



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

(304) 558-2021
Fax (304) 558-0410

**WRITTEN DETERMINATION REGARDING THE APPOINTMENT OF OUTSIDE
COUNSEL ON BEHALF OF THE WEST VIRGINIA OFFICES OF THE
INSURANCE COMMISSIONER**

The West Virginia Offices of the Insurance Commissioner (hereinafter the "OIC") is in need of continuing legal representation in the case of *Michael Kostenko, D.O. v. WV Offices of the Insurance Commissioner*, Civil Action No. 10-AA-14. The legal matter, which was originally filed in Raleigh County Circuit Court, is currently pending before the West Virginia Supreme Court of Appeals.

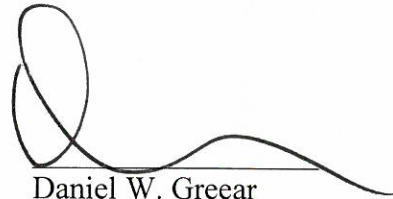
The OIC has been represented by the law firm of Bailey & Wyant in the above-cited matter since September 28, 2010. The contract for legal services is set to expire on September 14, 2013, and the Office has requested an extension to allow for completion of the needed legal services.

In accordance with the Attorney General's Policy on Outside Counsel (Policy #WVAGO-004), the Office of the Attorney General has determined that it is both cost-effective and in the interest of the public to authorize the re-appointment of Bailey & Wyant to allow for completion of the current legal matter, based on the following factors:

- Bailey & Wyant has served in the capacity of legal counsel for the case of *Michael Kostenko, D.O. v. WV Offices of the Insurance Commissioner*, Civil Action No. 10-AA-14 since its initial filing.
- Bailey & Wyant is readily accessible to continue providing the legal services in question.
- Bailey & Wyant is located in the geographic area (Kanawha County) where the remainder of the needed legal services are to be performed.
- Bailey & Wyant is already knowledgeable of the legal matter in question, and thus is uniquely suited to perform the legal services needed.
- The legal matter in question involves issues that would take weeks if not months for the Office of the Attorney General to familiarize itself with.

- Prompt legal representation is needed as the matter in question is currently pending before the West Virginia Supreme Court of Appeals.

Because this matter involves the continuation of a pending legal matter that is necessary to avoid disruption in ongoing legal matters, the Office of the Attorney General has determined that Requests for Proposal are not necessary pursuant to Section (D)(2) of Policy #WVAGO-004.

A handwritten signature in black ink, consisting of a large loop followed by a series of smaller loops and a long horizontal stroke extending to the right.

Daniel W. Greear
Chief Counsel

Date Signed: September 5, 2013