

STATE OF WASHINGTON

MIKE KREIDLER  
STATE INSURANCE COMMISSIONER

Phone: (360) 725-7000



FILED

OFFICE OF  
INSURANCE COMMISSIONER

2012 MAR 16 A 9:31

HEARINGS UNIT  
Fax: (360) 664-2782

Rebecca J. D'Arcy  
Patricia D. Petersen  
Chief Hearing Officer

Patricia D. Petersen  
Chief Hearing Officer  
(360) 725-7105

Kelly A. Cairns  
Paralegal  
(360) 725-7002  
[KellyC@oic.wa.gov](mailto:KellyC@oic.wa.gov)

BEFORE THE STATE OF WASHINGTON  
OFFICE OF INSURANCE COMMISSIONER

In the Matter of Petition for )  
Declaratory Order by )  
ROSE HOWELL )  
Naming )  
SAFECO INSURANCE COMPANY )  
OF ILLINOIS, et al., LIBERTY MUTUAL )  
INSURANCE COMPANY, et al., )  
CONTINENTAL CASUALTY )  
COMPANY, et al., and STATE FARM )  
MUTUAL AUTOMOBILE )  
INSURANCE COMPANY, )  
Respondents. )

ORDER DISMISSING PETITION  
FOR DECLARATORY ORDER

**TO:** Rose Howell  
9504 N.E. 5<sup>th</sup> Street  
Vancouver, WA 98664

Colleen Barrett  
Barrett & Worden  
2101 4<sup>th</sup> Avenue, Suite 700  
Seattle, WA 98121

Richard Quinlan  
Liberty Mutual Ins. Co.  
175 Berkeley Street  
Boston, MA 02116

Safeco Ins. Co. of Illinois  
27201 Bella Vista Parkway, Ste 130  
Warrenville, IL 60555



ORDER DISMISSING PETITION FOR  
DECLARATORY RULING

Page 2

BNY Mellon Investment Services  
480 Washington Blvd. 29<sup>th</sup> Floor  
Jersey City, NJ 07310  
Attn: Legal Department

Continental Casualty Company  
333 South Wabash  
Chicago, IL 60604  
Attn: Thomas Corcoran

Hartford Financial Svcs. Group  
One Hartford Plaza, HO-1-01  
Hartford, CT 06155  
Attn: Fraud Dept./Investor Rel.

State Farm Mutual Automobile Ins.  
1 State Farm Plaza  
Bloomington, IL 61710-0001  
Attn: Edward Rust, Jr.

Computer Share  
Shareholder Services  
250 Royal Street  
Canton, MA 02021

Prudential Annuities  
Client Relations  
2101 Welsh Road  
Dresher, PA 19025  
Attn: Lisa Hayer

**COPY TO:** Mike Kreidler, Insurance Commissioner  
Michael G. Watson, Chief Deputy Insurance Commissioner  
Carol Sureau, Deputy Commissioner, Legal Affairs Division  
Office of the Insurance Commissioner  
PO Box 40255  
Olympia, WA 98504-0255

**DESCRIPTION OF THE PETITION**

On March 5, 2012, a Petition for Declaratory Order (Judgment) was filed with the Hearings Unit of the Office of Insurance Commissioner by Rose Howell. The Petition names four main respondents – Safeco Insurance Company of Illinois, Liberty Mutual Insurance Company, Continental Casualty Company, and State Farm Mutual Automobile Insurance Company – as well as other respondents (named in small print), some of which are related entities to the main respondents (all hereinafter referred to as “Respondents”).

The Petitioner’s claims against Respondents originate from an automobile accident that occurred on March 31, 1999, which Petitioner alleges was caused by Keith Plotner. Mr. Plotner was insured at the time by Safeco Insurance Company of Illinois. Petitioner sued Mr. Plotner in court and thus the underlying dispute Petitioner had with Mr. Plotner and his insurance company has already been litigated and a judgment rendered (pages 26-27 of the Petition). The Petition also references a trust fund to which Petitioner alleges she is the beneficiary. It appears from the Petition that Petitioner does not believe she has been justly compensated for her injuries, and that payments she allegedly was supposed to receive have been paid to “third parties” without her consent.

ORDER DISMISSING PETITION FOR  
DECLARATORY RULING

Page 3

The Petition contains a Statement of Relief Sought where Petitioner enumerates five areas of relief:

- (1) An order that requires the Respondents to satisfy the Demands set forth in a Demand Letter by Howell dated January 17, 2012 (attached to the Petition as Appendix 2);
- (2) An order requiring immediate transfer of trust assets to Petitioner's brokerage account;
- (3) An order to "re-appropriate and/or liquidate enforcing the 'guarantee;'"
- (4) Injunctive relief against the respondents, i.e., a cease and desist order; and
- (5) Informal proceedings.

(Page 23 of the Petition.)

**DECLARATORY ORDER NOT APPROPRIATE**

Under Washington's Administrative Procedures Act, a person can petition an agency for a declaratory order in order to clarify the meaning of an agency's rule, order or statute as it affects a particular situation. The petition must show, among other things, that (1) there is uncertainty in the rule, order or statute, (2) an actual controversy exists arising from such uncertainty, and (3) the uncertainty adversely affects the petitioner. See RCW 34.05.240(1). In this case, the Petitioner does not claim there is uncertainty in any rule or statute under the Insurance Commissioner's scope of authority that requires clarification. Therefore, it is not appropriate to enter a declaratory order in this matter.

**LACK OF SUBJECT MATTER JURISDICTION**

Even if Petitioner's request is not considered a petition for declaratory order, the Petition must be dismissed because the undersigned does not have jurisdiction to consider Petitioner's claims. As Chief Hearing Officer for the Insurance Commissioner, the undersigned's power to adjudicate is limited to the subject matter specified by statute. Under 48.04.010, RCW, the Chief Hearing Officer has the authority to hear and decide: (1) applications where a hearing is required by a specific provision within Title 48, RCW, and (2) hearings demanded by a person "aggrieved by any act, threatened act, or failure of the commissioner to act . . . , or by any report, promulgation, or order of the commissioner . . . ." [Emphasis added.] Petitioner is not challenging an action of the Insurance Commissioner but rather requests that the undersigned adjudicate her claims against Respondents, i.e., a dispute between private parties. The undersigned does not have the authority to direct the insurance companies to pay Petitioner or otherwise satisfy Petitioner's demands. Because the Chief Hearing Officer has limited jurisdiction and does not have statutory authority to hear the case presented or to provide the relief sought, the Petition must be dismissed for lack of subject matter jurisdiction.

Based upon the above activity,

ORDER DISMISSING PETITION FOR  
DECLARATORY RULING

Page 4

**IT IS HEREBY ORDERED** that the Petition for Declaratory Order (Judgment), filed by Rose Howell on March 5, 2012, is dismissed with prejudice.

Entered this 15<sup>th</sup> day of March, 2012, at Tumwater, Washington, pursuant to Title 48 RCW, Title 34 RCW and regulations pursuant thereto.



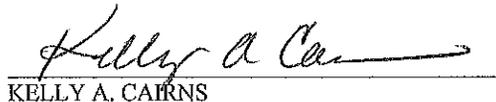
PATRICIA D. PETERSEN  
Chief Hearing Officer  
Presiding Officer

Pursuant to RCW 34.05.461(3), the parties are advised that they may seek reconsideration of this order by filing a request for reconsideration under RCW 34.05.470 with the undersigned within 10 days of the date of service (date of mailing) of this order. Further, the parties are advised that, pursuant to RCW 34.05.514 and 34.05.542, this order may be appealed to Superior Court by, within 30 days after date of service (date of mailing) of this order, 1) filing a petition in the Superior Court, at the petitioner's option, for (a) Thurston County or (b) the county of the petitioner's residence or principal place of business; and 2) delivery of a copy of the petition to the Office of the Insurance Commissioner; and 3) depositing copies of the petition upon all other parties of record and the Office of the Attorney General.

Declaration of Mailing

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery through normal office mailing custom, a true copy of this document to the people named above at their addresses listed above.

DATED this 16<sup>th</sup> day of March, 2012



KELLY A. CAIRNS