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OFFICE OF
INSURANCE COMMISSIONER

HEARINGS UNIT
Fax: (360) 664-2782

Hearings Unit, DIC
Patricia D. Petersen
Chief Hearing Officer

Patricia D. Petersen
Chief Hearing Officer
(360) 725-7105

Kelly A. Cairns
Paralegal
(360) 725-7002
hearings@oic.wa.gov

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of)	Docket No. 11-0088 and 11-0089
)	
Ability Insurance Company,)	SECOND ORDER RE POST HEARING
)	BRIEFS AND CLOSING ARGUMENTS
An Authorized Insurer and Respondent.)	
_____)	

TO: Ability Insurance Company
1515 South 75th Street
Omaha, Nebraska 68124-1655

Christopher H. Howard, Esq.
Virginia R. Nicholson, Esq.
Schwabe, Williamson & Wyatt P.C.
Attorneys at Law
U.S. Bank Center
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010

COPY TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance Commissioner
John F. Hamje, Deputy Commissioner, Consumer Protection Division
Alan Michael Singer, Staff Attorney, Legal Affairs Division
Carol Sureau, Deputy Commissioner, Legal Affairs Division
Office of the Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255

On August 24, 2011, the undersigned entered an Order re Post Hearing Briefs and Closing Arguments which reflected the agreements of the parties during the hearing on August 5. Of significance herein, the parties agreed that simultaneous briefs should be filed by close of business on September 14, and reply briefs, if desired, should be filed by close of business on

September 28, with submission of additional evidence and/or testimony at the convenience of the parties on either September 29 or 30.

Subsequently, on September 6, 2011, the Insurance Commissioner (OIC) filed a Motion to Strike and Exclude Expert Testimony, alleging that Ability Insurance Company (Ability) had failed to properly notify the OIC of the identity of its expert witness and the substance of his proposed testimony, in violation of discovery rules. In response, Ability asked for time to file a Reply to said Motion, which was granted until September 13 by noon, and also requested oral argument thereon, which was scheduled by agreement of the parties to commence on September 15 at 2:00 p.m. However, the OIC then requested that the September 14 deadline for filing Post Hearing Briefs be continued in order to still allow adequate time for preparation of Post Hearing Briefs following argument and ruling on the OIC's Motion to Strike. Ability objected to the OIC's request for continuance, maintaining their other commitments made such a continuance unworkable and gave unfair advantage to the OIC. However, it is reasonable that a short continuance be granted, for the reasons that 1) it is necessary that the OIC's Motion to Strike be argued and decided prior to filing Post Hearing Briefs as the issue in the OIC's Motion to Strike is whether Ability's expert witness's significant testimony presented during the hearing should be able to be considered in this matter; and 2) the issues to be addressed in the Post Hearing Briefs are challenging and complicated, and it is in the interests of both parties, and the undersigned, to allow both parties the same short continuance given the time now needed relative to the Motion to Strike.

The parties are advised to contact Kelly Cairns, Paralegal to the undersigned, should they have any questions concerning the above.

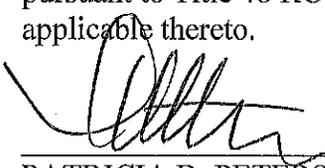
Based upon the above activities,

It is therefore hereby ordered that the parties shall submit Post Hearing Briefs regarding the issues set forth in Order Re Post Hearing Briefs and Closing Arguments entered August 24, 2011, and any other issues and/or arguments, by September 19, 2011;

It is further ordered that the parties shall submit their reply briefs, if they wish to file reply briefs, by September 28, 2011; and

It is further ordered, based on the fact that the record was left open to receive additional evidence and/or testimony, that the parties shall submit any additional evidence and/or testimony they wish, by September 29 or 30, 2011, based on the most convenient date for the parties. Following presentation of additional evidence and/or testimony, oral argument shall be in person in Olympia unless both parties agree that it may be held by teleconference.

ENTERED AT TUMWATER, WASHINGTON, this 12th day of September, 2011,
pursuant to Title 48 RCW and specifically RCW 48.04 and Title 34 RCW and regulations
applicable thereto.

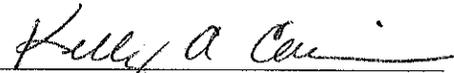


PATRICIA D. PETERSEN
Presiding Officer

Declaration of Mailing

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery through normal office mailing custom, a true copy of this document to the above identified individuals at their addresses listed above.

DATED this 12th day of September, 2011.



KELLY A. CAIRNS