



**TENNESSEE BUREAU OF WORKERS' COMPENSATION
IN THE COURT OF WORKERS' COMPENSATION CLAIMS
AT KNOXVILLE**

CANDIE MARIE HERNANDEZ,) **Docket No. 2024-30-6638**
Employee,)
v.)
WAL-MART ASSOCIATES, INC.,) **State File No. 30126-2024**
Employer,)
and)
AIU INSURANCE COMPANY,) **Judge Pamela B. Johnson**
Carrier.)

DISCOVERY ORDER

On September 30, 2025, the Court heard competing discovery motions. Candi Hernandez filed her third motion to compel discovery responses and for sanctions, which Wal-Mart opposed. Walmart then filed its third motion for protective order, which Ms. Hernandez opposed. For the reasons below, the Court grants Ms. Hernandez's motion to compel and holds her motion for sanctions in abeyance. The Court denies Walmart's motion for a protective order.

Prior Discovery Disputes

Ms. Hernandez filed a petition for benefit determination alleging neurological, voice box, breathing, and mental injuries arising from carbon monoxide exposure at work. The dispute certification notice certified disputed issues of medical and temporary disability benefits. However, to date, Wal-Mart has provided authorized medical and temporary disability benefits.

Since the filing of the petition, the parties have disagreed as to the scope of discovery. Ms. Hernandez filed her first motion to compel written discovery responses in November 2024. Wal-Mart answered the discovery and agreed to supplement its responses, so Ms. Hernandez withdrew her motion.

Ms. Hernandez then moved to expand written discovery, seeking approval to serve discovery exceeding 20 interrogatories and requests for production of documents. She contemporaneously moved to compel Wal-Mart's complete responses to interrogatories 2, 12, 18, 19, 20-24 and requests for production numbers 7, 13, 14, 15, 17 and 19-22. She also filed a notice of deposition of Wal-Mart's Rule 30.02(6) corporate representative. Wal-Mart opposed the motions to expand and compel and moved to quash the deposition.

In its March 14, 2025 order, the Court found that expanding discovery was reasonable and granted that motion. Additionally, the Court granted the motion to compel in part and ordered Wal-Mart to answer and/or supplement its answers to the extent that the information and/or documentation requested was within the knowledge and control of Wal-Mart or its workers' compensation carrier.

As to the specific interrogatories and requests to produce, the Court found that Wal-Mart satisfactorily answered interrogatories 2 and 12. However, the Court ordered Wal-Mart to supplement its response to interrogatory 19 to the extent that the information is known and available to Wal-Mart personnel. Regarding interrogatory 20, Wal-Mart was ordered to provide information regarding its policy for investigating workers' compensation claims and to provide a copy of the policy. It was further ordered to answer interrogatories 21-24 and requests to produce 19-22 to the extent that the information is known and available to Wal-Mart personnel.

Regarding the motion to quash, the Court found that limiting the notice of deposition was appropriate and granted the motion in part. Wal-Mart was ordered to provide corporate representatives to testify but only as to the issues specifically pertaining to information and knowledge available to Wal-Mart personnel.

Later, Wal-Mart filed two motions for a protective order and a separate motion to extend its deadline to respond to admissions. Ms. Hernandez opposed all three motions.

In its first motion for protective order, Wal-Mart asked the Court to find that its discovery responses, provided in response to a previous discovery order, were adequately answered. In its June 27, 2025 order, the Court denied the motion because, at that time, Ms. Hernandez had not filed a motion challenging the sufficiency of Wal-Mart's responses, so the issue was not properly before the Court.

In its second motion for protective order, Wal-Mart asked the Court again to find that its previous discovery responses were adequate and to find that it need not answer Ms. Hernandez's requests for admission. Ms. Hernandez contended that Wal-Mart failed to show good cause. The Court agreed and denied the motion.

In its June 27, 2025 order, the Court noted that although Wal-Mart had accepted Ms. Hernandez's injury as compensable, it reserved the right to assert defenses. Moreover, it

has acknowledged its right to a statutory lien against Ms. Hernandez's recovery in her third-party tort litigation.

Further, the Court upheld the discovery limits previously defined and ordered. Wal-Mart was ordered to cooperate in all discovery permitted under the Tennessee Rules of Civil Procedure (2024) and the Tennessee Compilation Rules and Regulations 0800-02-21 (December 2023) to the extent that the information and/or documentation requested is within the knowledge and control of Wal-Mart or its workers' compensation carrier.

Concerning the motion to extend its deadline, the Court granted it and extended Wal-Mart's deadline to answer.

Current Discovery Dispute
Motion to Compel

Ms. Hernandez filed her third motion to compel seeking an order compelling Wal-Mart to comply with the Court's March 14, 2025 Order commanding it to produce discoverable information within its custody and control. Specifically, she seeks complete responses to interrogatories 1, 2, 20, and 21, and requests 19 and 20. Arguing that Wal-Mart continues to violate the court order, Ms. Hernandez asks for appropriate sanctions, including attorney fees, to ensure its compliance and to discourage future discovery abuses.

The discovery requests in dispute are summarized below, followed by the parties' contentions relative to each request.

Interrogatory 1 seeks the name and representative capacity of each person who contributed to the preparation of the discovery responses. Wal-Mart lists the adjuster, Melinda DeLoach, and defense counsel.

Ms. Hernandez contends that Wal-Mart's discovery response is incomplete because its counsel has not communicated with any Wal-Mart representative to gather discoverable information.

Wal-Mart asserts that neither Ms. DeLoach nor defense counsel were involved in the third-party tort action and previously provided Ms. Hernandez with the contact information for the adjuster coordinating Wal-Mart's subrogation interest and third-party litigation. It insists that it has consistently informed Ms. Hernandez on proper channels to investigate her third-party tort action.

Interrogatory 2 seeks the names, addresses, telephone numbers, and employers of all persons having knowledge of any discoverable facts pertaining to the matters and issues in this cause of action. Wal-Mart objects to relevance because the source of the injury is not in question. It further objects that the interrogatory is unduly burdensome and not

reasonably tailored to lead to relevant information regarding the workers' compensation claim. Notwithstanding the objections, Wal-Mart lists 18 individuals (including Ms. Hernandez) reported to be present at the time of the carbon monoxide exposure.

Ms. Hernandez contends that Wal-Mart's response does not list all the people present in the store during the exposure. Specifically, it fails to list the store manager, Byron Johnson, or any of the other Wal-Mart managers, executives, or investigators involved in the investigation. She asserts that Mr. Johnson testified by deposition and stated that Wal-Mart sent a "plane full of people" from headquarters to investigate the incident. She argues that Wal-Mart should have listed Mr. Johnson, the individuals sent by headquarters, and those hired to investigate the incident.

Wal-Mart acknowledges that it inadvertently left Mr. Johnson's name off the list but states that his name was disclosed in other requests. Regarding the "plane full of people," it alleges that it asked Ms. Hernandez in separate correspondence to identify what relevant, admissible information was being sought from these additional individuals, but she did not respond. It asserts that those individuals were not present on the date of the incident and have no involvement or decision making in Ms. Hernandez's workers' compensation claim and continues its objections.

Interrogatory 20 asks Wal-Mart to describe with particularity its policies concerning the investigation of work-related injuries and to attach a copy of the policy as an exhibit. Wal-Mart attaches a policy regarding spill clean-up protocol but objects to providing company instructions and guidance claiming trade secrets and protected, confidential information. It asks for a protective order limiting any disclosure of internal company policies for the limited scope of Ms. Hernandez's pursuit of workers' compensation benefits.

Ms. Hernandez contends that Wal-Mart's production of a spill clean-up policy is nonresponsive to the interrogatory as she was not injured by a slip and fall but by a carbon monoxide leak. Mr. Johnson testified that Wal-Mart has a written policy, easily accessible on its internal website. Further, Wal-Mart's admissions acknowledge that it has policies and procedures governing investigation of workplace injuries and that it has not produced these policies.

Wal-Mart asserts that the policy is a protected trade secret and discoverable only if covered by a protective order. It further contends that the policy itself is not discoverable and irrelevant because it has accepted the workers' compensation claim.

Interrogatory 21 asks Wal-Mart to identify and describe all investigations conducted by it or any third parties into the cause of the carbon monoxide leak and to identify the individuals involved by name, title, and role in the investigation. Wal-Mart responds that Byron Johnson, store manager of the location where the incident occurred,

arrived on the scene and conducted a preliminary investigation as to the cause and source of the issue. It further believes that a fire department report was completed and will be supplemented. It additionally notes that further investigation is ongoing.

Ms. Hernandez contends that Wal-Mart knew but failed to identify the investigations conducted by the “plane full of people” sent from headquarters and the various third parties/vendors, whom they contacted, to investigate the potential sources of the carbon monoxide leak. She also argued that Wal-Mart attempted to misdirect her by referencing the fire department report, which misidentified the cause of the carbon monoxide leak, instead of identifying their own investigations that revealed their contractor, Mycon, and its subcontractor, Winston Steel Erectors, were operating gas-powered welding generators inside the building. She further claims that Wal-Mart’s response that its investigation was ongoing was false as Mr. Johnson testified that he was not aware of any ongoing investigations of the incident.

Wal-Mart asserts that it responded with the evidence known at the time, which included Mr. Johnson’s involvement at the outset of the claim and investigation, as well as third party investigation. It further agreed to supplement as investigation progressed.

Request 19 solicits copies of all documents related to Ms. Hernandez’s injury and Wal-Mart’s investigation of the carbon monoxide leak, including reports created by internal investigators or third-party consultants. Wal-Mart responds that it is conducting further investigation and believes that the reports are within the custody of the emergency responders who responded to the incident.

Ms. Hernandez contends that Wal-Mart has failed to produce any documentation of its investigation into the incident. It has failed to supplement its response despite conceding in its admissions that it possesses documentation prepared by industrial hygienists, environmental consultants, or safety consultants regarding the carbon monoxide leak incident, claiming the documentation is not discoverable.

Wal-Mart asserts that it responded with the information known at the time. It contends in its admissions it addressed investigations conducted by TOSHA and acknowledged communications between Wal-Mart and Mycon General Contractors, which Mr. Johnson described in his deposition. It further states that the request is not reasonably tailored to lead to the discovery of relevant, admissible evidence regarding Ms. Hernandez’s workers’ compensation claim.

Request 20 seeks copies of all documents or communications made to or received from any state agencies or regulatory agencies regarding the carbon monoxide leak. Wal-Mart attaches the OSHA reports and responds that further investigation is ongoing.

Ms. Hernandez contends that Wal-Mart only produced a partial OSHA report, failing to produce all communications between itself and the governmental agencies that investigated the incident. It also falsely stated that investigation was ongoing in direct conflict of Mr. Johnson's testimony.

Wal-Mart asserts it provided evidence obtained at the time of the request. Ms. Hernandez admits that she has acquired a 500+ OSHA report, which it has not seen and has requested a copy from her.

Motion for Protective Order

Wal-Mart moved for its third protective order arguing that Ms. Hernandez's continued attempts to discover the cause of the carbon monoxide leak are unreasonably cumulative, duplicative, and irrelevant to the workers' compensation case. It maintains that because it has currently accepted her claim as compensable that she is not entitled to the discovery through this case. It argues that her discovery requests are not reasonably tailored to lead to additional, nonduplicative, and admissible evidence. It argues that Ms. Hernandez must use her third-party suit to obtain this information and has improperly utilized discovery tools in this case.

Ms. Hernandez argues that the Court should summarily deny Wal-Mart's motion for judicial efficiency. She further contends that the filing of repetitive motions serves no legitimate purpose other than to delay proceedings or to harass and/or unduly burden her.

Analysis

The discovery disputes in this case are based on Wal-Mart's contention that, because it has currently accepted Ms. Hernandez's claim as compensable, she is not entitled to discovery or investigation - in her workers' compensation case - into the cause of the carbon monoxide incident that led to her work injury. It contends that such information pertains only to her third-party claim, which is outside this Court's jurisdiction, and irrelevant to her workers' compensation claim. However, as previously noted, Wal-Mart has stated that Ms. Hernandez's "claim has been deemed and is *currently* treated as a compensable work injury." (Emphasis added.) However, it has reserved the right to supplement its response and to assert defenses. Moreover, it has acknowledged its right to a statutory lien against Ms. Hernandez's recovery in her third-party tort litigation.

As the Court has previously noted, "Discovery rules are accorded broad and liberal treatment 'for mutual knowledge of all relevant facts gathered by both parties.'" *Semich v. AT&T Serv., Inc.*, 2023 TN Wrk. Comp. App. Bd. LEXIS 28, at *7-8 (Jun. 8, 2023) (citing *Johnson v. Nissan N. Am.*, 146 S.W.3d 600, 605 (Tenn. Ct. App. 2004). "However, though the scope of discovery is broad, it does have limits." *Id.* (internal citations omitted). "The

basic positive touchstone is relevance, including the reasonable possibility that the information sought would lead to admissible evidence.” *Id.*

The Tennessee Rules of Civil Procedure strike a balance between two important policies. *Id.* “The first, and perhaps more important, policy is that discovery should enable the parties and the courts to seek the truth so that disputes will be decided by facts rather than by legal maneuvering.” *Id.* “The second policy is that the discovery rules should not permit less diligent lawyers to benefit from the work of their more diligent opponents.” *Id.*

Analyzing whether a discovery request is proper requires the balancing of numerous considerations. *Id.* These considerations include, “relevancy or reasonable possibility of information leading to discovery of admissible evidence; privilege; protection of privacy, property and secret matters; and protection of parties or persons from annoyance, embarrassment, oppression, or undue burden or expense.” *Id.* A typical analysis involves whether the discovery is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party. *Id.*

Additionally, Tennessee Rules of Civil Procedure Rule 37.01(A-E) (2024) authorizes sanctions for any party who fails to obey an order to provide discovery. Specifically, the Court “shall require the party failing to obey the order or the attorney advising the party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.”

Here, the Court has already addressed the reasonableness of the discovery requests and the lack of necessity of a protective order in its March 14 and June 27 discovery orders.

In its March 14 order, the Court ordered Wal-Mart to answer and/or supplement its answers to the extent that the information and/or documentation requested was within the knowledge and control of Wal-Mart or its workers’ compensation carrier. In its June 27 order, it denied Wal-Mart’s requests for a protective order finding Wal-Mart’s arguments unpersuasive and without good cause.

Regarding the specific requests at issue here, Wal-Mart was ordered to supplement its Interrogatory 19 response to the extent that the information was known and available to *Wal-Mart personnel*. Regarding interrogatory 20, Wal-Mart was ordered to provide information regarding its policy for investigating workers’ compensation claims and to provide a copy of the policy. It was further ordered to answer interrogatories 21-24 and requests to produce 19-22 to the extent that the information was known and available to *Wal-Mart personnel*. (Emphasis added).

Thus, the Court finds Wal-Mart's attempts to relitigate these issues inappropriate and an affront to judicial economy. Despite the right to do so, it did not appeal the Court's prior discovery orders and, as such, is bound to the prior rulings and expected to comply.

Unfortunately, Wal-Mart has not complied with this Court's orders. It has not supplemented Interrogatory 2 with the names of additional individuals with knowledge of the incident identified through later discovery and investigation. It has not produced the policy requested in Interrogatory 20, the reports possessed by Wal-Mart personnel requested in Interrogatory 21, or the reports possessed by Wal-Mart personnel as requested in Requests 19 and 20 despite being ordered to do so. Additionally, the Court finds Wal-Mart has failed to show good cause for a protective order in this case.

The Court finds Ms. Hernandez's motion well taken and grants it. On or before **November 14, 2025**, Wal-Mart shall produce the discovery as previously ordered and possessed by *Wal-Mart personnel*. (Emphasis added). The adjuster for the carrier's third-party administrator is not Wal-Mart personnel.

The Court holds in abeyance Ms. Hernandez motion for sanctions and/or attorney fees under Tennessee Rules of Civil Procedure 37 to be decided at a later date once all discovery is complete, and the Court will consider all past, current, and future discovery compliance issues at that time. The Court further holds in abeyance Wal-Mart's referral to the Compliance Unit for investigation and assessment of a penalty under Tennessee Code Annotated section 50-6-118(a) for its noncompliance with court orders.

It is ORDERED.

ENTERED October 30, 2025.



JUDGE PAMELA B. JOHNSON
Court of Workers' Compensation Claims

CERTIFICATE OF SERVICE

I certify that a copy of this order was sent as shown on October 30, 2025.

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