

Sedgwick
[Redacted]

October 06, 2021

[Redacted]

[Redacted]
Sedgwick
[Redacted]

**Please Read Entire Cover Letter Prior to Examination
Please Respond To All Questions In This Cover Letter**

Employee [Redacted]
Employer [Redacted]
Claim # [Redacted]
Date of Injury [Redacted]

Dear Dr. [Redacted]:

You have been selected to examine [Redacted] in the capacity of Panel Qualified Medical Examiner to address if the reported medical injury or illness is proximately work-related.

Because you have been chosen to *independently* perform this medical-legal evaluation, it would be improper for any party hereto to have any private contact with your office in any regard. In order to properly address our issues, it is important that you carefully read this cover letter *prior* to the examination, and that you respond to all of the questions posed in later sections of this cover letter. Should you desire further information, please communicate your request by letter to *all* parties.

In your report, please disclose the names of all persons other than yourself who performed any diagnostic tests, patient history intake, review of past medical records, and/or measurements taken as a part of your examination. It is respectfully requested that you perform your usual thorough medical examination, within your medical specialty. Any MRI, CT scans, or other diagnostic tests requiring hospitalization will require advanced authorization in writing by Sedgwick CMS.

I. Description of Reported Injury

In this case, the applicant has claimed the following injury(ies): Left shoulder and right knee. There is a legitimate medical dispute concerning industrial causation. <Insert basis of medical dispute. Be thorough>

II. Regarding Causation

Because your report constitutes "expert testimony" and may be presented in WCAB proceedings, your analysis and opinion on causation should be based on scientific evidence and careful reasoning, not on mere speculation, conjecture or bias. According to Occupational Medicine Practice Guidelines:

"The commonly seen statement '*in the absence of other obvious causes, the problem is work related*' should *not* be used. Such language is *not* reflective of scientific basis upon which such opinions should rest, and does and does not provide adequate support for conclusions that must be made regarding financial and legal responsibility. Of equal importance is the need for those analyzing causation to assess whether or not a worker's symptoms are truly representative of an injury *per se*, or simply reflective of a normal musculoskeletal response following the performance of an activity to which the worker was unaccustomed. [American College of Occupational and Environmental Medicine, 2nd ed., pp. 56-57, *emphasis ours*.]

Please take a detailed history from the applicant and review the entire medical and legal file forwarded by each of the parties hereto, including diagnostic imaging and studies. Please also review any itemized billing statements to discuss the reasonableness and necessity of any unauthorized, self-procured medical treatment.

Your report should include your objective opinion regarding diagnosis, industrial causation, non-industrial causation, prognosis, periods of temporary total disability (if any), nature and extent of any permanent impairment (if any), need for further medical treatment, apportionment of permanent impairment, the applicant's residual functional capacity, and whether the applicant can return to his/her usual and customary occupation.

III. Specific Issues To Be Addressed in Comprehensive Medical Report

1. Please provide a complete diagnosis based on acceptable scientific criteria [i.e. Identify if there is objective evidence of clear pathology, or only a history of complaints with no pathology. Objective evidence should include any of the following: fracture, swelling, discoloration, bruising, temperature variation, muscle spasms, and diagnostic tests.]
2. Did the applicant sustain an industrially related injury either as a result of a specific injury, continuous trauma, or both? On what basis did you reach this determination? Please thoroughly address the following in your report:
 - a. Have other possible causes [i.e. pre-existing conditions, family history or prior injuries] of the condition been properly considered and ruled out?
 - b. Is the mechanism of injury anatomically or ergonomically consistent and verifiable, or is the injury description vague and implausible?
 - i. Have you weighed the prospect of the workplace serving merely as the location where the condition manifested itself, but not actually being the cause or catalyst of the condition?
 - c. Do the symptoms and affected body parts follow an accepted and well-defined clinical pattern? [i.e. Are there any medical inconsistencies between the time of the injury and the onset of symptoms, or the time within which medical treatment was first sought?]
 - i. In the case of repetitive trauma, do the symptoms decrease overnight or during weekends, holidays, or other times the patient is not in the workplace?
 - d. Are there risk factors for potential symptom magnification, somatization or malingering? [i.e. Job dissatisfaction, emotional trauma, substance abuse, etc.]
 - i. Do you recommend a MMPI to evaluate noticeable behavioral factors affecting patient's perceived level of dysfunction and disability?
 - ii. Does the patient appear motivated to return to modified work soon?
 - e. Is the patient's presentation consistent with observable clinical presentation? [Need for intermittent posture change, difficulty removing clothing, withdrawal response to light skin touch, variation in response to straight leg test while supine vs. seated, low back pain with passive rotation at hips while standing, non-dermatological sensory loss on pinwheel testing, demonstrable effort on tests, exaggerated grimacing, etc.]

- i. Has the patient demonstrated maximum effort with active and passive range of motion tests?
 - f. Is the patient's lack of improvement with the treatment received to date consistent with the response to similar treatment provided to other patients with the same condition? If not, please explain the basis for disparity.
3. If work-relatedness is established, is the etiology deemed:
 - a. Original Injury
 - b. Recurrence (reappearance of signs or symptoms attributable to a prior injury with minimal or no provocation);
 - c. Aggravation of a pre-existing condition (a new event, which permanent worsens an existing condition); or
 - d. Exacerbation (transient worsening or a prior condition with the expectation that the situation will eventually return to baseline)?
4. Was (ls) the applicant temporarily totally disabled on an industrial basis? If so, please indicate all reasonable periods of such disability. If the applicant is currently temporarily disabled, please list all reasonable temporary work restrictions. Unless bed-ridden or unable to drive due to the effects of strong medications, please explain why the applicant is unable to perform modified work.
5. Does the applicant have any permanent impairment utilizing the descriptions and measurements in the *AMA Guides to the Evaluation of Permanent Impairment*, 5th Edition that is attributable to the alleged industrial injuries? If so, when did the condition become permanent and stationary and the applicant reached maximum medical improvement? [Please be sure to provide the %WPI for each body part separately, listing the correct table(s) or figure(s) used from the *Guides* to evaluate the diagnosis/diagnoses and determine impairment.
6. If the condition is industrially related, please state if and how the applicant's medical condition affects the applicant's activities of daily living as that term is defined in Chapter 1, Table 1-2 on page 4 of the *AMA Guides*.]
7. Is the applicant in need of any future medical treatment on an industrial basis? If so, please specify the type, frequency, and duration of such care (i.e. Physical therapy, 2 X 3 for the next 3 years).
8. Does the applicant suffer from a serious chronic condition, needs surgery within the next 180 days, or is recently recovering from surgery as those terms are used and defined in AD Rule 9767.9?
9. Is there any apportionment of permanent impairment in accordance with Labor Code §4663 or 4664? Please indicate with a reasonable medical probability approximately what percentage of permanent impairment is directly caused by the industrial injuries and what approximate percentage of permanent impairment is caused by other factors such as: pathology, prior or subsequent non-industrial injuries, prior asymptomatic conditions, or retroactive prophylactic restrictions. If there is any apportionment to other factors, please state your rationale for your conclusions, including how and why apportionment of permanent impairment can be attributed to other factors besides the industrial injuries.
10. If the applicant has self-procured any medical treatment for the condition, please provide your opinion with respect to the reasonableness and necessity of such self-procured treatment (in accordance with DWC Medical Unit Treatment Guidelines) to cure or relieve from the effects of any industrial injury.
11. Is the applicant able to return to his or her usual and customary work duties? If not, please indicate the applicant's residual functional capacities.

Once your examination and report are completed, please forward your original report and one copy to one of the following parties with a copy to all other parties listed below. The original report will be filed at the WCAB by the party who received the original from your office. Also, please enclose a copy of your itemized statement and disclosure forms with your original and copies.

Thank you for your kind assistance in resolving the medical issues in this case and please be sure to notify the parties either by letter or by fax as to other qualified medical evaluators you recommend in this case for medical conditions that are outside your specialty.

Sincerely,

LAW OFFICES OF <Name>

[REDACTED] for Defendants

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Enclosures: See List Below

cc:

IC29846998.340-26431

September 30, 2021

[REDACTED]

[REDACTED] 97
[REDACTED] 97

RE: Injured Worker: [REDACTED]
Date of Injury: [REDACTED]
Claim Number: [REDACTED]
Employer: [REDACTED]'s

Thank you for agreeing to serve as the Panel Qualified Medical Evaluator (PQME). In accordance with the procedures outlined in Labor Code 4060, 4061 or 4062, you have been selected from a panel provided by the State of California. The exam is scheduled for 10/15/21. Please consider this letter your authorization to perform a complete evaluation.

[REDACTED] is a 45 (now 46) year old Police Sergeant who fell on his knees while arresting a combative suspect. Officer [REDACTED] was off work for 3 months in 2020 and then again from 3/29/21 through 8/31/21 after he had left knee arthroscopy with chondroplasty on 3/29/21. He has returned to work as of 9/1/21 full duty. The medical reports regarding this industrial injury are also enclosed for your review. At the conclusion of your examination, please prepare a narrative report of your finding and provide the basis for your opinion with respect to the following:

1. **DIAGNOSIS AND BASIS**

Please obtain a detailed medical history from the employee. Please provide your diagnosis and address how the diagnosis is related to the industrial injury.

2. **TEMPORARY DISABILITY**

Please indicate whether or not there has been any periods of temporary disability as a result of this industrial injury. If there have been periods of temporary disability, please state whether they have been total or partial. Do you anticipate continuous disability for the next 12 months?

3. **PERMANENT AND STATIONARY/ MAXIMUM MEDICAL IMPROVEMENT**

Please indicate whether you believe the injury is permanent and stationary. If the injury is not permanent and stationary, please indicate why and provide an estimate when you estimate the condition will become permanent and stationary.

4. **PERMANENT DISABILITY**

If the injury is permanent and stationary, please provide us with the AMA guides that apply. If you find any impairment, please give the W/P1 along with the page and table numbers. The DEU will not rate the report without this information.

You will need to discuss what factors are the causes of the permanent disability found during your evaluation. This needs to include all factors which contribute to the permanent disability. Once you have delineated all factors of permanent disability, we are requesting your opinion as to which factors of disability are directly related to the industrial injuries in question. Those factors unrelated to the industrial injury are subject to apportionment as non-industrial. In rendering your determination in this regard, please consider the following:

- a. All industrial and non-industrial factors which have directly caused permanent disability;
- b. The substantial medical evidence you are relying on to establish the industrial and non-industrial factors that have caused permanent disability;
- c. The reasons why this evidence supports your opinions; and
- d. What percentage of the permanent disability was directly caused by the industrial injuries and what percentage was directly caused by non-industrial factors?

5. **APPORTIONMENT**

The current law requires apportionment to be addressed. In order for a physician's report to be considered complete on the issue of permanent disability, it must include an apportionment determination. Apportionment of permanent disability is based on causation. Any physician preparing a report addressing the issue of permanent disability due to a claimed industrial injury must address the issue of causation of permanent disability in the report. In doing so, a physician must state the approximate percentage of the permanent disability that was directly caused by the industrial injury and the approximate percentage that was caused by other factors both before and subsequent to the industrial injuries.

Labor Code Section 4664 also provides that the employer shall only be liable for the percentage of permanent disability directly caused by the industrial injury. If the employee has received a prior award of permanent disability, it shall be conclusively presumed that the prior permanent disability exists at the time of any subsequent industrial injury. The accumulations of all permanent disability awards issued with respect to any one region of the body shall not exceed 100% over the employee's lifetime unless the employee's injury is conclusively presumed to be total in nature, pursuant to Labor Code Section 4662. The permanent disability rating for each individual injury sustained by an employee, arising from the same industrial injury, when added together, may not exceed 100%.

In expressing your opinion on apportionment, it is necessary to identify all "non-industrial" conditions which contributed to the employee's permanent disability. It is now permissible for apportionment of permanent disability to consider non-industrial pathology, asymptomatic prior conditions, and retroactive prophylactic work restrictions, provided there is substantial medical evidence establishing that these other factors have caused permanent disability. Apportionment is no longer based solely on impairment or disability, although those factors must also be taken into consideration.

You must identify each contributing cause and provide your estimate of the percentage it contributed to the employee's permanent disability.

You must also ask the employee if he had a prior award of permanent disability. If he had such an award, then the rules set forth in Labor Code Section 4664 (b) through (d) will be followed.

6. **MEDICAL TREATMENT**

Please outline the reasonable and necessary future medical treatment related to the injury.

7. RETURN TO WORK STATUS

[REDACTED] capable of performing the usual and customary duties as a Police Sergeant? Please also provide us with any work restrictions. If you believe a prophylactic restriction is necessary, please outline the restriction and why it is needed.

For injuries as of 1-1-13, all reports are required to have the Physician's Return-to-Work & Voucher Report completed and attached to the report. The form is completed when the employee is P&S from all conditions and the injury has caused permanent disability. The form is enclosed for your convenience.

Please send your original report and billing to:

[REDACTED]
[REDACTED]
[REDACTED]

Thank you for your assistance in this matter. We look forward to receiving your report within 30 days of the examination.

Sincerely,

[REDACTED]
Sr. Examiner

cc: [REDACTED]
[REDACTED]

- Enclosures:
- Declaration Page
 - DWC 1
 - DEU 101
 - Medical Report Itemization
 - Physician's Return-to-Work & Voucher Report