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July 2, 2015

Judge George Finkle, Ret.
Hearings Unit
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

In re: Business Health Trust, et al., OIC Matter No. 15-0133

Dear Judge Finkle,

I am writing in response to BHT's request for a special briefing schedule for the Motion for Stay filed today in this matter.

The OIC requests that you reject BHT's request for a special briefing schedule. Although titled a "motion for stay", BHT's motion is directed at the question of subject matter jurisdiction. Lack of subject matter jurisdiction is a dispositive issue, as the sole remedy is dismissal.

Your initial scheduling order included a briefing schedule for dispositive motions, which has now been triggered by issuance of the WCIF decision. Dispositive motions on this case are due in 30 days, and responses due three weeks later. The OIC requests that BHT's current motion be heard in accordance with that schedule, with the Commissioner's response due three weeks from the date of the last filed motion for summary judgment.

In the event you determine to hear BHT's present motion on a different schedule, I request that you set a date of July 24, with a reply date of July 31, 2015 (rather than the July 15 date proposed by BHT)¹. I have motions set in Spokane Superior Court on two related cases which will be heard on July 7 and July 17, and a reply brief due on July 13. I have previously filed with you a notice of unavailability from July 13-16.

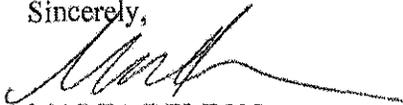
¹ BHT cites to the briefing schedule permitted in King county as the basis for their proposed schedule. However, the Commissioner has not broadly adopted the Rules of Civil Procedure as the rules governing adjudicative hearings brought under RCW 48.04.010. Further, the Commissioner has not adopted the local rules of any superior court in the state. Therefore, the briefing schedule provided for in the King County Local Rules is not applicable to this tribunal.

ATTORNEY GENERAL OF WASHINGTON

Judge George Finkle, Ret.
July 1, 2015
Page 2

Finally, as of today, I have not had the opportunity to thoroughly review BHT's brief and discuss it with my client. As a result, I cannot confirm whether the OIC will request oral argument. I ask that you allow me to request oral argument in the OIC's responsive briefing, and that any scheduled oral argument on Plaintiffs motion (whether requested by the Commissioner or this tribunal), not be scheduled until on or after August 5, 2015.

Sincerely,



MARTA DELEON
Assistant Attorney General

cc: Gwendolyn Payton
Richard Birmingham

MD:dg