

# Responding to Attorneys' Requests for Information



### MRA suggests taking these steps:

- If the letter is accompanied by a court order to produce the records or by a subpoena, you are required to provide the requested information.
- Review the letter to determine whether the attorney who sent it represents your employee or another party.
- If the attorney represents your employee and the letter includes your employee's written consent to provide the records (usually a signature on the attorney's letter or a separate consent document), you may provide the documents.
- If the attorney represents a party opposing your employee, look for your employee's consent with the letter. In the case of a divorce or a personal injury lawsuit, the employee may have signed a consent for the other party to obtain records to verify attendance, wages, or benefit information. As a courtesy, verify the signature with the employee and then the information may be provided.



You have received a letter from an attorney (or an insurance company or other third-party) requesting all the employment and payroll records of an employee. Should you respond? If so, how should you respond? Are you required to provide this information?

Unless there is a court order or a subpoena accompanying the letter that requires you to provide the records, you do not have a legal obligation to do so. However, it may be in your company's best interest to provide the information. The attorney may represent your employee and it would be helpful to your employee for you to provide the information. On the other hand, if you refuse to provide the records, the requesting party can take additional steps to require you to provide the records, including serving you with a subpoena that would require you to personally bring the records to court.

- If the employee's written consent is not provided by the opposing attorney, contact the attorney and inform him or her you are unable to provide any information without the written consent of the employee.
- Provide only the information requested.
- If the information request seems overly broad or burdensome (i.e., you would be required to spend considerable time gathering the information), contact the attorney and ask if it is possible to narrow the scope of the information request. You may find you were sent a form letter that requests all records, and in this case the attorney only needs the wage and attendance information for a specified period of time.
- You may ask to be reimbursed for your reasonable copying charges on a per-page basis.

This sample document is only an example and is based on the laws in effect at the time it was written. MRA-The Management Association, Inc. does not make any representations or warranties regarding the appropriateness or prudence of using this information for any particular individual or situation. Your company should add, delete, or modify the content of this document as needed to suit your purposes. This material is for your information only and should not be construed as legal advice. In some circumstances it may be advisable to have legal counsel review final documents prior to implementation.

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### **MRA's Recommendation**

Cooperate with the requesting attorney to the extent possible, as long as the employee's privacy is protected by requiring written consent. While you may not be required to produce the records requested at the time of the first request by letter, resisting where there is no basis for resistance will only result in your spending additional time on the request that could be better spent elsewhere.

Need help with a request for employee information? MRA's [HR Hotline Advisors](#) can help you!

### **MRA's HR Hotline can help you!**

 **866-HR-Hotline | 866.474.6854**

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 **[mrnet.org/24-7/hr-hotline](http://mrnet.org/24-7/hr-hotline)**

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