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COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

Case No. 340881

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

Leo J. Driscoll, Petitioner

v.

WASHINGTON STATE INSURANCE COMMISSIONER,
TIAA-CREF Life Insurance Company, and Metropolitan
Life Insurance Company, Respondents

AMENDED REPLY BRIEF OF PETITIONER

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AMENDED REPLY TO RESPONDENTS' BRIEFS

1. Driscoll's contention that the 90-day time limits of RCW 48.04.010(3) do not apply to the Demand for Hearing of Count 3 is not absurd or irreconcilable with the relevant provisions of RCW 48.18.100(3) and RCW 48.18.110 alleged by Driscoll in Count 3

A. The *MetLife/T-C Life Brief* at 20 contends that "*Driscoll's proposed reading of RCW 48.18.110 would have the absurd and irreconcilable effect of abrogating the 90-day time limits set forth in RCW 48.04.010(3)*". The *Comm.'s Brief* does not address either of those key statutes, much-less whether they are reconcilable.

B. The relevant provisions of RCW 48.18.100(3) and RCW 48.18.110 alleged in Count 3 will not abrogate "*the 90-day time limits set forth in RCW 48.04.010(3)*". The 90-day time limits of RCW 48.04.010(3) are inapplicable to Count 3 but they are reconcilable with (i) the provisions of RCW 48.18.100(1) which state that "*The commissioner may withdraw any approval at any time for cause*" and (ii) the provisions of RCW 48.18.110(1) which define the necessary cause for withdrawal of previous approval. ¹

C. The provisions of RCW 48.04.010(3) do not impose any time

¹ RCW 48.18.110(1) in relevant part provides: "(1) *The commissioner shall disapprove any such form of policy, application, rider, or endorsement, or withdraw any previous approval thereof, only:(a) If it is in any respect in violation of or does not comply with this code or any applicable order or regulation of the commissioner issued pursuant to the code; . . .*" (other listed causes omitted)

limit on the commissioner's authority to withdraw his/her previous approval of the changed "Policy Schedule" form that is in issue.

D. The provisions of RCW 48.04.010(3) do not apply to (nor do they enhance or diminish) the statutory causes set forth in RCW 48.18.110 for the commissioner to withdraw his previous approval of the subject changed "Policy Schedule" forms that are the subject of Count 3. Those statutes and Driscoll's reading of them) are entirely reconcilable. The 90-day provisions of RCW 48.04.010(3) simply do not apply to Driscoll's Count 3 grievances.

2. Respondents err in contending that the canon of construction '*expressio unius est exclusio alterius*' (the inclusion of one thing implies the exclusion of others) does not apply in construing the provisions RCW 48. 04.010.

A. Commissioner's Brief ("Comm.'s Brief"), p. 13-14, and the Amended Brief of MetLife and T-C Life ("MetLife/T-C Life Brief") at p.22, Ftn. 9, contend that the Canon of Statutory Construction '*expressio unius est exclusio alterius*' (the inclusion of one thing implies the exclusion of others) does not apply in construing RCW 48. 04.010 (see text at **Appendix A**), claiming that the statute does not list 'certain items of a category' to which the canon applies. In fact, subsection (1)(b) lists a category of six (6) specific causes of grievance that require a hearing by the commissioner - -

whereas subsection (3) thereof imposes the 90-day time limit for filing a demand for hearing on but one (1) of those causes, i.e., an “order”. The Canon applies to infer that RCW 48.04.010(3) was not intended to apply to any of the other 5 causes of grievance. *Cerillo v. Esparza*, 158 Wn. 2d, 194, 207 (2006) cited by MetLife and T-C Life, did not include a category as and thus is clearly distinguishable on the facts and does not aid Respondents.

B. Respondents' *Briefs* did not address the point made in *Petitioner's Brief*, pp. 20-21, that use of the word “**thereon**” in RCW 48.04.010(3) is consistent *only* with the construction that the 90-day time limitation of that subsection applies exclusively to a grievance caused by a *written order* of the Commissioner.²

3. ¶3.11 (AR 290) of Count 3 alleges and is based on the facts that the Commissioner has authority, grounds, cause, and duty under RCW 48.18.100 and RCW 48.18.110 to withdraw approval of the (changed) Policy Schedule forms, and ¶ 3.12 (AR 290) alleges that Driscoll is adversely impacted and aggrieved by the ongoing use of the changed “Policy Schedule” forms.

A. Count 3 further alleges that Driscoll is aggrieved by specified “acts and failures of the Commissioner to act” , within the meaning of RCW 48.04.010(1)(b), which acts and failures to act are deemed to be acts under the Code and promulgations thereunder,

² The Random House Dictionary of the English Language, Unabridged Edition , © 1966 defines “**thereon**” – “adv. 1. on or upon that or it “.

including these acts and failures to act:

(1) Failure of the Commissioner to adequately review and to disapprove the legally-non-compliant, insufficiently-supported premium increase request (App. ¶¶1.58-¶1.66. AR 275-277); and

(2) The Commissioner's act of failing to disapprove the changed "Policy Schedule" forms issued to the Driscolls that reflect the insufficiently supported premium-increase request (App.¶ 1.17, AR 265; Supplemental ¶ 5-D to Demand for Hearing of Count 3, AR 249; App.¶¶3.2 to ¶ 3.12, AR 298-290).

4. Respondents' Contention That RCW 48.04.010(3) Applies as a Matter of Law to Bar Any Hearing of A Person's Grievances Caused by Acts and Failures of the Commissioner to Act to Review and Disapprove a Legally-Non Compliant, Insufficiently-Supported Premium Increase Request is Erroneous and Does Not Take Into Account the Provisions of RCW 48.18.010(3) and RCW 48.18.010(1) and (2) on which Count 3 is predicated.

A. *Comm.'s Brief*, pp, 10-17, and the *MetLife/T-C Life Brief*, pp, 17-24, indirectly argue in substance and effect that: (i) Met Life's written notice to Driscoll on 12.9/2011 of OIC's approval of the premium-increase request, (ii) constitutes implied notice that the OIC approval was by written order, (iii) that such notice of that order triggered the 90-day time-for-filing clause of RCW 48.04.010(3) which (iv) thereby, as a matter of law, necessarily applied to and subsumed Driscoll's Count 3 grievances. *Id.*

B. Respondents argue that an insurer must have *closure* and certainty as to the ultimate outcome of its premium-increase filing and that it is *absurd* to contend that OIC's approval of a policy form that reflects a legally- insufficiently-supported premium- increase request can be withdrawn for cause by the commissioner years after it has been approved. *Comm.'s Brief at 15; MetLife/T-C Life Brief at 20-21.*

C. RCW 48.18.100(3) provides in part that "*The commissioner may withdraw any approval at any time for cause*" and RCW 48.18.110 identifies the grounds for withdrawal of any "*previous approval of any form of policy, application, rider, or endorsement*" (which includes the "changed "Policy Schedule"" form in issue here) (See text of RCW 48.18.110 in **Appendix B** attached). The issue of the insurer's needs for closure and certainty will be fully considered at the hearing sought by ¶3.13 of Count 3 (AR 290).

5. Re: the *Filed Rate Doctrine* issue, "Appendix 1 to Petitioner's Brief" filed herein identifies relevant parts of RCW 48.19.040 and RCW 48.19.030 that effectively identify *FILING REQUIREMENTS (or PROCESS)* which must be observed by an insurer that makes a rate modification filing with the commissioner.

A. RCW 48.19.040(2) states that such filing ". . . must be accompanied by sufficient information to permit the commissioner

to determine whether it meets the requirements of this chapter. *

* ** The statutory process requires that the insurer which makes the rate modification filing with the OIC also submit information to the commissioner that the statutory requirements and restrictions of RCW 48.19.030 and subsection (3)(a) on “use of rates” are and will be observed and complied with in and by that rate filing.

B. Count 3 alleged (and the administrative record supports such allegations) that the information which RCW 48.19.040 and RCW 48.19.030 [and subsections (3) and (3a)] required be submitted by MetLife to the commissioner was not submitted by MetLife to the commissioner (see e.g., re-alleged ¶ 1.32 to ¶1.37, AR 270-271 and ¶ 3.1 and ¶3.8 to ¶ 3.9, AR 288-289.

6. In aid of the contention that *the Filed Rate Doctrine* bars the Court from reviewing Count 3, the *Comm.’s Brief* includes six (6) unfounded and inaccurate statements of fact that are attributed to Driscoll- - certain of which have been taken out of their context.

A. *Comm.’s Brief* at pp.. 18-19 states that

“The Driscoll’s claim that they want only review of the process and not of the rate itself is disingenuous. The Driscolls’ original Demand for Hearing **explicitly challenged the reasonableness of the rates.** For example, in Count 3 of their Demand for Hearing the Driscolls contended that information submitted by MetLife in support of the filed rate “does not show that the benefits scheduled in the changed Policy Schedule are “*reasonable*” in relation to the

increased rates AR 33, ¶ 3.9 (emphasis added).” (**bold emphasis added**).

- First, the text of ¶ 3.9 of the Demand for Hearing is actually at AR 289. Second, ¶ 3.9 of the Demand for Hearing of Count 3 did not “challenge the reasonableness of the rates”. Instead, ¶ 3.9 of the Demand for Hearing (together with ¶ 3.8) challenged the legal sufficiency of the information that MetLife submitted to the OIC. [See text thereof in **Appendix C**].

B. *Comm.’s Brief* at p. 19 (lines 5-6) erroneously states that the Driscolls (at p.17 of *Pet.’s Brief*), “ explicitly ask the Court to order the **Commissioner to withdraw his approval of the current rate.**” (Emphasis added) However, in fact, p. 17 of *Pet.’s Brief* states that: “Count 3 seeks prospective relief only - - relief that would require **the Commissioner to withdraw the OIC’s approval of the insurer’s use of changed “Policy Schedule” forms issued by the insurer (id).**” (Emphasis added)

- That erroneous statement in *Comm.’s Brief* is grossly misleading; it seeks to persuade the Court that “*the Driscolls’ claim that they seek review of the process, and not of the rate itself, is disingenuous.*” (*Comm.’s Brief, at 18*) and that “Driscoll’s original Demand for Hearing explicitly challenged the reasonableness of the rates” (*Comm.’s Brief at 18.*), citing “AR 33, ¶P 3.9” [presumably

intended to be pg. 33, ¶P. 3.9} , as an example, Likewise, the *Am. Brief of MetLife and T-C Life*, at 34 makes the same contention.

C. *Comm,'s Brief*, at 18-19 likewise incorrectly states that:

“The Driscolls’ original Demand for Hearing explicitly challenged the reasonableness of the rates. For example, in Count 3 of their Demand for Hearing, the Driscolls contended that information submitted by MetLife in support of the filed rate “does not show that the benefits set forth in the changed Policy Schedule are *reasonable*” in relation to the increased rates. AR 33, ¶ 3.9”

- Three (3) problems exist with those statements: **1st**, the cited AR 33 page # is incorrect; ¶ 3.9 is at AR 289; **2nd** the statement that ““The Driscolls’ original Demand for Hearing explicitly challenged the reasonableness of the rates” is untrue, and, **3rd**. the partial quote in the last 3 lines standing alone is misleading. The intent of those words can only be found by reading the entirety of ¶ 3.8 and ¶ 3.9 (AR 289) [See actual text In **Appendix C** attached.]

D. *Comm,'s Brief*, at 19 incorrectly and misleadingly states that the “Driscolls allege that the ongoing use of **the approved rates** unfairly and inequitably profits MetLife...”AR 34 ¶3.10”

(emphasis added). In fact, the intended AR page # of ¶ 3.10 of the Application is AR 290, the corresponding text of which is:

“3.10. The ongoing use of the changed Policy Schedule forms unfairly and inequitably profits MetLife (and/or MetLife and T-C Life) from the legally-insufficient submissions to the agency in support of the changed Policy Schedule forms at the expense of

policyholders including applicant and spouse Mary ”(Emphasis added)

E. *Comm,’s Brief*, at 19, incorrectly and misleadingly states that the Driscoll’s “explicitly ask the Court to order the Commissioner to withdraw his approval of the **current rate**. *Brief of Petitioner at 17.*” (Emphasis added) whereas in fact the *Brief of Petitioner at 17* actually states:

“Count 3 seeks prospective relief only – relief that would require the Commissioner to withdraw the OIC’s approval of **the insurer’s use of changed “Policy Schedule” forms issued by the insurer. (id).**” (emphasis added)

F. *Comm,’s Brief*, at 19 states that ““In their original hearing demand, and as subsequently amended, the Driscolls **asks that MetLife be barred from charging the currently approved rate.**” (emphasis added). *Comm,’s Brief* does not identify the AR page # or the ¶ number(s) of Driscoll’s demand as amended pertaining to Count 3 which *purportedly* include such proposal.

- Driscoll’s review of the Demand for Hearing of Count 3 as supplemented including ¶ 3.12 to ¶3.15 of Driscoll’s Application and Demand for hearing Count 3, AR 290, and supplementary allegations as to Count 3 and approval thereof, at AR 246-250, has not disclosed any such proposal.

7. The judicially-created *Filed Rate Doctrine* does not bar judicial review of a *faulty-process* in which the commissioner failed to adequately review and to disapprove MetLife's legally-non-compliant request for a premium rate modification.

A. The *MetLife/T-C Life Brief's* last ¶ of p.34 incorrectly states:

" . . .despite now purporting to contend that he is challenging the rate-making process only but not the reasonableness of his actual rate, Driscoll has, from the very inception of this proceeding, directly challenged the reasonableness of his rate. [AR 278; CP 35]."

Neither of those cited pages support the charges made.

Additionally, the citations to AR 278 and to CP35 are in error.

B. Count 3 does not address or challenge the amount or the reasonableness of the 41% increase in premium rates that have been charged to the Driscolls since 8/01/2012. (AR 288-290).

Count 3 challenges the legal-insufficiency of the information submitted by MetLife to the OIC on 6/10/2011 that RCW 48.19.040 and RCW 48.19.030 mandates be submitted by the insurer to the OIC as a pre-condition to OIC considering modification of rates. (Id.)

C. Count 3 challenges the commissioner's failure to adequately review and to disapprove MetLife's legally-non-compliant request for approval of the subject premium rate modification. Id; Count 3 does not ask the Court to "evaluate" or "reevaluate" the monetary amount or reasonableness of the rate approved by the OIC nor does Count 3 seek an order directing the Commissioner to do

that as claimed in the *MetLife/T-C Life Brief at 31*.³

8. The Filed Rate Doctrine does not bar or preclude judicial review of a decision made by the OIC denying Driscoll's demand for hearing before the commissioner under RCW 48.04.010(1)(b) that challenges the failure of the OIC to disapprove a legally- non-compliant request for the OIC's approval of an increase in his premium-rates - - and that does not require the court(s) to reevaluate the amount or reasonableness of the approved rate increase.

A. *Tenore v. AT &T Wireless Services*, 136 Wn. 2d 322, 335, 962 P. 2d 104 (1998) identifies the purposes of the doctrine:

"The purposes of the "filed rate" doctrine are twofold: (1) to preserve the agency's primary jurisdiction to determine the reasonableness of rates, and (2) to insure that regulated entities, charge only those rates approved by the agency." (with ft. cite to *Arkansas Louisiana Gas Co. v. Hall*, 453 U.S. 571, 577-78, 101 S. Ct 2925, 2930, 69 L. Ed. 2d 8),

B. *McCarthy Finance, Inc. v. Premera*, 183 Wn. 2d 936 (2015):

"Under the nationally recognized court created "filed rate doctrine," once an agency approves a rate, such as a health insurance premium, courts will not reevaluate that rate because doing so would inappropriately usurp the agency's role. However, courts may consider claims that are related to rates approved by an agency but do not require the courts to reevaluate such rates" (Emphasis added)

C. Here Driscoll's Application and Demand for Hearing of Count 3

does not seek relief that would require the court to evaluate or re-

evaluate the rates approved by the OIC. Count 3 seeks prospect-

tive relief only from and after entry of the proposed order by the

³ *Reader's Digest Oxford Complete Wordfinder* (1988 Oxford University Press, Inc.) defines "evaluate" as "1. assess, appraise; 2 a. find or state the amount of. b. find a numerical expression for." - - and defines "reevaluate" as "evaluate again or differently".

commissioner requiring cessation of the use of the changed “Policy Schedule” forms. ¶ 3.13, AR 290. As held in *McCarthy. supra*, “courts may consider claims that are related to rates approved by an agency but do not require the courts to reevaluate such rates”.

Count 3 is that type of claim.

D. The *MetLife/T-C Life Brief* at 31 contends (wrongly) that the

“ . . . prospective relief Driscoll seeks would require “this Court to intervene and order the reevaluation and modification of his current rate so that he pays a (different (lower) rate in the future. ^ * . “

The relief that Driscoll seeks in Count 3 is set forth in ¶3.13 (CR 290) f Driscoll’s Application and Demand for Hearing. This Court’s objective review thereof will reveal that Driscoll has not requested that the Court reevaluate either the amount or the reasonableness of the approved rates,

E. The *MetLife/T-C Life Brief* at 35 cites, *Miller v. Wells Fargo Bank, N.A.*, 994 F.Supp.2d 542, 553-54 (S.D.N.Y. 2014) to the following effect: “Importantly, the [filed rate] doctrine] “applies even when a claim is based on fraud or impropriety in the method by which the rate is determined.”” In other words, those factors are irrelevant in determining the applicability of the doctrine.

9. Neither the Administrative (“Adm.”) Tribunal nor the Superior Court Ruled on Driscoll’s standing or whether Driscoll has a

right of action or cause of action to pursue. Those issues are not before this Court.

A. The *MetLife/T-C Life Brief* at 11-17, and the *Comm.'s Brief* at

16-17, argue that Driscoll is not a person "aggrieved" under RCW

48.04.010 and therefore Driscoll lacks standing in this proceeding.

¶ 9 of the Adm. Tribunal's 1/23/2015 Order granting *OIC*

Staff's Motion for Summary Judgment, finds in relevant part:

"I assume for purposes of this Order, without deciding, that the Driscolls were aggrieved by an act or failure to act of the commissioner (although a serious standing issue exists) and further assume that the Demand appropriately specifies how they were aggrieved and the basis for relief. (CP 27; AR 004).

B. Similarly, the reviewing Superior Court's 1/14/2015

"Order on Petitioner's Motion to Reconsider" ruled in part:

"The respondent Insurance Carriers reassert their argument that Petitioner has no standing or cause of action to pursue. This may be correct. However, the Court did not make a decision on that point in its oral ruling on August 25, 2015. Nothing reflecting this lack of decision is in the order of November 25th. Instead, the Court chose to look to more substantive grounds on which to base its decision. Thus, the standing and right of action defenses remain undecided. Should this matter be further reviewed on a de novo basis, those issues remain." (emphasis added) (CP 83 excerpt from CP 82-84).

A. Thus the issues of Driscoll's standing and/or cause or right of action are not before this Court in this appellate proceeding.

10, The issue of whether Driscoll has standing as an "aggrieved" person to pursue a separate, later-filed Demand for Hearing in OIC Hearing Unit Docket #16-0002 involving a different rate increase

request matter (which the Insurers label as 'Driscoll II') is not before this Court in this proceeding.

A. In aid of the contention that Driscoll lacks standing in this matter (which issue was not ruled upon below and thus is not before this Court) the *MetLife/T-C Life Brief*, at 15-17, cites as precedent a ruling made by a different Presiding Officer regarding Driscoll's standing to challenge the OIC's approval of a different and later rate-increase request which issue is not before this Court.

B. That ruling, made by the Adm. Tribunal in Hearings Unit Docket # 16-0002, however, is the subject of judicial review in the Spokane County Superior Court Cause # 16-2-02598-1 but it has yet to be considered or decided in that proceeding by the Hon. Raymond F. Clary, Judge, to whom it has been assigned and before whom it is now pending. Currently that ruling in #16-0002 is not relevant to any issue before this Court in these proceedings.

11. The OIC's submission of irreconcilable statements of fact by the same declarant does not support a summary judgment based on one of the two irreconcilable versions.

A. *Comm.'s Brief*, at 22 claims that ¶ 18 of Mr. Fitzpatrick' Declaration (AR 243) proves that MetLife "*submitted all required information pursuant to applicable statutes and rules. AR 243*". However, the 2nd Declaration of Mr. Fitzpatrick (AR 051-

054) at ¶ 18 stated that “Washington specific rates were not filed with the rate filing. .

B. *Meadows v. Grant’s Auto Brokers*, 71 Wn.2d 874, 881-883 (1967) set aside a summary judgment on the grounds that the non-moving party is entitled to all reasonable inferences that may be deduced from varying declarations of the same declarant. The respondents’ contention that Driscoll’s “*evidentiary arguments are irrelevant*” is overstated given WAC 10-08-135 requires a determination that ‘there is no genuine issue as to any material fact...’

12. *Comm.’s Brief, at 15 and MetLife/T-C Life Brief at 24* both contend that statutes of limitation are inapplicable to a demand for an agency adjudicative hearing. Driscoll agrees with that . . . but does not agree that if any statute of limitation does apply it would be RCW 4.16.130 (as found by the Tribunal, AR 001-006); rather it would be RCW 4.16.080(2) as contended in *Pet.’s Brief* at 27-28.

A. The OIC first asserted the statute of limitations defense at pages 12 and 13 of their reply brief (AR 038-039) served and filed on 1/20/2015 which is 3 days prior to issuance of the summary judgment order (AR 001-006). The OIC has now abandoned that defense which the Tribunal had conditionally held time barred all counts. (¶ 19, CP 28-29, AR 005-006).

B. The *MetLife/T-C Life Brief* at 26-27 advance the erroneous contention that if a statute of limitations is applicable it would be

RCW 4.16.130 - - minimalizing the reach of RCW 4.16.080(2) which *Stenberg v. Pacific Power & Light*, 104 Wn. 2d. 710, 711 (1985) says applies to causes of action claiming both direct and indirect injuries to the person or rights of another. *Stenberg* supports Driscoll's position, not the positions of MetLife and T- C Life, on the applicability of RCW 4.16.080(2). See *Pet.s Brief*, at 27-30

13. The *MetLife/T-C Life Brief* at 39 to 43 contends that MetLife and T-C Life must be dismissed from this proceeding because they have been *improperly* joined as parties for the first time on appeal (which contention is disputed by Driscoll).

A. The contention that MetLife and T-C Life each should be dismissed as a party to this proceeding fails to take into account that on 11/04/2014 each was notified and served with true copies the pleadings and other matters listed in **Appendix F** attached that each would have the “*opportunity to respond to the allegations of the application and to be heard in the proceeding*” (AR 018-026).

B. The “Declaration of Metropolitan Life Insurance Company” dated January 2, 2015 (with exhibits) was styled for filing in OIC Docket No. 14-0187 and was in fact filed therein (AR 055-061) which reasonably should be deemed to be a general appearance in the proceeding by MetLife. Neither MetLife nor T-C Life made a special appearance or sought to quash the notice of proceeding

given to them. Likewise, neither made a special appearance in the Superior Court but only included their objection to joinder as a defense filed at that level . (CP 197-199).

14. Reply to MetLife's and T-C Life's proposal at p. 4 of their brief that each be dismissed as a "named party" from the proceeding and also be permitted to remain in an amicus or "interested party" capacity.

A. Footnote 2 at p. 1 of the *MetLife/T-C Life Brief* says that in that brief the two insurance companies are "referred to as "MetLife" which indicates that the above-proposal is made by both of them. Each is already an "interested party" in this proceeding which was why Driscoll notified each of them --as evidenced by the writings in **Appendix E** attached. Thus, neither of them need permission of the Court to remain in the proceeding as a named interested party.

B. MetLife and T-C Life were named as respondents in the Superior Court proceeding because each had been served as a party likely-interested in the underlying proceeding (See **Appendix E**) and because MetLife had provided its' Declaration dated 1/02/2015 that was filed 1/20/2015 (055-061) with the Administrative Tribunal.

15. RCW 34.05.570 (3) establishes the applicable standard of review of the agency's summary judgment order (AR 001-006) including subsections (d) (e), (f), and (i).⁴

A. The Adm. Tribunal's Order granting OIC Staff's Motion for Summary Judgment (AR 001-006) erroneously interprets and applies the law applicable to summary judgment under WAC 10-08-135; has not decided all issues requiring resolution by the agency; and is arbitrary and capricious, in respect to the matters set forth in Assignment of Errors #1 to #15 inclusive of *Pet.s Brief*.

B. The Adm. Tribunal's Order granting OIC Staff's Motion for Summary Judgment (AR 001-006) is not supported by evidence that is substantial [and sufficient for summary judgment under WAC 10-08-135] when viewed in light of the whole record before the court, which includes the agency record for judicial review, supplemented by any additional evidence received by the court under Chapter 34.05 RCW.

⁴ RCW 34.05,570(3) Review of agency orders in adjudicative proceedings. The court shall grant relief from an agency order in an adjudicative proceeding only if it determines that:

- (d) The agency has erroneously interpreted or applied the law;
- e) The order is not supported by evidence that is substantial when viewed in light of the whole record before the court, which includes the agency record for judicial review, supplemented by any additional evidence received by the court under this chapter;
- (f) The agency has not decided all issues requiring resolution by the agency;
- (i) The order is arbitrary or capricious.

16. Issues as to entitlement to costs and fees.

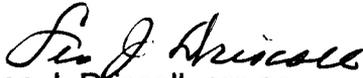
A. Driscoll acknowledges that none of the respondents have refused to stipulate to shorten, summarize, or organize the record;" within the meaning of RCW 34.05.566(5)(a) and that fees are not awardable to Driscoll under RCW 34.05.566.

B. The Court may, however, under RCW 34.05.566(5)(b) tax the cost of preparing transcripts and copies of the record in accordance with any applicable provision of law.

C. Driscoll acknowledges his error in citing the non-existent "RCW 4.08.340, .350. and .360" at p. 30 of *Pet.'s Brief*. The intended citations were and are to RCW 4.84.340, RCW 4.84.350, and RCW 4.84.360.

D. Driscoll also acknowledges that RCW 4.84.360 provides that "*Fees and other expenses awarded under RCW 4.84.340 and 4.84.350 shall be paid by the agency over which the party prevails.*" It does not state that such "Fees and other expenses" shall be paid by an interested party such as MetLife and/or T-C Life.

Respectfully submitted May 25, 2017.


Leo J. Driscoll, pro se
4511 E. North Glenngrae Ln.
Spokane, WA 99223

APPENDICIES TO AMENDED REPLY BRIEF

APPENDIX A: Text of RCW 48.04.010 . . .Pg. 20

APPENDIX B: Text of RCW 48.18.110 . . Pg. 21

APPENDIX C: Text of ¶3.7 and ¶3.8 of Driscoll's Demand for Hearing filed in the administrative proceedings below (as excerpted from AR 289) . . . Pg. 22

APPENDIX D (deleted)

APPENDIX E: True copy of Declaration of Metropolitan Life Insurance Company dated 1-02-2015 (with Exhibits "A" and "B" attached thereto) filed in the administrative record (AR) below as part of OIC Docket No. 14-0187 at pages 055-061. . Pg. 23 and 23-A to 23-G inclusive

APPENDIX F: True copy of Declaration of Mailing by Driscoll to the Insurance Commissioner on 10/31/2014 and the resulting acceptance and Certifications of Service thereof on 11/04/2014 by the Insurance Commissioner on the respondent insurers, all as filed in the administrative record below of OIC Docket No. 14-0187, pgs. 018-026 . . . Pg. 24 and 24-A to 24-I inclusive.

APPENDIX A
TO AMENDED REPLY BRIEF IN CASE #340881

RCW 48.04.010

Hearings—Waiver—Administrative law judge.

(1) The commissioner may hold a hearing for any purpose within the scope of this code as he or she may deem necessary. The commissioner shall hold a hearing:

(a) If required by any provision of this code; or

(b) Except under RCW 48.13.475, upon written demand for a hearing made by any person aggrieved by any act, threatened act, or failure of the commissioner to act, if such failure is deemed an act under any provision of this code, or by any report, promulgation, or order of the commissioner other than an order on a hearing of which such person was given actual notice or at which such person appeared as a party, or order pursuant to the order on such hearing.

(2) Any such demand for a hearing shall specify in what respects such person is so aggrieved and the grounds to be relied upon as basis for the relief to be demanded at the hearing.

(3) Unless a person aggrieved by a written order of the commissioner demands a hearing thereon within ninety days after receiving notice of such order, or in the case of a licensee under Title 48 RCW within ninety days after the commissioner has mailed the order to the licensee at the most recent address shown in the commissioner's licensing records for the licensee, the right to such hearing shall conclusively be deemed to have been waived.

(4) If a hearing is demanded by a licensee whose license has been temporarily suspended pursuant to RCW 48.17.540, the commissioner shall hold such hearing demanded within thirty days after receipt of the demand or within thirty days of the effective date of a temporary license suspension issued after such demand, unless postponed by mutual consent.

(5) A licensee under this title may request that a hearing authorized under this section be presided over by an administrative law judge assigned under chapter 34.12 RCW. Any such request shall not be denied.

(6) Any hearing held relating to RCW 48.20.025, 48.44.017, or 48.46.062 shall be presided over by an administrative law judge assigned under chapter 34.12 RCW.

[2000 c 221 § 8; 2000 c 79 § 1; 1990 1st ex.s. c 3 § 1; 1988 c 248 § 2; 1967 c 237 § 16; 1963 c 195 § 2; 1947 c 79 § .04.01; Rem. Supp. 1947 § 45.04.01.]

APPENDIX B
TO AMENDED REPLY BRIEF IN CASE # 340881

RCW 48.18.110

Grounds for disapproval.

(1) The commissioner shall disapprove any such form of policy, application, rider, or endorsement, or withdraw any previous approval thereof, only:

(a) If it is in any respect in violation of or does not comply with this code or any applicable order or regulation of the commissioner issued pursuant to the code; or

(b) If it does not comply with any controlling filing theretofore made and approved; or

(c) If it contains or incorporates by reference any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the contract; or

(d) If it has any title, heading, or other indication of its provisions which is misleading; or

(e) If purchase of insurance thereunder is being solicited by deceptive advertising.

(2) In addition to the grounds for disapproval of any such form as provided in subsection (1) of this section, the commissioner may disapprove any form of disability insurance policy if the benefits provided therein are unreasonable in relation to the premium charged. Rates, or any modification of rates effective on or after July 1, 2008, for individual health benefit plans may not be used until sixty days after they are filed with the commissioner. If the commissioner does not disapprove a rate filing within sixty days after the insurer has filed the documents required in RCW 48.20.025(2) and any rules adopted pursuant thereto, the filing shall be deemed approved. [2008 c 303 § 1; 2000 c 79 § 2; 1985 c 264 § 9; 1982 c 181 § 9; 1947 c 79 § .18.11; Rem. Supp. 1947 § 45.18.11.]

APPENDIX C
TO AMENDED REPLY BRIEF IN CASE #340881
(¶ 3.8 and ¶3. 9 of Driscoll's Demand for Hearing,
(As Excerpted from AR 289)

- 3.8 As detailed in the re-alleged paragraphs of Count 1, the rate-increase request that was the basis for each new "Policy Schedule" form [for the in force series LTC.04(WA) policy forms as to which T-C Life was insurer] was not and is not supported with information submitted to OIC showing that the request complied with applicable provisions of the insurance code and regulations of the Commissioner issued pursuant to the code. Cause is shown that the rate increase and Policy Schedule do not comply with such laws and regulations.
- 3.9 Likewise, such information submitted did not and does not show that the benefits scheduled in the changed Policy Schedule are reasonable in relation to premiums set forth in that changed form, consistent with the intent of WAC 284-54-600(2).

APPENDIX E
TO AMENDED REPLY BRIEF IN CASE #340881

The attached true copy of the "Declaration of Metropolitan Life Insurance Company" dated 1-02-2015 (with Exhibits "A" and "B" attached thereto) consists of seven pages filed in the administrative record (AR) below as part of OIC Docket No.14-0187at pages 055-061. Those seven pages are also now marked in handwriting as Pgs. 23-A to 23-G inclusive

**STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER**

In the Matter of

DOCKET NO. 14-0187

**LEO J. DRISCOLL AND MARY T.
DRISCOLL**

DECLARATION OF METROPOLITAN LIFE INSURANCE COMPANY

I, Thomas Reilly, represent and warrant, declare and say:

1. My name is Thomas Reilly. I am over 18 years of age and I am competent to testify regarding the matters in this affidavit as of my own personal knowledge.

2. Metropolitan Life Insurance Company ("MetLife") is incorporated in New York, with a principal place of business in New York. I am employed with MetLife as a Director of Product Management and Compliance. In this capacity I am familiar with Long-Term Care Insurance products, long-term care product and rate filings and long-term care compliance matters.

3. My responsibilities now relate to the filing of long-term care insurance rate filings applicable to long-term care insurance products insured and reinsured by MetLife as well as ensuring MetLife's products are compliant. My responsibilities in 2011 were consistent with what they currently are and I managed the rate filing project commencing in 2011 that included filing rate increases in Washington for various MetLife long-term care insurance policies and TIAA-CREF Life Insurance Company long-term care insurance policies reinsured and administered by MetLife, including policies issued to Leo Driscoll and Mary Driscoll ("the Driscolls").

4. On June 10, 2011, MetLife submitted long-term care insurance rate increase filings to the Washington State Office of the Insurance Commissioner ("WA DOI") for review and approval. In the filing letter (attached hereto as "Exhibit A") applicable to the policy forms issued to the Driscolls, MetLife requested

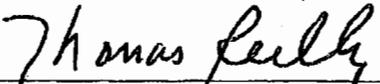
Pg. 23-A

a 41% increase and specifically advised the WA DOI that MetLife was filing the increase for the WA DOI's "review and approval" and further stated that MetLife would only make the rate increase effective after MetLife "obtained approval of the premium rate increase" from the WA DOI and after providing 60 days advance notice to policyholders.

5. On August 17, 2011, MetLife received a communication from the WA DOI setting forth an implementation date for the 41% increase requested in MetLife's June 10, 2011 filing (WA DOI August 17, 2011 communication attached hereto as "Exhibit B").

6. Consistent with the conditions set forth in MetLife's June 10, 2011 filing with the WA DOI, MetLife did not commence the implementation of the 41% increase on the Driscolls' policies until after receiving the August 17, 2011 communication from the WA DOI and after providing the Driscolls with 60 days advance written notice. This is consistent with MetLife's implementation process whereby we wait for an indication of acceptance from a state insurance department before we proceed with implementing a rate increase.

FURTHER DECLARANT SAYETH NOT.


THOMAS REILLY, Director, Product Management and Compliance
Metropolitan Life Insurance Company

Dated: January 2, 2015

Pg. 23-B

EXHIBIT "A"

Metropolitan Life Insurance Company
1096 Sixth Avenue
New York, NY 10036
Tel 212 578-2944 Fax 212 578-3874
croth@metlife.com

MetLife®

Carolyn J. Roth
Director
Institutional Business Contracts

June 10, 2011

Washington State Office of the Insurance Commissioner
Insurance 5000 Building
5000 Capitol Way
Tumwater, WA 98501

Re: TIAA-CREF Life Insurance Company ("T-C Life")
Individual Long-Term Care Insurance – Premium Rate Schedule Increase Filing
T-C Life NAIC Company No. is 60142
T-C Life FEIN is 13-3917848

Dear Sir/Madam:

The referenced filing is being submitted by Metropolitan Life Insurance Company ("MetLife") as administrator on behalf of T-C Life, under an administrative agreement between MetLife and T-C Life that became effective on May 1, 2004. A letter authorizing MetLife to submit this filing on behalf of T-C Life is included in this filing.

Background on Reinsurance Transactions

On May 1, 2004, MetLife entered into indemnity reinsurance agreements with each of T-C Life and Teachers Insurance and Annuity Association ("TIAA" and together with T-C Life, "Teachers"), pursuant to which MetLife agreed to reinsure all of Teachers' long-term care insurance business on an indemnity reinsurance basis.

Concurrently with entering into the indemnity reinsurance agreements, MetLife entered into assumption reinsurance agreements with each of TIAA and T-C Life, pursuant to which MetLife agreed to assume Teachers' direct obligations under their long-term care insurance policies on the terms and conditions set forth in the assumption reinsurance agreements.

All required approvals were obtained for these transactions.

This filing for approval only pertains to those long-term care insurance policies issued by T-C Life in your state that MetLife reinsures on an indemnity reinsurance basis. Concurrently with this filing, we are submitting the following filings to request approval of premium rate schedule increases for:

- a filing to request approval of premium rate schedule increases for the long-term care policies that MetLife indemnity reinsures for TIAA (policy form series LTC.02 and LTC.03); and
- a filing to request approval of premium rate schedule increases for the TIAA and T-C Life long-term care policies assumed by MetLife.

Although we are submitting three separate filings for rate increases related to the Teachers long-term care business, we are requesting that the policies to which the three filings relate be treated as one block of business for purposes of review and approval of our premium rate schedule increase filings and consistency in the amount of the rate increase which is ultimately approved.

Request for Approval of Inforce Premium Rate Schedule Increase

We are filing, for your review and approval, a request for a premium rate schedule increase on the following T-C Life long-term care insurance policy forms series:

W11-27 TL (TC-LIFE - Rates)

Pg. 23-C

- TCL-LTC.04(WA) Ed. 4/00, initially approved by your Department on March 16, 2001, along with any rider and endorsement forms that were contemporaneously or subsequently approved for use with that policy form. This policy series is no longer being marketed to new policyholders in any state.

At this time, we are requesting a premium rate increase of 41% on the above listed policy forms series and all associated riders that were issued in your state. No premium rate increase has been previously approved or implemented for these forms. We are submitting an actuarial memorandum and rates in support of our request.

Notification to Policyholders of Premium Rate Schedule Increase

After we have obtained approval of the premium rate increase, we intend to provide policyholders with a minimum of 60 days advance written notification prior to the first effective date of the increase. In our written notification we will explain that:

- the policyholder can continue his/her current coverage by paying the new premium amount when due;
- the policyholder can reduce his/her coverage to lessen the impact of the premium rate schedule if the current level of coverage permits a reduction; or
- if the policyholder's coverage lapses (due to nonpayment of premium or cancellation) at anytime from the date of our written notification up to 120 days following the first due date of the new premium ("Election Period"), that the policyholder will have nonforfeiture coverage.

If the policyholder's coverage includes the shortened benefit period nonforfeiture benefit and coverage lapses during the Election Period, the nonforfeiture coverage will be provided under that feature.

In all other cases, we will automatically issue the policyholder the Limited Coverage Upon Lapse Following Premium Increase Endorsement ("LCUL") described below. Note that if the policyholder qualifies for coverage under Contingent Benefit Upon Lapse, we will instead provide coverage under LCUL since the benefit payable under LCUL is equal to the benefit payable under Contingent Benefit Upon Lapse.

The LCUL endorsement provides the same benefits that were in effect under the policy immediately prior to the date it lapsed, except that:

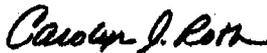
- the policyholder's lifetime benefit maximum will be reduced to the greater of:
 - the sum of all paid premiums; or
 - 30 times the nursing home daily benefit maximum in effect immediately prior to lapse; and
- no further premiums will be due, the policyholder may no longer change benefit amounts and will no longer receive increases under any inflation option that is part of the policy.

Total benefits payable under the endorsement will not exceed the remaining lifetime benefit maximum in effect immediately prior to lapse.

We will not provide coverage under more than one nonforfeiture coverage provision.

Thank you for your attention to our filing. We look forward to hearing from you.

Sincerely,



Carolyn Roth
Director

EXHIBIT "B"

<i>SERFF Tracking Number:</i>	<i>META-127150316</i>	<i>State:</i>	<i>Washington</i>
<i>Filing Company:</i>	<i>TIAA-CREF Life Insurance Company</i>	<i>State Tracking Number:</i>	<i>230615</i>
<i>Company Tracking Number:</i>	<i>W11-27 TL (TC-LIFE - RATES) CC</i>		
<i>TOI:</i>	<i>LTC06 Long Term Care - Other</i>	<i>Sub-TOI:</i>	<i>LTC06.000 Long Term Care - Other</i>
<i>Product Name:</i>	<i>Long Term Care Insurance</i>		
<i>Project Name/Number:</i>	<i>LCUL04-TCLW11-27 TL (T-C LIFE)</i>		

A23-E

SERFF Tracking Number: META-127150316
 Filing Company: TIAA-CREF Life Insurance Company
 Company Tracking Number: W11-27 TL (TC-LIFE - RATES) CC
 TOI: LTC06 Long Term Care - Other
 Product Name: Long Term Care Insurance
 Project Name/Number: LCUL.04-TCL/W11-27 TL (T-C LIFE)

State: Washington
 State Tracking Number: 230615
 Sub-TOI: LTC06.000 Long Term Care - Other

Disposition

Disposition Date: 08/17/2011
 Implementation Date: 10/16/2011
 Status: Filed
 Comment:

You have been selected to take part in our online customer survey. Please take a minute or two to give us your feedback so we can better serve you. The survey is completely voluntary and confidential.

Take the survey at: <http://www.sesrc.wsu.edu/PugetSound/RatesandForms>

Company Name:	Overall % Indicated Change:	Overall % Rate Impact:	Written Premium Change for this Program:	# of Policy Holders Affected for this Program:	Written Premium for this Program:	Maximum % Change (where required):	Minimum % Change (where required):
TIAA-CREF Life Insurance Company	41.000%	41.000%	\$35,747	55	\$87,187	41.000%	41.000%

Pa. 13.1

SERFF Tracking Number: META-127150316

State: Washington

Filing Company: TIAA-CREF Life Insurance Company

State Tracking Number: 230615

Company Tracking Number: W11-27 TL (TC-LIFE - RATES) CC

TOI: LTC06 Long Term Care - Other

Sub-TOI: LTC06.000 Long Term Care - Other

Product Name: Long Term Care Insurance

Project Name/Number: LCUL.04-TCL/W11-27 TL (T-C LIFE)

Schedule	Schedule Item	Schedule Item Status	Public Access
Supporting Document	Actuarial Memorandum		Yes
Supporting Document	Long Term Care Rates		Yes
Supporting Document	Cover Letter		Yes
Supporting Document	Authorization Letter		Yes
Rate	Generic Rates		Yes

Appendix F of Amended Reply Brief in Case 340881

Appendix F consists of nine (9) pages appended hereto that are marked and identified as pages 018 to 026 of the Administrative Record ("AR") of the administrative proceeding below, Docket No. 14-0187, that was certified and provided to the Spokane Superior Court in Case No. 15-2-00920-1. Such pages include:

(1) a true copy of Driscoll's letter of transmittal to the Hearings Unit of the Office of the Insurance Commissioner ("OIC") dated January 20, 2015, AR 018 (which letter also states that a copy of that letter and enclosures was concurrently mailed to Ms. Mandy Weeks, the attorney for the OIC in such matter) ;

(2) a true copy of Driscoll's Declaration of Mailing specified items to the Insurance Commissioner on 10/31/2014 (AR 019 and 020);

(3) a true copy of the Insurance Commissioner's resulting written acceptance and Certifications of Service made on behalf of T-C Life Insurance Company and on behalf of Metropolitan Life Insurance Company on 11/04/2014, together with the Insurance Commissioner's concurrent certification of mailing to each of such insurers duplicate copies of the items received on their behalf (AR pages 021-026).

Those nine pages are also marked in Driscoll's handwriting as Pgs. 24-A to 24-I inclusive.

Leo Driscoll
4511 E. North Glenngrae Ln.
Spokane, WA 99223

January 20, 2015

Hearings Unit
Office of the Insurance Commissioner
5000 Capitol Blvd., S.E.
Tumwater, WA 98501

Attention: Kelly Cairns

Dear Ms. Cairns:

Enclosed for filing in OIC Hearings Unit Proceeding No. 14-0187 is my Declaration of this date as to Mailing and as to Certifications Issued by the Insurance Commissioner, together with copies of each of the three (3) attachments listed therein.

I am concurrently mailing a copy of this letter and enclosures to Ms. Mandy Weeks, attorney for OIC in this matter.

Please acknowledge receipt.

Thank you,


Leo J. Driscoll

Cc: Mandy Weeks

Pgs. 24-A

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BEFORE THE STATE OF WASHINGTON
INSURANCE COMMISSIONER

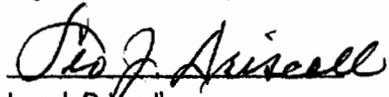
In the Matter of)
)
Leo J. Driscoll and) **Hearings Unit, No. 14-0187**
Mary T. Driscoll,) **Declaration as to Mailing and as to Certifications**
) **Issued by the Insurance Commissioner**

The undersigned Leo J. Driscoll declares under penalty of perjury under the laws of the State of Washington:

1. That on October 31, 2014, I mailed through the United States Postal Service, postage prepaid, true copies of the attached "NOTICE OF APPLICATION FOR ADJUDICATIVE PROCEEDINGS, DEMAND FOR HEARING, AND OF ORDERS AND MATTERS RELATING TO SUCH PROCEEDINGS, PENDING BEFORE THE THE WASHINGTON STATE INSURANCE COMMISSIONER, HEARINGS UNIT, DOCKET NO. 14-0187". (and each of the documents described therein), to the Office of The Insurance Commissioner, Service of Legal Process, P.O. Box 40257, Olympia, WA 98504-0257, for purposes of service on **TIAA-CREF Life Insurance Company** and on **Metropolitan Life Insurance Company**, each of such companies having designated the Insurance Commissioner as its' attorney to receive legal process issued against it upon causes of action arising in this state:
2. That attached is a true copy of the "Insurance Commissioner's Certificate of Service" dated November 4, 2014, that (a) accepts service on November 3, 2014 of documents referenced therein on behalf of and as statutory attorney for **TIAA-CREF Life Insurance Company**, an authorized foreign or alien insurer, (b) states that a duplicate copy of the items listed in such certificate have been forwarded by the Commissioner to said insurance company; and (c) acknowledges receipt of statutory service fee;
3. That attached is a true copy of the "Insurance Commissioner's Certificate of Service" dated November 4, 2014, that (a) accepts service on November 3, 2014 of documents referenced therein on behalf of and as statutory attorney for **Metropolitan Life Insurance Company**, an authorized foreign or alien insurer, (b) states that a duplicate copy of the items listed in such certificate have been forwarded by the Commissioner to said insurance company, and (c) acknowledges receipt of statutory service fee.

Pg. 24-B

Signed and dated by me this 20th day of January, 2015, in Spokane County, Washington.


Leo J. Driscoll

Pg. 24-C

**NOTICE OF APPLICATION FOR ADJUDICATIVE PROCEEDINGS, DEMAND FOR HEARING,
AND OF ORDERS AND MATTERS RELATING TO SUCH PROCEEDINGS**

**PENDING BEFORE THE WASHINGTON STATE INSURANCE COMMISSIONER,
HEARINGS UNIT, DOCKET NO. 14-0187**

TO: TIAA-CREF Life Insurance Company ("T-C Life"), a foreign insurer, and

TO: Metropolitan Life Insurance Company ("MetLife"), a foreign insurer,

each of which engages in the business of insurance in the State of Washington.

Notice is hereby given to each of you that an application for adjudicative proceeding submitted by the undersigned applicant to the Washington State Insurance Commissioner (the "Commissioner") includes causes and counts that affect or that may affect your rights and interests, including those relative to and arising from the June 10, 2011 request and approval of the 41% premium-rate increase of Long-Term Care Insurance policy forms series LTC.04(WA) issued by T-C Life during 2001-2004, including forms thereof issued to applicant and his spouse. The application is filed with and is pending before the Hearings Unit of the "Commissioner, Docket No. 14-018, before the Presiding Officer, Judge George Finkle (Ret.).

By this Notice, applicant seeks to accord each of you the opportunity to respond to the allegations of the application and to be heard in the proceeding. This Notice is provided to you by the applicant pursuant to RCW 34.05.437(3) and as permitted by paragraph 7 of the Order of October 8, 2014 that is referenced in subparagraph (2)-b below.

A true copy of each of the following listed documents filed in such proceedings (and/or that are related to such proceedings) are being served upon you with this Notice:

- (1) Application to the Commissioner filed and submitted by Leo J. Driscoll dated September 15, 2014 (to which is attached written approval of his spouse Mary T. Driscoll) for a consolidated adjudicative proceeding as to four (4) related counts, together with the accompanying "Table of Contents to Driscoll Application to the Insurance Commissioner", which items have been filed and are now pending in the Hearings Unit, Office of the Insurance Commissioner, Docket No. 14-0187.

Demand for hearing of Counts 1, 3, and 4 of the application is set forth in the Prefatory to the application; the grounds for such demand have been amended and supplemented as set forth in the Order of October 29, 2014 that is referenced in paragraph (2)-d of this Notice.

(2) Copy of each of the following documents that are related to the application and/or demand for hearing:

- a. Notice of Receipt of Demand for Hearing, dated September 24, 2014, by and on behalf of the Hearings Unit, and "Order on Prehearing Conference" filed October 8, 2014.
- b. Order on Prehearing Conference dated October 8, 2014 (NOTE: By agreement, approved by the Presiding Officer October 24 2014, the schedule as to the dispositive motion has been revised as follows: Motion to Dismiss, due November 7, 2014; Response, due December 5, 2014; Reply, due December 12, 2014).
- c. Motion to Amend and Supplement Grounds for Demand for Hearing of Counts 1, 3 and 4, dated October 23, 2014.
- d. Order on Motion to Amend and Supplement Grounds for Demand for Hearing, dated October 28, 2014, filed October 29, 2014.

The Commissioner ("OIC") is represented in this matter by Ms. Mandy Weeks, Attorney at Law, Legal Affairs Division, Office of the Insurance Commissioner, Telephone number (360) 725-7181, e-mail address: MandyW@oic.wa.gov

Below find contact information for communication to the undersigned applicant who is not represented by counsel in these proceedings.

October 31, 2014.



Leo J. Driscoll
4511 E. North Glenngrae Ln.
Spokane, WA 99223
Telephone: (509) 747 7468
e-mail: oleod1@msn.com

**BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER**

In the Matter of)

LEO J. DRISCOLL and)
MARY T. DRISCOLL)

Application for Hearing)

NO. 14-0187

INSURANCE COMMISSIONER'S
CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that the Insurance Commissioner of the State of Washington has accepted service of

NOTICE OF APPLICATION FOR ADJUDICATIVE PROCEEDINGS, DEMAND FOR HEARING, AND OF ORDERS AND MATTERS RELATING TO SUCH PROCEEDINGS PENDING BEFORE THE WASHINGTON INSURANCE COMMISSIONER, HEARINGS UNIT, DOCKET NO. 14-0187; APPLICATION FOR ADJUDICATIVE; NOTICE OF RECEIPT OF DEMAND FOR HEARING; ORDER ON PREHEARING CONFERENCE; MOTION TO AMEND AND SUPPLEMENT GROUNDS FOR DEMAND FOR HEARING OF COUNTS 1, 3 AND 4; ORDER ON MOTION TO AMEND AND SUPPLEMENT GROUNDS FOR DEMAND FOR HEARING

in the above-mentioned matter on NOVEMBER 3, 2014, on behalf of and as statutory attorney for

TIAA-CREF LIFE INSURANCE COMPANY

an authorized foreign or alien insurer, and has forwarded a duplicate copy thereof to said insurance company pursuant to RCW 48.02.200 and 48.05.200.

Receipt of the \$10 statutory service fee is acknowledged.

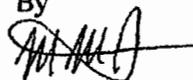
ISSUED AT OLYMPIA, WASHINGTON: NOVEMBER 4, 2014

Tracker ID 12003

Certification No.: 91 7199 9991 7031 7905 0677

MIKE KREIDLER
Insurance Commissioner

By



Miranda Matson-Jewett
Service of Process Coordinator

Original to:

LEO J. DRISCOLL
4511 E. North Glenngrae Ln.
Spokane WA, 99223

Copy to:

CORPORATION SERVICE COMPANY
300 Deschutes Way SW Ste 304
Tumwater WA, 98501

Tracker ID 12003

Pg. 24-G

**BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER**

In the Matter of)
LEO J. DRISCOLL an d) **NO. 14-0187**
MARY T. DRISCOLL)
Application for Hearing) **INSURANCE COMMISSIONER'S**
) **CERTIFICATE OF SERVICE**
)

THIS IS TO CERTIFY that the Insurance Commissioner of the State of Washington has accepted service of

NOTICE OF APPLICATION FOR ADJUDICATIVE PROCEEDINGS, DEMAND FOR HEARING, AND OF ORDERS AND MATTERS RELATING TO SUCH PROCEEDINGS PENDING BEFORE THE WASHINGTON INSURANCE COMMISSIONER, HEARINGS UNIT, DOCKET NO. 14-0187; APPLICATION FOR ADJUDICATIVE; NOTICE OF RECEIPT OF DEMAND FOR HEARING; ORDER ON PREHEARING CONFERENCE; MOTION TO AMEND AND SUPPLEMENT GROUNDS FOR DEMAND FOR HEARING OF COUNTS 1, 3 AND 4; ORDER ON MOTION TO AMEND AND SUPPLEMENT GROUNDS FOR DEMAND FOR HEARING

in the above-mentioned matter on NOVEMBER 3, 2014, on behalf of and as statutory attorney for

METROPOLITAN LIFE INSURANCE COMPANY

an authorized foreign or alien insurer, and has forwarded a duplicate copy thereof to said insurance company pursuant to RCW 48.02.200 and 48.05.200.

Receipt of the \$10 statutory service fee is acknowledged.

ISSUED AT OLYMPIA, WASHINGTON: NOVEMBER 4, 2014

Tracker ID 12002

Certification No.: 91 7199 9991 7031 7902 7143

MIKE KREIDLER
Insurance Commissioner

By


Jane Nesbitt
Service of Process Coordinator

Original to:

LEO J. DRISCOLL
4511 E. NORTH GLENGRAE LN.
SPOKANE, WA 99223

Copy to:

CT CORPORATION SYSTEM
505 UNION AVE SE
OLYMPIA, WA 98501

Tracker ID 12002