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Attorneys for Plaintiff

9 **IN THE UNITED STATES DISTRICT COURT**
10 **IN AND FOR THE DISTRICT OF ARIZONA**

11 JANE HANEY,

12 Plaintiff,

13 v.

14 ACE AMERICAN INSURANCE
15 COMPANY; SEDGWICK CLAIMS
16 MANAGEMENT SERVICES INC.; LORI
17 HASTY; XYZ CORPORATIONS; JOHN
DOES 1-26;

18 Defendants.

Case No. _____

COMPLAINT

19 The Plaintiff, JANE HANEY, by and through her attorney undersigned, and for her
20 complaint against the Defendants, does hereby state, aver, and allege as follows:

21 1. All acts out of which this complaint arises occurred or were committed in
22 the State of Arizona.

23 **I. PARTIES**

24 2. Plaintiff JANE HANEY ("Ms. Haney") is a resident and citizen of the State
25 of Arizona.
26

27 3. Defendant ACE AMERICAN INSURANCE COMPANY ("Ace American")
28

DOYLE RAIZNER LLP
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1 upon information and belief, is a corporation insuring Arizona employees for coverage
2 under the Arizona Workers' Compensation Act, A.R.S. § 23-901, *et seq.* A conducts
3 business in Maricopa County, Arizona.

4 a. Service of process may be effected on ACE AMERICAN by certified mail,
5 return receipt requested, through the Arizona Department of Insurance, its statutory
6 agent, Director of Insurance, 2910 North 44th St., Second Floor, Phoenix, Arizona
7 85018.
8

9 b. All acts complained of ACE AMERICAN herein were committed by ACE
10 AMERICAN directly, or under its supervision and direction.
11

12 c. All acts complained of ACE AMERICAN herein that were committed by and
13 through its authorized servants, employees, and agents, were committed while
14 acting within the scope of their employment, service agreement, and agency, in
15 concert with Defendant ACE AMERICAN.
16

17 d. All acts complained of ACE AMERICAN herein that were committed
18 through any of its servants, employees, or agents, were also ratified by ACE
19 AMERICAN.
20

21 e. ACE AMERICAN is vicariously liable for all acts complained of herein that
22 were committed by or through any authorized servants, employees, or agents of
23 ACE AMERICAN.
24

25 f. ACE AMERICAN is directly liable for breaches of its non-delegable duty of
26 good faith and fair dealing committed by any its servants, employees, or agents.
27

28 4. Defendant SEDGWICK CLAIMS MANAGEMENT SERVICES, INC.
("SEDGWICK") upon information and belief, is a corporation adjusting insurance claims

1 made by Arizona employees on behalf of SEDGWICK for coverage under the Arizona
2 Workers' Compensation Act, A.R.S. § 23-901, *et seq.* Sedgwick conducts business in
3 Maricopa County, Arizona.

4 Service of process may be effected on SEDGWICK by certified mail, return receipt
5 requested, to its registered agent **C T Corporation System, 2390 E Camelback Rd.,**
6 **Phoenix, Arizona 85016.**

7
8 b. SEDGWICK is directly liable for its own acts and omissions insofar as
9 SEDGWICK aided and abetted Defendant ACE AMERICAN in its violations of the
10 Arizona Worker' Compensation Act and the duties of good faith and fair dealing
11 owed to Mr. Ortiz. *Wells Fargo Bank v. Arizona Laborers, Teamsters and Cement Masons*
12 *Local No. 395 Pension Trust*, 38 P.3d, 12 (Ariz. 2002).

13
14 c. All acts complained of SEDGWICK herein were committed by SEDGWICK
15 directly, or under its supervision and direction.

16
17 d. All acts complained of SEDGWICK herein that were committed by and
18 through its authorized servants, employees, and agents, were committed while
19 acting within the scope of their employment, service agreement, and agency, in
20 concert with Defendant SEDGWICK.

21
22 e. All acts complained of SEDGWICK herein that were committed through any
23 of its servants, employees, or agents, were also ratified by SEDGWICK.

24
25 f. SEDGWICK is vicariously liable for all acts complained of herein that were
26 committed by or through any authorized servants, employees, or agents of
27 SEDGWICK.

28 5. Defendant LORI HASTY ("Ms. Hasty"), upon information and belief, is a

1 natural person, working and residing in California. Ms. Hasty may be served by service
2 upon her to **LORI HASTY, 764 KIO CT WATKINS, CO 80137-8848.**

3 a. Ms. Hasty is personally liable for her own acts and omissions insofar
4 as she aided and abetted Defendants ACE AMERICAN and/or Sedgwick in their
5 violations of the Arizona Worker' Compensation Act and the duties of good faith
6 and fair dealing owed to Ms. Haney. *Wells Fargo Bank v. Arizona Laborers, Teamsters*
7 *and Cement Masons Local No. 395 Pension Trust*, 38 P.3d, 12 (Ariz. 2002).
8

9 6. Defendants, XYZ CORPORATIONS, are fictitious entities whose true names
10 are presently unknown, but who may have been parent companies, subsidiaries, or
11 affiliates of ACE AMERICAN and/or Sedgwick, and may be liable for the acts complained
12 of herein. Upon ascertaining the true names of such entities, leave is requested to amend
13 the complaint.
14

15 7. Defendants, JOHN DOES 1-26, are fictitious persons whose true names are
16 presently unknown, but who may have been servants, employees, or agents of ACE
17 AMERICAN, Sedgwick, and/or XYZ CORPORATIONS, and may be liable for the acts and
18 omissions complained of herein. Upon ascertaining the true names of such persons, leave
19 is requested to amend the complaint.
20

21 **II. VENUE & JURISDICTION**

22 8. Diversity jurisdiction herein is conferred by 28 USC §1332 (plaintiff is a
23 citizen of Arizona, defendants are citizens of different states and the amounts in
24 controversy exceed \$75,000)
25

26 9. Venue is properly laid in the Federal District Court for the District of
27 Arizona, as a substantial part of the events or omissions giving rise to the cause of action
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1 herein occurred in Maricopa County. Defendants ACE AMERICAN and SEDGWICK
2 also maintain representatives and conduct business in Maricopa County, Arizona.

3 **III. FACTUAL BACKGROUND**

4 10. This suit is necessary to collect a legal debt and damages due and owing
5 Ms. Haney because of Defendants' wrongful acts in handling of her claim for an on-the-
6 job injury. The Defendants, individually and/or collectively, have engaged in conduct
7 that wrongfully denied and/or unreasonably delayed and underpaid workers'
8 compensation benefits for workplace injuries sustained by Ms. Haney.
9

10 11. Ms. Haney, a loyal and hard-working employee of THE BOEING
11 COMPANY, was injured in the course and scope of her employment on or about March
12 13, 2012.
13

14 12. Upon receiving Ms. Haney's workers' compensation claim, ACE
15 AMERICAN and SEDGWICK placed Ms. Hasty as the adjuster in charge of processing
16 Haney's workers' compensation claim. In processing Haney's claim, Hasty, on behalf of
17 ACE AMERICAN and SEDGWICK, delayed paying Ms. Haney's owed benefits and
18 deliberately underpaid Ms. Haney. See Exhibit "A," ICA Award dated July 31, 2013. In
19 all, rather than properly investigate and adjust Ms. Haney's workers' compensation
20 claim to ensure Ms. Haney would receive the medical, financial, and other benefits to
21 which she was entitled as a beneficiary of the workers' compensation promised to the
22 employees of THE BOEING COMPANY, without a reasonable basis or adequate
23 investigation, ACE AMERICAN, SEDGWICK, and Ms. Hasty chose to continue to delay
24 and underpay the insurance benefits to which Ms. Haney was entitled.
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28 13. ACE AMERICAN, SEDGWICK, and Ms. Hasty (as the adjuster in charge of

1 investigating Ms. Haney's claim and paying workers' compensation benefits) instead
2 refused to issue the correct payments owed to Ms. Haney. *See* Exhibit "A," ICA Award
3 dated July 31, 2013. As a direct result, Ms. Haney was forced to hire and pay a lawyer to
4 help her secure the workers' compensation benefits to which she was entitled. After
5 proceeding through all preliminary proceedings before the Industrial Commission of
6 Arizona, Haney was able to secure a binding final determination from the Industrial
7 Commission of Arizona, ordering payment of the long overdue benefits. *See* Exhibit "A,"
8 Award Before the Industrial Commission of Arizona, dated July 31, 2013. The Award by
9 the Industrial Commission of Arizona exhausted all available administrative remedies for
10 Haney. In reaching the decision, the Industrial Commission of Arizona noted that the
11 carrier submitted no evidence to controvert Ms. Haney's owed benefits and "no one
12 appeared on behalf of the defendant." Yet despite this clear and unambiguous order to
13 issue payment "immediately," Defendants still refused to pay Ms. Haney's owed benefits.
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- 16
- 17 14. The Defendants' wrongful conduct includes the following acts or omissions:
- 18 a. Failure to conduct a reasonable investigation of the events and facts
19 relating to Ms. Haney's claim;
- 20 b. Failure to timely recognize and acknowledge the nature and extent of
21 Ms. Haney's compensable injury sustained on March 13, 2012;
- 22 c. Failure to accept the undisputed evidence regarding Ms. Haney's
23 claim;
- 24 d. Denial of the existence and/or extent of injury without the input of
25 competent individuals with appropriate medical training;
- 26 e. Creation of pretextual reasons to deny and/or delay payment of Ms.
27
28

1 Haney's claim and engagement in an "outcome-driven" approach to her claim;

2 f. Ignoring and refusing to consider information favorable to Ms.
3 Haney's claim for workers' compensation benefits; and

4 g. Failure to ensure that the industry's best practices were applied
5 consistently with regard to Ms. Haney's claim.
6

7 15. Unfortunately, ACE AMERICAN, SEDGWICK, and Ms. Hasty's delay and
8 imposition of severe economic distress and underpaid benefits and medical treatment had
9 reasonably anticipated consequences on Ms. Haney from which she is still fighting to
10 recover. Given the repeated delays of payment for her necessary medical care and other
11 benefits, Ms. Haney has been subjected to significant economic impact, humiliation, worry,
12 distress, and continuing economic and physical damage.
13

14 16. The Industrial Commission of Arizona retains jurisdiction to determine
15 medical and disability benefits payable under the Arizona Workers' Compensation Act.
16 However, jurisdiction for Ms. Haney's general damages arising from the wrongful
17 conduct of Defendants is wholly separate from the relief accorded under the Arizona
18 Workers' Compensation Act and is vested in this Court. Consequently, the significant
19 effect of Defendants' wrongful and unjustified delay is still uncompensated.
20
21

22 **IV. FIRST CLAIM FOR RELIEF---**
23 **BREACH OF THE DUTY OF GOOD FAITH AND FAIR DEALING**
AS TO DEFENDANT ACE AMERICAN

24 17. Plaintiff re-alleges and incorporates by reference the allegations of ¶¶ 1-16, of
25 this complaint as if fully set forth herein.
26

27 18. Defendants have committed violations of the Arizona Workers'
28 Compensation Act and their other duties under the laws of the State of Arizona arising

1 from their obligations under the Arizona Workers' Compensation Act and the contract
2 of insurance for which Defendants provided workers' compensation insurance coverage
3 to Ms. Haney.

4 19. ACE AMERICAN, as Ms. Haney's workers' compensation insurer, had a
5 duty to deal fairly and in good faith with Ms. Haney in the processing of her workers'
6 compensation claim. ACE AMERICAN breached this duty by refusing to properly
7 investigate and effectively denying payment for necessary medical care and other benefits,
8 without any reasonable basis to do so. ACE AMERICAN knew or should have known that
9 there was no reasonable basis for denying or delaying the required benefits.
10

11 20. Defendants' acts and omissions include, but are not limited to, the
12 following:
13

14 a. Intentionally denying workers' compensation benefits without a
15 reasonable basis for such denial;

16 b. Knowingly terminating workers' compensation benefits without a
17 reasonable basis for such action;

18 c. Failing to perform an adequate and reasonable investigation or evaluation
19 to determine whether any termination of benefits was supported by a reasonable
20 basis;

21 d. Unreasonably interpreting Defendants' obligations under the Arizona
22 Workers' Compensation Act to arbitrarily and capriciously delay, decrease, and
23 deny benefits owed to Ms. Haney;
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1 e. Abusing the litigation process and procedures of the Industrial
2 Commission of Arizona as a tool to delay, decrease, and deny benefits owed to
3 Ms. Haney;

4 d. Needlessly compelling Ms. Haney through administrative litigation to
5 receive benefits under her workers' compensation insurance policy;

6 e. Delaying, decreasing, and denying benefits to Ms. Haney with the intent to
7 cause her to accept a compromised amount of the benefits that should have been
8 due and owing under her workers' compensation insurance policy;

9 f. Failing to adopt and implement reasonable standards for investigating and
10 evaluating benefits due to Ms. Haney under her workers' compensation
11 insurance policy;

12 g. Placing the financial interests of Defendants above the interests Ms. Haney,
13 ACE AMERICAN's insured.

14 21. ACE AMERICAN's acts and omissions, including those described in
15 paragraphs 7-16, *supra*, violate the common law duties of good faith and fair dealing owed
16 to Ms. Haney, its insured.

17 22. As a direct and proximate result of the conduct of Defendants described
18 herein, Plaintiff was caused to suffer the injuries and damages aforementioned.

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23 **V. SECOND CLAIM FOR RELIEF – AIDING AND ABETTING ACE**
24 **AMERICAN'S BREACH OF DUTY OF GOOD FAITH & FAIR DEALING**
25 **AS TO DEFENDANT SEDGWICK**

26 23. Plaintiff re-alleges and incorporates by reference the allegations of ¶¶ 1-22,
27 of this Petition as if fully set forth herein.

1 24. The acts and omissions of SEDGWICK were performed by it in its
2 individual capacity and as an agent for ACE AMERICAN. Such acts and omissions
3 were within the scope of its actual authority, express authority, implied authority, or
4 apparent authority.

5 25. SEDGWICK knew that, after an adequate investigation, Plaintiff's claim
6 was not fairly debatable, that ACE AMERICAN and SEDGWICK denied or delayed
7 Plaintiff's claim without a reasonable basis, and that ACE AMERICAN and SEDGWICK
8 knew or recklessly disregarded the lack of a reasonable basis for denying Plaintiff's
9 claim.
10

11 26. SEDGWICK substantially assisted or encouraged ACE AMERICAN in
12 delaying or denying the claim without a reasonable basis.
13

14 **VI. THIRD CLAIM FOR RELIEF—AIDING AND ABETTING ACE**
15 **AMERICAN'S BREACH OF DUTY OF GOOD FAITH & FAIR DEALING**
16 **AS TO DEFENDANT LORI HASTY**

17 27. Plaintiff re-alleges and incorporates by reference the allegations of ¶¶ 1-26, of
18 this Complaint as if fully set forth herein.

19 28. The acts and omissions of Ms. Hasty were performed by her in her
20 individual capacity and as an agent for ACE AMERICAN. Such acts and omissions were
21 within the scope of her actual authority, express authority, implied authority, or apparent
22 authority.
23

24 29. As an adjuster for workers' compensation claims in the State of Arizona, Ms.
25 Hasty is subject to individual liability for her actions, independent of employment with
26 ACE AMERICAN. Ms. Hasty's licensure as an adjuster imputes upon her personal
27 responsibilities and obligations, both independent of and in conjunction with her
28

1 employment with ACE AMERICAN.

2 30. Ms. Hasty knew that, after an adequate investigation, Ms. Haney's
3 claim was not fairly debatable, that ACE AMERICAN delayed and denied Ms. Haney's
4 claim without any reasonable basis, and that ACE AMERICAN knew or recklessly
5 disregarded this lack of a reasonable basis to delay and deny Plaintiff's claim.

6
7 31. Ms. Hasty thus substantially assisted or encouraged ACE AMERICAN in
8 delaying or denying Ms. Haney's on-the-job injury claim, without any reasonable basis.

9 32. Ms. Hasty's conduct to aid and abet ACE AMERICAN resulted in the delay
10 and denial of insurance benefits to Ms. Haney and, ultimately, in the damages sustained by
11 Ms. Haney.

12
13 33. Because of Ms. Hasty's acts and omissions to aid and abet ACE AMERICAN,
14 she is individually, as well as jointly and severally, liable for Plaintiff's damages. *Wells*
15 *Fargo Bank v. Arizona Laborers, Teamsters and Cement Masons Local No. 395 Pension Trust*
16 *Fund*, 38 P.3d 12 (Ariz. 2002).

17
18 34. As a direct and proximate result of the conduct of Ms. Hasty described
19 herein, Plaintiff was caused to suffer the injuries and damages aforementioned.

20 **VII. FOURTH CLAIM FOR RELIEF- INTENTIONAL INFLECTION OF**
21 **EMOTIONAL DISTRESS**
22 **AS TO DEFENDANTS ACE AMERICAN, LORI HASTY, AND**
23 **SEDGWICK**

24 35. Plaintiff re-alleges and incorporates by reference the allegations of ¶¶ 1-34 of
25 this Complaint as if fully set forth herein.

26 36. Defendants intentionally and/or recklessly caused Haney severe emotional
27 distress through its conduct.

28

1 37. Defendants knew that Haney was owed benefits yet Defendants repeatedly
2 underpaid and delayed Haney's owed benefits. Defendants refused to correct the
3 underpayment, even though they knew the amount was incorrect (and agreed to pay the
4 correct amount in the future). Instead Defendants forced Haney to file a hearing before the
5 Industrial Commission. Yet Defendants failed to attend the hearing. Defendants even
6 refused to pay the owed benefits months after the Industrial Commission of Arizona's
7 ordered the Defendants to pay "immediately." See Exhibit "A."

9 38. Defendants knew or recklessly disregarded that its conduct was substantially
10 certain to cause Haney to suffer extreme and emotional distress. Defendants were
11 repeatedly told by Haney, her attorneys, and the Industrial Commission that they must
12 pay the owed benefits. In addition, because of her on-the-job traumatic head injury,
13 Defendant knew that Haney was emotionally vulnerable and in pain. Thus Defendants
14 knew that denying her owed benefits would have significant detrimental impact to
15 Haney's health.

18 39. Defendants conduct caused Haney to suffer severe emotional distress.

19 40. Defendants conduct was so outrageous and so extreme in danger, that the
20 conduct went beyond the possible bounds of decency, and was atrocious and utterly
21 intolerable in a civilized community.

23 **VIII. FIFTH CLAIM FOR RELIEF---PUNITIVE DAMAGES**

24 41. Plaintiff re-alleges and incorporates by reference the allegations of ¶¶ 1-40, of
25 this Petition as if fully set forth herein.

27 42. Defendants acted intentionally, fraudulently, and with malice (as that term is
28

1 legally defined) in denying Ms. Haney's claim for workers' compensation benefits.

2 43. Defendants' conduct constituted aggravated, malicious, and outrageous
3 conduct in conscious disregard to Ms. Haney's rights, physical health, and financial
4 condition.

5 44. Defendants' conduct when viewed objectively from its standpoint at the time
6 of its occurrence involved an extreme degree of risk to Ms. Haney, considering the
7 probability and magnitude of the potential harm to Ms. Haney. Further, Defendants had
8 actual, subjective awareness of the risk involved, but nevertheless proceeded with
9 conscious indifference to the rights, safety, or welfare of Ms. Haney.
10
11

12 **IX. PRAYER FOR RELIEF**

13 Plaintiff respectfully prays that she have judgment entered against Defendants
14 and for an award of damages as follows:

15 a. For compensatory damages for physical pain and suffering, mental and
16 emotional distress, anxiety, and all other general damages alleged and proved at the
17 time of trial;

18 b. Punitive and exemplary damages in an amount appropriate to punish and
19 set an example of the Defendants, and in such an amount that will discourage
20 Defendants and others from such conduct against other insureds in the future;

21 c. Recovery of expert witness fees;

22 d. Recovery of attorney fees;

23 e. Taxable costs incurred herein;

24 f. Pre- and post-judgment interest; and
25
26
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28

1 g. For all such other and further relief, at law or in equity, to which JANE
2 HANEY may be entitled.

3 Dated this 22nd day of November, 2013.
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6
7

8 Respectfully submitted,

9 **DOYLE RAIZNER LLP**

10 */s/Kevin Wein*

11 MICHAEL PATRICK DOYLE

12 State Bar No. 029400

13 PATRICK M. DENNIS

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