

19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

NO.: 651,069

SECTION 22

JAMES J. DONELON, COMMISSIONER OF INSURANCE
FOR THE STATE OF LOUISIANA, IN HIS CAPACITY AS REHABILITATOR OF
LOUISIANA HEALTH COOPERATIVE, INC.

VERSUS

TERRY S. SHILLING, GEORGE G. CROMER, WARNER L. THOMAS, IV, WILLIAM A.
OLIVER, CHARLES D. CALVI, PATRICK C. POWERS, CGI TECHNOLOGIES AND
SOLUTIONS, INC., GROUP RESOURCES INCORPORATED, BEAM PARTNERS, LLC,
MILLIMAN, INC., BUCK CONSULTANTS, LLC, AND TRAVELERS CASUALTY AND
SURETY COMPANY OF AMERICA

FILED: _____

DEPUTY CLERK

MOTION AND INCORPORATED
MEMORANDUM TO DESIGNATE THE RECORD ON APPEAL

NOW INTO COURT, through undersigned counsel, comes Milliman, Inc. (“Milliman”), who respectfully moves the Court to designate the record for the appeal of the February 25, 2021 Judgment, upon representing as follows:

1.

On March 8, 2021, Milliman filed a Motion for Devolutive Appeal from the Court’s February 25, 2021 Judgment denying Milliman’s Motions to Compel non-party, the Louisiana Department of Insurance (“LDI”), to Comply with Subpoenas Duces Tecum. The motion was granted, and thus, the appeal taken, on March 10, 2021.

2.

Because of the nature of the appeal, Milliman respectfully requests that the following portions of the record, including all attachments and exhibits thereto, be designated as the record on appeal, pursuant to Louisiana Code of Civil Procedure article 2128 and Uniform Rule of Louisiana Courts of Appeal 2-1.17.

A. PLEADINGS, ASSOCIATED EXHIBITS, AND OTHER RECORD MATERIALS

1. Plaintiff’s Second Supplemental, Amending and Restated Petition for Damages and Request for Jury Trial filed on or about October 25, 2017;
2. Milliman’s Answer to Second Supplemental, Amending and Restated Petition for Damages and Request for Jury Trial filed on or about December 14, 2017;

3. Order granting Plaintiff's Motion for Leave to File Plaintiff's Third Amended Petition for Damages and Request for Jury Trial filed August 3, 2020;
4. Any judgments dismissing a party or parties to the suit; and
5. All documents, pleadings, attached exhibits, motions, orders, court minutes, and all other materials filed in the trial court record **after September 1, 2020**.

B. JUDGMENT BEING APPEALED AND ASSOCIATED NOTICES, MOTIONS, AND ORDERS

1. Order signed February 25, 2021 denying Milliman's Motion to Compel filed against non-party Louisiana Department of Insurance for failure to comply with Subpoenas Duces Tecum;
2. Milliman's Motion for Devolutive Appeal, filed March 8, 2021;
3. Order Granting Milliman's Motion for Devolutive Appeal, signed March 10, 2021;
4. Clerk's Notice of Appeal;
5. Instant Motion to Designate the Record on Appeal and signed Order of the same; and
6. Notice of Return Date on the instant appeal and proof and date of cost paid.

C. TRANSCRIPTS

1. Transcript, Hearing on Milliman's Motion to Compel Louisiana Department of Insurance, Buck's Motion to Compel Louisiana Department of Insurance, and Buck's Motion to Compel Lewis and Ellis, February 12, 2021;
2. Transcript, Hearing on Plaintiff's Motion for Partial Summary Judgment and Motion to Strike Regulator Fault Defenses, November 20, 2020; and
3. Transcript, Hearing on Defendants' Motion to Compel Plaintiff's Production of responsive LDI documents, September 25, 2020.

3.

Milliman intends to rely on these designated portions of the record to show that the district court's denial of Milliman's Motions to Compel Louisiana Department of Insurance was erroneous because the subpoenaed documents are discoverable.

WHEREFORE, Milliman, Inc. prays that the Court enter the order presented herewith, directing that the portions of the record designated herein constitute the record on appeal.

New Orleans, Louisiana, on this 15th day of March, 2021.

Respectfully submitted,

/s/ Harry Rosenberg

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Counsel for Milliman, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has been served upon all counsel of record by e-mail and upon counsel for LDI, John Ashley Moore, by e-mail this 15th day of March, 2021.

/s/ Harry Rosenberg

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FILED: _____

ORDER

Considering the foregoing Motion to Designate the Record on Appeal filed by Milliman,
Inc. (“Milliman”),

IT IS HEREBY ORDERED that the motion is GRANTED and that the record of the appeal
taken on March 10, 2021 by Milliman shall contain the portions of the record designated in the
Motion to Designate the Record on Appeal.

Baton Rouge, Louisiana, this _____ day of _____, 2021.

Honorable Timothy Kelley
District Judge, 19th Judicial District Court
Parish of East Baton Rouge

PLEASE NOTIFY ALL COUNSEL OF RECORD