

ARTICLE 5.8 Deposition of Injured Employee- Attorney Fees for Legal Services

Section 9795.6. Attorney Fees for Deposition of Injured Employee.

(a) Applicability and Scope

When an employer or insurer requests the deposition of an injured employee pursuant to Labor Code section 5710, reasonable attorney fees for preparation and representation at the deposition shall be payable in accordance with this section.

(b) Allowable Fee Ranges

The reasonable hourly rate for attorney services related to preparation of the injured employee before a deposition and representation during the deposition shall not exceed the following amounts:

(1) An amount not to exceed \$500 per hour for attorneys certified as Workers' Compensation Specialists by the State Bar of California;

(2) An amount not to exceed \$450 per hour for attorneys with five or more years of experience in Workers' Compensation matters in the state of California;

(3) an amount not to exceed \$400 per hour for attorneys with fewer than five years of experience in workers' compensation matters in the state of California;

(4) an amount not to exceed \$250 per hour for non-attorney representatives as identified pursuant to Labor Code section 10751.

(c) For purposes of this section "attorney" shall mean an individual with an active license to practice law in California and in good standing with the State Bar of California at the time the services are performed.

(d) Incremental Billing Requirements

(1) Fees authorized under this section shall be billed on an incremental, time-based basis, reflecting actual time reasonably spent preparing the injured employee for deposition and attending the deposition.

(2) Billing increments shall not exceed one-tenth (0.1) of an hour.

(3) Minimum or flat fees are not permitted, and attorneys or representatives shall not bill for time not actually expended.

(e) Disclosure requirement. If a non-attorney representative, or an attorney appearing on behalf of counsel of record for the injured employee, appears at a deposition, that person shall clearly state their status as such on the record.

(f) Non-Compensable Services. Attorney fees are not payable under this Section for any services other than preparation of the injured employee for a deposition and representation during the deposition. Fees shall not be sought or awarded for activities including, but not limited to:

- (1) General file review;
- (2) Travel time or travel expenses;
- (3) Review of deposition transcripts;
- (4) Administrative or clerical tasks.

