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December 11, 2017

Via electronic mail transmission to e-ORI@dol.gov

Timothy D. Hauser
Deputy Assistant Secretary
United States Department of Labor
Office of Regulations and Interpretations
Employee Benefits Security Administration
Room M-5655
200 Constitution Avenue NW
Washington D.C. 20210

Re: Claims Procedure Regulations for Plans Providing Disability Benefits
Examination
RIN No.: 1210-AB39
Regulation: 29 CFR § 2560.503-1

Dear Deputy Assistant Secretary Hauser:

I write to comment on the contemplated revisiting of amendments to claims-procedure regulations for ERISA-governed disability benefit plans. These regulations interest me greatly because, in my law practice, I focus on representing claimants in disputes respecting these sorts of claims. I have considerable experience in how these regulations impact claimants and the claims process, as I have represented both claimants and institutional defendants in ERISA disability disputes over my 30-year legal career.

I trust that you will be receiving quite a few comments and expect that those comments from people looking out for the interests of claimants will be seriously considered.

I would like to offer just a couple of brief thoughts. First, as I understand it the ERISA insurance industry is contending that unless the regulations are revisited, costs of providing coverage will increase prohibitively. So far as I know, the basis for this contention has not been made public, and we are expected to accept the industry's *ipse dixit*. But we have heard this many times before, and the industry always seems to find a way to stay in business. I seriously doubt that the rather modest improvements in the regulations that the now-delayed amendments would effect would so profoundly impact their bottom line.

Seconds, as I understand it the industry has also objected that the amendments would disadvantage them unduly in judicial proceedings. If they are serious about that then they have more chutzpah than I could ever muster. ERISA, as interpreted by the courts over the years, has afforded the insurance industry unique and unprecedented immunity from liability and has altered the usual rules of engagement in court quite drastically in their favor. Any movement in

Timothy D. Hauser

Re: Claims Procedure Regulations for Plans Providing Disability Benefits Examination

December 11, 2017

Page 2

the other direction would represent at best a very modest tweak in what remains an unacceptably unfair system.

For these and other reasons the delayed amendments should be made effective without further delay.

Thank you for considering my input.

Very truly yours,

Richard Johnston

RJ/tlv