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California Coalition on Workers'  
Compensation  
California Association of Joint Powers  
Authorities  
Association of California Insurance  
Companies  
Athens Administrators  
California Association of Counties  
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Employers Group  
Grancell, Stander, Reubens, Thomas and  
Kinsey  
Grimmway Farms  
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Marriott  
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Michael Sullivan & Associates, LLP  
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Republic Indemnity  
Safeway  
Schools Insurance Authority  
State Compensation Insurance Fund  
Sedgwick, LLP  
Seyfarth, Shaw, LLP  
Shaw, Jacobsmeyer, Crain & Claffey  
Signature Network PLUS  
Small Business of California  
TRISTAR Risk Management  
University of California

February 24, 2014

Maureen Gray  
Regulations Coordinator  
Department of Industrial Relations  
Division of Workers' Compensation  
P.O. Box 420603  
San Francisco, CA 94142  
Attn: DWC forums

**RE: Forum Comments on Proposed Copy Service Fee Schedule regulations**

Dear Ms. Gray,

The above listed organizations thank you for the opportunity to provide input on the Copy Service Fee Schedule ("schedule") proposed regulations. Combined, our organizations represent tens of thousands of insured and self-insured public and private sector California employers and insurance companies.

While there have been several estimates of the savings associated with SB 863 (De Leon, 2012), it is clear that the ultimate impact on employers (large and small, insured and self-insured) will depend largely on the implementation work that takes place at the Department of Industrial Relations, the Division of Workers' Compensation ("DWC"), the Office of Self Insurance Plans and the Workers' Compensation Appeals Board. The above-listed organizations are dedicated to working collaboratively with regulators throughout the implementation process to ensure that employers across California receive the relief anticipated during the passage of SB 863.

#### **Fee Schedule Structure**

Prior to SB 863, the copy service industry was largely unregulated within California's workers' compensation system and was an area rife with dispute, gamesmanship and inefficiency. Specifically, system data revealed some providers were driving costs by, amongst other things, billing for services unrelated to document production, providing duplicative services and filing liens that lacked merit.

To address these issues, the legislature – through the passage of SB 863 - directed the DWC to create and adopt a schedule that would add to a more efficient, less litigious workers' compensation system. We commend the DWC for meeting this goal by designing a fair and straightforward schedule that provides certainty to both employers and providers. This schedule:

1. Reduces dispute points by utilizing a single flat fee model for all copy services which will result in decreased litigation costs for employers and ensure providers are paid in a timely manner;
2. Bars payment for concierge and unrelated services – ensuring that employers will only be required to pay for legitimate copy service needs;
3. Limits duplicative production and cost by providing employers 30 days to produce requested documents.

### **High Base Fee**

While our coalition strongly supports the model proposed by the DWC, we believe the recommended pricing is too high and exceeds the market rate for copy services. The Berkeley Research Group (BRG) study commissioned by the California Commission on Health Safety and Workers' Compensation found that the market rate for low dispute copy services was \$103.55 – nearly 43% lower than the proposed rate of \$180. The DWC's proposed flat fee model should have little dispute and, as such, the pricing for services should veer much closer to the \$103.55 proposed by BRG. Our coalition acknowledges that price proposed in the BRG report did not include "pass through" costs, such as release of information fees, which are included in the DWC's proposed flat fee. However, even allowing for some augmentation for these costs, the proposed rate should be lower much than the \$180.

### **Overall Cap Should Be Inclusive of Base Fee**

Finally, the proposed regulations cap total fees for a single copy service order at \$605. The regulations allow for a base fee of \$180, but also allows for additional per-page charges at .20 per page up to \$425. Our coalition strongly believes that the overall charges should be capped at \$425, and should include the base fee of \$180. This would allow for 1725 pages which, according to the BRG report, would capture well over 90% of copy jobs. Indeed, according to the applicant copy service data provided in the BRG report, the median number of pages per job is 43 and the mean is 94 – significantly under the number of pages in our coalition's proposed \$425 inclusive cap.

Additionally, the base fee, even if lowered slightly as we've requested, is still substantially higher than the fee anticipated by the BRG report. Because of this, we do not believe that the overall fee needs to reach \$605 for a single order.

We again commend the DWC for creating a viable schedule. As the formal rulemaking process progresses forward, we look forward to engaging with the DWC on additional ways to create an even stronger schedule. If you have any questions regarding these comments, please feel free to contact Jeremy Merz with the California Chamber of Commerce (916-930-1227) or Jason Schmelzer with the California Coalition on Workers' Compensation (916-441-4111).

Sincerely,



Jeremy Merz  
California Chamber of Commerce



Jason Schmelzer  
California Coalition on Workers' Compensation

cc: Camille Wagner, Deputy Legislative Secretary, Office of Governor Edmund G. Brown  
Christine Baker, Director, Department of Industrial Relations  
Destie Overpeck, Acting Administrative Director, Division of Workers' Compe