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2011 SEP 2 KAC
A 11:00

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RECEIVED
Hearing Unit, DIC
Political Department
Chief Hearing Officer

SEP 02 2011

INSURANCE COMMISSIONER
LEGAL AFFAIRS DIVISION

August 31, 2011

VIA E-MAIL AND FIRST CLASS MAIL

Alan Michael Singer
Staff Attorney
State of Washington Office of Insurance
Commissioner
PO Box 40255
Olympia, WA 98504-0255

Kelly Cairns
Paralegal
OIC Hearing Unit
PO Box 40255
Olympia WA 98504

Re: OIC's Motion to Supplement the Record
Our File No.: 122574/181300

Dear Mr. Singer and Ms. Cairns:

We have received Mr. Singer's motions to supplement the record. Ability objects to the motion to supplement the records with an unrelated case on the following grounds:

1. Ability admits that the Washington Supreme Court recently denied review of the *Bushnell v. Medico* case subsequent to the hearing in this matter. This simply means that that any legal citation to the record, from this point forward, should be revised as follows: *Bushnell v. Medico*, 159 Wn.App. 874; 246 P.3d 856 (2011), *rev denied* 2011 Wash. LEXIS 601 (Wash. Aug. 9, 2011).
2. The denial of review does not relate to any factual issues in this case. The *Bushnell v. Medico* order has no bearing on the issues in this case, other than as a legal citation. It does not relate or bear on any factual issues, so it does not belong as part of the factual record or require any supplement to the record.

Ability does not require a briefing or hearing schedule for this issue. We would consent to the judge in this matter making the determination of whether the official record should be supplemented without oral argument.

Alan Michael Singer

Kelly Cairns

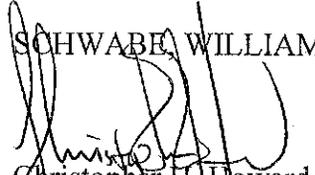
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As to OIC's second motion to supplement the record, we do not have an objection to adding the evidence to the record. We do object to the argumentative characterization of "inaccurate" used in OIC's motion. OIC's use of such rhetoric is unnecessary.

Sincerely,

SCHWABE, WILLIAMSON & WYATT, P.C.



Christopher H. Howard
Virginia R. Nicholson

CHH:ckt

cc: Donald K. Lawler, J.D., M.B.A.