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STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

HEARINGS UNIT
OFFICE OF
INSURANCE COMMISSIONER

In the Matter of:

Amandeep Cheema,

Appellant.

Agency No. 16-0216

OIC'S REPLY TO AMANDEEP
CHEEMA'S OPPOSITION TO OIC'S
MOTION FOR LEAVE TO AMEND
LICENSE APPLICATION DENIAL

REPLY

The Office of the Insurance Commissioner (OIC) maintains that it is appropriate to amend the license application denial it issued to Amandeep Cheema. Although mistyped in its motion, RCW 34.05.437(1) provides the OIC with the authority to make a motion at this time. And WAC 10-08-130(1), without imposing any sort of burden of proof, lists pleading amendments as one of many appropriate considerations at this stage. Further, both *Lawrence v. Department of Health* and *McDaniel v. Department of Social and Health Services* support the OIC's motion – *Lawrence* confirms that an agency has the authority to correct its pleadings in the prehearing stage and *McDaniel* advises that an issue is properly before an administrative tribunal so long as the parties have an opportunity to litigate it.¹ In fact, *Lawrence* found that an agency has the power to withdraw pleadings before a hearing *without prejudice*, which means that an agency also has the power to submit new pleadings regarding the same matter.²

In Amandeep Cheema's Opposition to the OIC's motion, she does not provide any legal authority that contradicts the OIC's position. Rather, Cheema attempts to minimize the legal

¹ *Lawrence v. Dep't of Health*, 133 Wn. App. 665, 677-78, 138 P.3d 124 (2006); *McDaniel v. Dept. of Social and Health Servs.*, 51 Wn. App. 893, 898, 756 P.2d 143 (1988) (quoting *International Ass'n of Firefighters, Local 469 v. Public Empl. Relations Comm'n*, 38 Wn. App. 572, 579, review denied, 102 Wn.2d 1021 (1984)).

² *Lawrence*, 133 Wn. App. at 678-79.

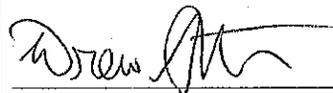
1 authority the OIC cited. In doing so, Cheema makes light of a typographical error and
2 summarily mischaracterizes the relevant portions of *McDaniel* as dicta.³ Cheema also attempts
3 to convert WAC 10-08-130(1) – a listing of appropriate topics to consider during prehearing
4 conferences – into a rule that imposes some sort of burden on parties who seek to amend their
5 pleadings. Finally, Cheema acknowledges that an agency has the power to voluntarily dismiss
6 its pleadings, but would have the presiding officer ignore the logic of amending the pleading at
7 this stage – an intermediate approach given that the pleading could be withdrawn without
8 prejudice and resubmitted anew.

9 Because we are in the prehearing stage and Cheema will have ample opportunity to
10 litigate the issues identified in an amended license application denial, it is appropriate for the
11 OIC to amend the license application denial at this time.

12 REQUEST

13 The OIC respectfully requests that the presiding officer grant the OIC leave to amend
14 the license application denial issued to Amandeep Cheema so that the OIC may inform Cheema
15 that she violated RCW 48.01.030, RCW 48.17.125, RCW 48.17.530(1)(b), RCW
16 48.17.530(1)(c), RCW 48.17.530(1)(h), RCW 48.17.530(1)(k), RCW 48.30.040, WAC 284-17-
17 125(1), and WAC 284-17-125(3), which support the denial of her license application. These
18 issues should then be the subject of the presiding officer's final decision in this matter.

19 DATED this 28th day of September 2016, at Tumwater, Washington.

20 

21 _____
22 Drew Stillman
23 Insurance Enforcement Specialist
24 Legal Affairs Division
25 Office of the Insurance Commissioner
26

³ The legal basis for a court's holding is not dicta. See *Bellevue v. Acrey*, 103 Wn.2d 203, 209, 691 P.2d 957 (1984) (finding that a legal test used to make a holding was not dicta).

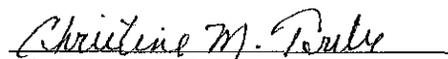
CERTIFICATE OF MAILING

The undersigned certifies under the penalty of perjury under the laws of the state of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the state of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be filed and served the foregoing OIC's Reply to Amandeep Cheema's Opposition to OIC's Motion for Leave to Amend License Application Denial on the following individuals listed below in the manner shown:

<p>OIC Hearings Unit William Pardee, Presiding Officer 5000 Capitol Blvd. SE Tumwater, WA 98501</p> <p><i>By hand delivery.</i></p>	<p>Amandeep Cheema c/o Steve Chance, Attorney for Appellant 119 N. Commercial Street, Suite 175 Bellingham, WA 98225</p> <p>steve@chancelaw.com</p> <p><i>By email and by depositing in the U.S. mail via state Consolidated Mail Service with proper postage affixed.</i></p>
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Dated this 28th day of September, 2016, at Tumwater, Washington.


Christine M. Tribe
Paralegal
Legal Affairs Division