

**DOCKET NO. 454-09-4837.E**

**IN THE MATTER OF  
W. KAY METCALF**

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**BEFORE THE STATE OFFICE**

**VS.**

**OF**

**TEXAS WINDSTORM INSURANCE  
ASSOCIATION**

**ADMINISTRATIVE HEARINGS**

**TEXAS WINDSTORM INSURANCE ASSOCIATION'S  
MOTION TO ADMIT PREFILED TESTIMONY**

Texas Windstorm Insurance Association ("T.W.I.A.") submits the following Motion to Admit Prefiled Testimony of Dr. William Spelman at the contested case hearing in the above named and numbered proceeding.

**I.**

1. The State Office of Administrative Hearings ("SOAH") will conduct a public hearing on August 5, 2009, beginning at 9:00 a.m., at the request of Petitioner W. Kay Metcalf, regarding T.W.I.A.'s decision to deny payment for a portion of her claim.

**II.**

2. Pursuant to §155.429(c)(1) of the SOAH Rules of Practice and Procedure, and in order to expedite the upcoming hearing, T.W.I.A. respectfully requests that SOAH allow T.W.I.A. to submit prefiled testimony of Dr. William Spelman.
3. Dr. William Spelman provided sworn testimony in a previous contested case hearing involving a "slab" claim (see SOAH Docket No. 454-09-3158.E). He has not been retained by T.W.I.A. to specifically evaluate any particular claim, but rather he was retained to

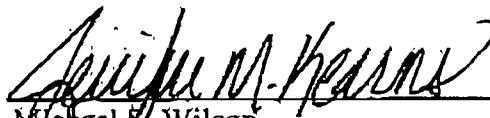
perform a statistical analysis from which all slab claims were evaluated by T.W.I.A. His sworn testimony offered in the previous contested case hearing explained the process by which he performed his statistical analysis, and another witness explained how that statistical analysis was applied to the particular slab claim. With respect to the William F. Miranda contested case hearing, his testimony would not materially change from what was offered in the previous contested case hearing. The edited copy of the testimony offered by Dr. William Spelman in SOAH Docket No. 454-09-3158.E is attached as Exhibit A. It was edited to remove specific references to the claimant in that case and for non-substantive editorial corrections.

WHEREFORE, PREMISES CONSIDERED, T.W.I.A. respectfully requests that SOAH allow the testimony of Dr. William Spelman to be prefiled and admitted into evidence at the upcoming contested case hearing.

Respectfully submitted,

DAVIS & WILKERSON, P.C.  
P. O. Box 2283  
Austin, Texas 78768  
Tel: (512) 482-0614  
Fax: (512) 482-0342

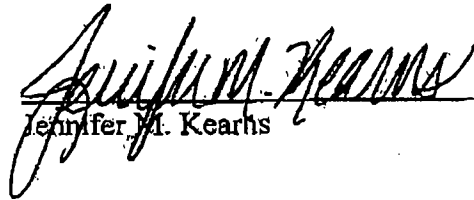
By:



Michael S. Wilson  
State Bar No. 21704810  
Jennifer M. Kearns  
State Bar No. 24049865  
ATTORNEY FOR RESPONDENT  
TEXAS WINDSTORM  
INSURANCE ASSOCIATION

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been delivered via U.S. certified mail, return receipt requested to W. Kay Metcalf, 3735 Wakeforest Street, Houston, Texas 77098 on this 27<sup>th</sup> day of July, 2009.

  
Jennifer M. Kearns