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October 24, 2016

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Re: Amandeep Cheema, Order No. 16-0216

Dear Mr. Chance and Mr. Stillman:

I have reviewed Respondent's Objection to the OIC's Motion for Summary Judgment dated October 20, 2016, and Declaration in Support Thereof, and pursuant to WAC 10-08-200(4), rule as follows:

On October 14, 2016, Christine M. Tribe, Paralegal in the Office of Insurance Commissioner's ("OIC's") Legal Affairs Division OIC deposited in the US Mail the OIC's Motion for Summary and Judgment and Declaration in Support Thereof, addressed to Ms. Cheema's attorney's, Steve Chance's office in Bellingham, Washington. Ms. Tribe also sent the pleadings to Mr. Chance via e-mail. In the Notice of Hearing filed in this matter on September 12, 2016, deadlines are set for dispositive motions, responses thereto, and replies to responses. Both parties had until October 14, 2016, to file dispositive motions in this matter. October 28, 2016 is the deadline for responses, whereas November 4, 2016, is the deadline for replies.

Ms. Cheema quotes provisions of CR 5 as the basis for her Objection to the OIC's Motion for Summary Judgment. However, WAC 284-02-070, the OIC's Hearings rule states at (1)(a): "Hearings of the OIC are conducted according to chapter 48.04 RCW and chapter 34.5 RCW, the Administrative Procedure Act," and states at (2)(a): "Provisions applicable to adjudicative proceedings are contained in chapter 48.04. RCW, and chapter 34.05 RCW, the Administrative Procedure Act, and chapter 10.08 WAC." While 284-02-070(2)(e)(i) states: "Civil Rules 26 through 37 are incorporated by reference in this section, with the exception of CR 26(j) and (3) and CR 35, which are not

adopted for purposes of this section,” no other CR is incorporated by reference into OIC’s Hearing Rule, or controlling of OIC adjudicative proceedings. As stated in WAC 284-02-070(2)(d): “Adjudicative proceedings or contested case hearings of the [OIC] are informal in nature, and compliance with the formal rules of pleading and evidence is not required.” (Brackets added).

That said, the APA (RCW Ch. 34.05), and rules adopted thereunder (WAC 10-08), contain specific provisions regarding service which control in OIC Hearings. RCW 34.05.437(3) states: “A party that files a pleading, brief, or other paper with the agency or presiding officer shall serve copies on all other parties. . . .” (Emphasis added). “Service” is defined in RCW 34.05.010(19) as: “[E]xcept as otherwise provided in this chapter, means posting in the United States mail, properly addressed, postage prepaid, or personal or electronic service. Service by mail is complete upon deposit in the United State mail.” (Brackets and emphasis added). See also WAC 10-08-110(2)(b)-(c). Per this definition, the OIC’s service of its Motion for Summary Judgment was timely served on Cheema on October 14, 2016. Therefore, Cheema’s Objection dated October 20, 2016, is without merit, and denied.

Ms. Cheema and her counsel have until October 28, 2016, to file a Response to the OIC’s Motion for Summary Judgment. This deadline will not be extended.

To avoid further delay, this ruling will be e-mailed to both parties and sent via U.S. Mail to Ms. Cheema’s counsel.



William G. Pardee
Presiding Officer