

STATE OF WASHINGTON  
OFFICE OF THE INSURANCE COMMISSIONER

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In the Matter of )  
Leo J. Driscoll, Applicant )  
Hearings Unit Docket No, 16-0002 )  
Applicant's Reply to OIC Response to Motion to Amend )  
Paragraphs 16 and 41(e) of Applicant's Application )

HEARINGS UNIT  
OFFICE OF  
INSURANCE COMMISSIONER

Applicant Driscoll here replies to OIC's Response to the pending motion to amend paragraphs 16 and 41(e) of Driscoll's "Application and Demand for Hearing" filed herein. OIC's Response, at page 1, reflects that the OIC does not oppose the proposed amendments to the two (2) paragraphs provided that Driscoll ". . . file an Amended Demand for Hearing that contains these amendments prior to entry of an order denying or granting the Applicant's Motion to Amend."

A. OIC's Response, pg. 2, Lines 1-2, argues that "Civil Rule 15 requires an amended pleading be filed with a party's motion to amend" and that "[w]hile Civil Rule 15 has not been specifically adopted for OIC's administrative proceedings, it has also not been specifically excluded." (id. at Lines 19-20).

WAC 284-02-070(2)(d), not mentioned in the OIC's Response, provides that: "Adjudicative proceedings or contested case hearings of the insurance commissioner are informal in nature, and compliance with the formal rules of pleading and evidence is not required." (underlining mine).

That choice of informality presumably was made because many applicants for adjudicative proceedings before the Commissioner do so *pro se* and lack currency with the ever-changing formal rules of pleading and evidence that govern judicial actions. To require them to re-state the entirety of their application to the Commissioner when any element of it is to be amended would be at odds with the informality which has been ordered by the Commissioner.

B. OIC's Response, at pg. 1, line 25 to pg. 2, line 1, states that the WA APA "indicates that a Demand for Hearing should contain the entire demand...". Note however that the "Demand" here is set forth solely and in its entirety in paragraph 1 of applicant's initial pleading and will not be amended or affected by the proposed amendments to paragraphs 16 and 41(e). Those relate to other elements of the application and not to the Demand made in paragraph 1 of that pleading..

The only adjudicative proceedings before the Insurance Commissioner in which this applicant has been involved is in OIC Hearings Unit Docket No.14-0187. In that proceeding, the Presiding Officer authorized amendment of the grounds for the Demand for hearing without restating the entirety of the application. See Administrative Record of that proceeding at p.248-254. At least from applicant's perspective, that informal process has not become problematic in the ensuing phases of that proceeding.

The process proposed by the OIC's counsel is burdensome, unnecessary, and at odds with what appears to be the intent and goals of WAC 284-02-070(2)(d)..

**Applicant certifies** that on 1-25-2016 applicant and Ms. Weeks conferred by telephone regarding resolution of the above issues and that the conference requirements of CR 23(i) as to such issues were thereby met.

Respectfully submitted February 26, 2016.

Leo J. Driscoll, Applicant (pro se)