Date: MM/DD/YYYY)

(End Date: MM/DD/YYYY)

(If Specific Injury, use the start date as the specific date of injury)

Body Part 1: _____

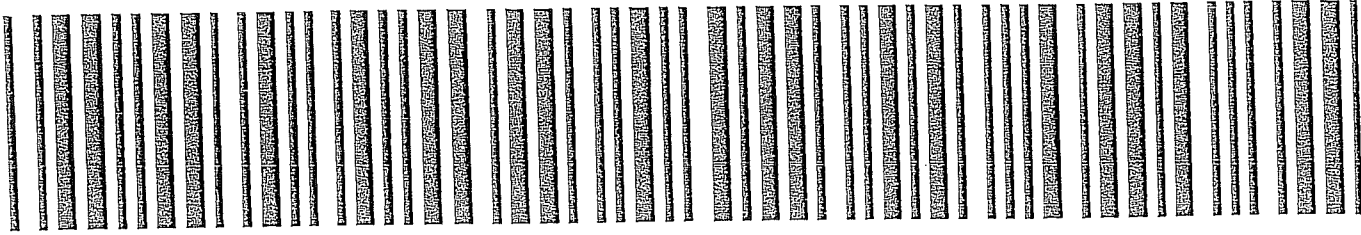
Body Part 3: _____

Body Part 2: _____

Body Part 4: _____

Other Body Parts: _____

DOCUMENT SEPARATOR SHEET



Product Delivery Unit ADJ

Document Type LEGAL DOCS

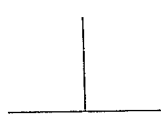
Document Title Motion to Quash

Document Date 02-10-2011
MM/DD/YYYY

Author Barbara Clark

Office Use Only

Received Date _____
MM/DD/YYYY



1 **Barbara Clark, c/o**
2 **8200 Stockdale Highway M10 #230**
3 **Bakersfield, CA 93311**

4 **WORKERS COMPENSATION APPEALS BOARD**

5 **STATE OF CALIFORNIA**

6 Barbara Clark,

7 Applicant,

8 vs.

9 San Joaquin Community Hospital,

10 Adventist Health System - West

11 Defendants

) **Case No.: ADJ 1153404**

) **BAK 112784**

) **APPLICANT'S MOTION TO**

) **QUASH DEFENDANTS SUPEONA**

) **TO GOOGLE INC,**

VIOLATION OF CALIFORNIA

LABOR CODE 4055.2 AND 3702(3)

14
15 Applicant is submitting this motion in order to defend herself from the
16 ongoing tactics of the defendants. Defendants continue filing frivolous and
17 unnecessary subpoena's in order to obtain private and confidential E-Mail
18 material. This Honorable Court should construe this entire pleading as submitted
19 under the penalties of perjury. The applicant attests that such statements are
20 truthful and factual and not submitted for the purposes of harassment or delay.
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1 This is a Motion to Quash, the Defendants subpoena to Google Inc. in
2 order to obtain e-mails from the applicants private and confidential e-mail
3 account.

4 BACKGROUND

5 On February 8th, 2011 Applicant Barbara Clark received a letter from Ted Charlton
6 Legal Investigations support at GOOGLE. Inc. (Exhibit 1)

7 Applicant notified Google Inc. via Phone message and e-mail, trying to find out
8 who filed a subpoena for her e mail account since it seemed like the Applicant had
9 filed a subpoena. On February 9th, 2011 Mr. Charlton called the Applicant and
10 informed her that he would send her a copy of the subpoena in question. Applicant
11 received the subpoena from Google Inc. on February 9th, 2011. (Exhibit 2)

12 This subpoena was filed by the defendants Adventist Health in order to obtain
13 access to Applicants e mail account.

14 Applicant believes this again is a frivolous action by the defendants to repeatedly
15 harass, intimidate and cause the Applicant increased emotional stress.

16 Defendants again are attempting, to try and prevent the Applicant from obtaining
17 the medical treatment necessary to cure and relieve her of the effects of her 1994
18 Industrial Injury.

1 It appears that Defendants are in violation of

2 **California Labor Code Section 4055.2**

3 *Any party who subpoenas records in any proceeding under*
4 *this division shall concurrent with service of the subpoena upon the*
5 *person who has possession of the records, send a copy of the subpoena*
6 *to all parties of record in the proceeding.*

7 Applicant was never informed about this pending Subpoena. Had Google
8 Inc. not notified the Applicant, she would have never known about this frivolous
9 action. Applicant is now concerned that other subpoena's may have been sent out.

10
11 **California Labor Code Section 3702**

12 *(3) Intentionally refusing to comply with known and legally*
13 *indisputable compensation obligations.*

14
15 Defendants should not be allowed to continue harassing the Applicant and
16 continue to cause unnecessary emotional distress on the Applicant. Applicant is
17 trying to get the necessary treatment to cure and relieve her of the injuries, and
18 believes she does not need this constant barrage of frivolous tactics. These tactics
19 of trying to subpoena private and confidential e mails have no relevance at all in
20 the fact that the Applicant suffered an undisputed Industrial injury dating to 1994
21 and Applicant has an already established Award and Order from over a decade
22 ago. Applicant believes these continuous tactics are solely intended to further delay

1 proceedings and deny treatment.

2

3 *Nefarious motives for conducting discovery*

4 “.. However, defendant's counsel [Mr. Hershewe] is apparently doing
5 everything he can think of to prevent applicant from getting the treatment he
6 needs to survive, including the heart transplant evaluation process, or to
7 interfere with that treatment. This has been going on for almost two years.
8 We cannot and will not allow the procedures of the Appeals Board to
9 obstruct medical treatment that is required for applicant's continuing
10 survival...” **2005 Cal. Wrk. Comp. P.D. LEXIS 4 (Cal. Wrk. Comp. P.D.
11 2005)**

12 Applicants E-Mail account contains private and confidential Medical records
13 pertaining to family members and the Applicant. Applicant will not give consent to
14 have GOOGLE INC release such information.

15 Defendants are intentionally trying to involve a third party who unknowingly will
16 be assisting the defendants to violate HIPPA.

17 Applicant is asking this tribunal to quash the subpoena filed by the Defendants on
18 GOOGLE INC. Applicant is requesting that the Defendants obtain a pre filing
19 order from this tribunal before issuing any more subpoenas and before filing any
20 more frivolous and unnecessary pleadings.

21

22

23

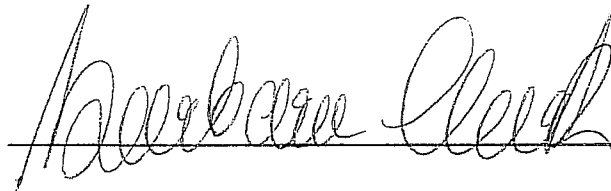
24

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1 Respectfully submitted

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7 Barbara Clark

A handwritten signature in cursive script, appearing to read "Barbara Clark", written over a horizontal line.

8 Signed this 10 day of February, 2011

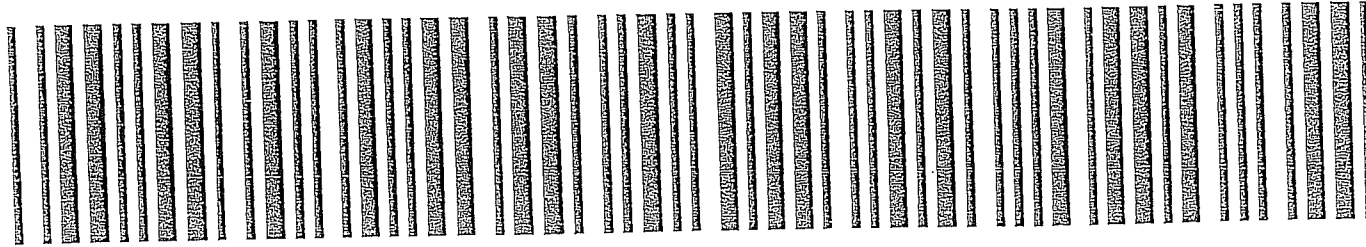
9
10
11
12 ***Copies provided:***

13 Judge Robert K. Norton
14 Workers' Compensation Appeals Board (WCAB)
15 1800 30th Street, Room 100
16 Bakersfield, California 93301-1929

17 Dennis J. Hershewe,
18 Legacy Law Firm,
19 21263 Lassen Street, Ste 100
20 Chatsworth, CA 91311

21 Ted Charlton
22 Legal Investigations Support
23 GOOGLE INC.
24 GOOGLE-LEGAL-SUPPORT@GOOGLE.COM

DOCUMENT SEPARATOR SHEET



Product Delivery Unit ADJ

Document Type LEGAL DOCS

Document Title Exhibit 1 Google

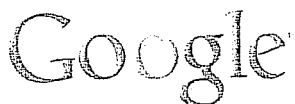
Document Date 2-3-2011
MM/DD/YYYY

Author Ted Charlton

Office Use Only

Received Date _____
MM/DD/YYYY

Google Inc.
1600 Amphitheatre Parkway
Mountain View, California 94043



Tel: 650.479.6720
Fax: 650.887.1673
www.google.com

February 3, 2011

Via Express Courier

Barbara Clark
8200 Stockdale Highway (M10)
Bakersfield, CA 93311

**Re: Barbara Clark v. San Joaquin Community Hospital, Adventist, State of
California Dept of Industrial Relations, ADJ1153404 (Internal Ref. No. 127038)**

Dear Barbara Clark:

We have received your subpoena for documents, dated 01-24-2011, in the above-referenced matter. As we understand it, you are seeking documents related to the Gmail account FLYFISH4EVER.

This letter is to advise you that Google has forwarded notice of this matter, including your name and contact information, to the user at the email address provided by the user.

Section 2702(a) of the federal Electronic Communications Privacy Act prohibits Google from disclosing the content of electronic communications pursuant to a civil subpoena. 18 U.S.C. § 2702(a); *Theofel v. Farey-Jones*, 359 F.3d 1066 (9th Cir. 2004); see also *In re Subpoena Duces Tecum to AOL, LLC.*, 550 F.Supp.2d 606, 611 (E.D. Va. 2008); *Flagg v. City of Detroit*, 252 F.R.D. 346, 366 (E.D. Mich. 2008); *Viacom Int'l Inc. v. YouTube Inc.*, 253 F.R.D. 256 (S.D.N.Y. 2008); *O'Grady v. Superior Court of Santa Clara*, 139 Cal. App. 4th 1423, 1441-43 (2006). The appropriate way to seek such content is to direct your request to the account holder who has custody and control of the data in the account. *O'Grady*, 139 Cal. App. 4th at 1446-47.

Furthermore, if the account holder is a party to the underlying litigation, you may serve a document request on the account holder for the content sought. See *id.*; see also *Flagg*, 252 F.R.D. at 348, 366-67.

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, and all analogous rules under any applicable state law, Google Inc. ("Google"), which is not a party to the underlying action, responds and objects to the subpoena for deposition testimony for at least the following reasons.

1. Google objects to the subpoena to appear for a deposition on the grounds that it imposes an undue burden on Google, a non-party, to appear as a witness. Google also objects to the subpoena to appear for a deposition on the grounds that the information sought can be obtained through less burdensome means, including from the parties to the case.
2. Google objects to the subpoena to appear for a deposition on the grounds it is vague, overbroad, duplicative, cumulative, unduly burdensome, and oppressive. Google objects to the subpoena to appear for a deposition to the extent that the subpoena is

Exhibit 1

Google Inc.
1600 Amphitheatre Parkway
Mountain View, California 94043



Tel: 650.479.6720
Fax: 650.887.1673
www.google.com

abusively drawn and served for the purpose of annoying and harassing Google, a non-party.

Google requests the opportunity to meet and confer to determine the scope and applicability of the above objections.

Google objects to the requests in the subpoena to the extent they seek information already in Claimant's possession or available to Claimant from some other source that is more convenient, less burdensome or less expensive, including information available to Claimant from public sources. This means that if you are seeking account or other information from Google that is equally available from a party in the litigation, Google objects to that request on that basis. Google also objects to the requests to the extent they seek information containing confidential financial, proprietary or trade secret information, or any information subject to a confidentiality agreement or protective order. While Google does not require a protective order for production of its non-confidential information, Google will only produce information it deems confidential pursuant to a confidentiality agreement or protective order that it deems suitable for the protection of its confidential information. Please provide a confidentiality agreement or protective order if you intend to seek confidential documents of Google in your requests, as we will not produce confidential information without entry of a protective order that we deem suitable to protect the confidentiality of our documents.

Google further objects to the requests to the extent they seek information protected by any privilege, including the attorney-client privilege, work product immunity doctrine, common interest privilege, or any other applicable privilege, immunity, or restriction on discovery. We also object to the requests to the extent that they are irrelevant, overly broad, vague, ambiguous, unlimited in time or scope, fail to identify the information sought with reasonable particularity, or impose an undue burden on Google. Google objects to the requests to the extent that they seek information that is not relevant or reasonably likely to lead to the discovery of admissible evidence.

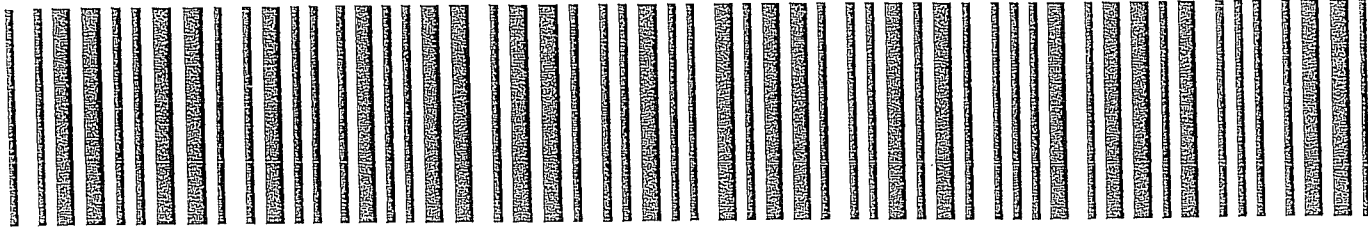
If you have any questions, please feel free to contact the Legal Support Department at GOOGLE-LEGAL-SUPPORT@GOOGLE.COM. Thank you.

Very truly yours,

A handwritten signature in black ink that reads "Ted Charlton". The signature is stylized and written in cursive.

Ted Charlton
Legal Investigations Support

DOCUMENT SEPARATOR SHEET



Product Delivery Unit ADJ

Document Type LEGAL DOCS

Document Title Exhibit 2 Subpeona Duces Tecum

Document Date 1-25-2011
MM/DD/YYYY

Author Dennis Hershgewe

Office Use Only

Received Date _____
MM/DD/YYYY

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL ACCIDENTS
WORKER'S COMPENSATION APPEALS BOARD

A94344-A

CASE NO: ADJ1153404

(IF APPLICATION HAS BEEN FILED, CASE NUMBER MUST BE INDICATED
REGARDLESS OF DATE OF INJURY.)

SUBPOENA DUCES TECUM

(When records are mailed, identify them by using the above
Case No. or attaching a copy of the subpoena)
Where no application has been filed for injuries on or after
January 1, 1990 and before January 1, 1994, subpoena will
be valid without a case number, but subpoena must be served
on claimant and employer and/or insurance carrier

See Instructions Below.*

BARBARA CLARK

Claimant/Applicant

vs.

SAN JOAQUIN COMMUNITY HOSPITAL; ADVENTIST

Employer/Insurance Carrier/Defendant

The People of the State of California Send Greetings to:

GOOGLE, INC.

1600 AMPHITHEATRE PARKWAY, MOUNTAIN VIEW, CA 94043

WE COMMAND YOU to appear before COMPLEX LEGAL SERVICES
2001 BROADWAY, SUITE 100, OAKLAND, CA 94612 (510) 986-1727

on Feb 8, 2011, at 08:30 AM, to testify in the above-entitled matter and to bring with you and produce the following described documents,
papers, books and records:

INCLUDE ANY COMMUNICATONS FROM BARBARA CLARK TO DAVID SANCHEZ, DDS FOR THE LAST 10 YEARS. EMAIL:
FLYFISH4EVER@GMAIL.COM.

RECORDS OF: CLARK, BARBARA

AKA: ULRIKE

DATE OF BIRTH: 05/04/60

SOCIAL SECURITY #: 527-87-2650

For failure to attend and/or produce said documents you may be deemed guilty of a contempt and liable to pay to the parties aggrieved all
losses and damages sustained thereby and forfeit one hundred dollars in addition thereto.

This subpoena is issued at the request of the person making the declaration which is served herewith.

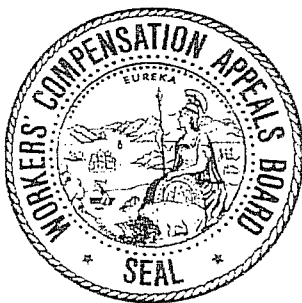
Date: January 24, 2011

WORKERS' COMPENSATION APPEALS BOARD

By

Robert E. Welch

Secretary, Assistant Secretary, Referee, Judge



*FOR INJURIES OCCURRING ON OR AFTER JANUARY 1, 1990
AND BEFORE JANUARY 1, 1994:

You are directed to make the original records available for inspection and copying at the
address of the Deposition Officer given above or, with the consent of the Deposition Officer,
at your place of business during normal business hours in accordance with California
Evidence Code Section 1560(e). Do not release the requested records to the Deposition
Officer prior to the date and time stated above.

SEE ATTACHED - (SUBPOENA INVALID WITHOUT DECLARATION)

This subpoena does not apply to any member of the Highway Patrol, Sheriff's Office or City Police Department unless accompanied by
notice from this Board that deposit of the witness fee has been made in accordance with Govt Code 68097.2 et seq.

DECLARATION FOR SUBPOENA DUCES TECUM

Case No. ADJ1153404

STATE OF CALIFORNIA, County of KERN

The undersigned states:

That he/she is (one of) the attorney(s) of record/representative(s) for the applicant/defendant in the action captioned on the subpoena duces tecum. That GOOGLE, INC.

has in his/her possession or under his/her control the documents described on the subpoena.

That said documents are material to the issues involved in the case for the following reasons:

These records may contain information that will help in the resolution of this claim.

Declaration for Injuries on or After January 1, 1990 and Before January 1, 1994

[] That an Employee's Claim for Workers' Compensation Benefits (DWC Form 1) has been filed in accordance with Labor code Section 5401 by the alleged injured worker whose records are sought, or if the worker is deceased, by dependent(s) of the decedent. (Check box if applicable and part of the declaration below. See instruction on Subpoena.)

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

Executed on January 25, 2011, at CHATSWORTH, CA 91311

:/S/ DENNIS J. HERSHEWE

Signature

DENNIS J. HERSHEWE
21363 LASSEN STREET, SUITE 100
CHATSWORTH, CA 91311

Address

(818) 700-8430

Telephone

DECLARATION OF SERVICE

STATE OF CALIFORNIA, County of KERN

I, the undersigned, state that: I served the foregoing subpoena by delivering a true copy thereof, together with a copy of the Declaration in support thereof, to each of the following named persons, personally, at the date and place set forth opposite each name.

Name of person served

Date of service

Place

Phone

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

Executed on _____, 20_____, at CHATSWORTH, CA 91311