

# Kentucky Insurance Arbitration Association

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A meeting of the Kentucky Insurance Arbitration Association Board of Directors will be held at 327 Townepark Circle, Louisville, KY 40243 on Wednesday, September 25, 2024 at 10:30 AM.

1. Call To Order
2. Roll Call
3. Anti-Trust Preamble
4. Approval of Minutes
5. Panel Secretary's Report
  - a. Status Report
  - b. Financial Report
  - c. 2025 Budget and Administrative Assessment
  - d. KIAA New System
6. Other Business
7. Adjournment

If you unable to attend, please consider giving your proxy to another Board Member.

Sincerely,



Mark Hillis  
Panel Secretary

Cc: Board of Directors  
Shawn Boggs, Kentucky Department of Insurance

**Kentucky Insurance Arbitration Association**

<b>Arbitrator and Board Member</b>	<b>Alternates</b>
<p>Ericka Gocke, (2022)  <b>CHAIR</b>  <b>Kentucky Farm Bureau Mutual Ins. Co.</b>                      P O Box 20700                      Louisville, Kentucky 40250-0700                      502-495-5000                      FAX 502-495-7711</p>	<p>Chris Douglas, 800-538-8654                      Brad Handley, 800-538-8656                      Amy S. Hall, 606-784-7536                      Brandon Tucker, 270- 886-8123                      Mark Hildebrandt, 270-684-2165                      Wendy L. Bray, 502-493-7650                      Reese W. Smoot, 800.782.3810                      Michele E Reed, 859-525-6170                      Michael P. Hansel, 800 538-8650                      Angela J. Benningfield, 502-266-6100                      Anthony T. Strode, 606-207-2158                      Daniel W. Rogers, 270-782-1300                      Adam Blake, 859-412-7352                      Jason Woods, 606-679-4327                      Christal Beard, 270-765-4400                      Tiffany Ross, 502-409-2898                      Scott Collins, 606-784-7536                      Lee Holt, 270-465-9771                      Clay Hinton, 502-495-5000                      Charles Wiley Hendricks, 859-254-8074                      Angela Crouch, 877-819-0141                      Charlie White, 606-666-2476                      Gary Hale, 606-784-7536                      Donna Richmond, 859-624-0487                      Beth Moore, 800-538-8647                      Chris Westerfield, 800-538-8657</p>

**Kentucky Insurance Arbitration Association**

<p>Taylor Martin (2023) <b>Nationwide Insurance Company</b> 3300 SW Williston Road Gainesville, FL 32608 352-384-5935</p>	<p>Beth A. Freeman, 352-384-4820 Natalie M. Lewis, 352-384-4659 Dianne Spalding, 502-693-1819 Kathleen Kwasnik, 352-384-5127 Cheryl Gardner, 315-453-3547 Angela Anderson, 614-435-4307 Jeff Stokes, 352-384-4532 Martha Vazquez, 352-384-5430 Ruth Osborne, 352-384-4073 Sarah Ascher, 614-435-4304</p>
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**Kentucky Insurance Arbitration Association**

<p>Clarissa Flores (2023)  <b>Liberty Mutual Insurance Company</b>            9450 Seward Road            Fairfield, OH 45069            484-795-2459</p>	<p>Kara Turner, 513-603-7556            Tiffany Tinsley, 513-603-7558            Matthew Jacobs, 513-576-4799            Kimberly Berlin, 630-393-4530            Marissa Casella, 630-791-6261            Caitlin Cline, 317-805-2835            Patricia Kenny, 630-393-7998            Stephanie Dolsen, 513-576-4698            Stacy Dunnuck, 317-805-2613</p>
<p>Owen K. Caster (2021)  <b>Progressive Insurance Company</b>            9520 Ormsby Station Road, Suite 200            Louisville, Kentucky 40223            502-909-3584            502-420-0862</p>	<p>Kristi Parker, 502-909-3584</p>
<p>Scot McFarland (2022)            Vice Chair  <b>Allstate Insurance Company</b>            PO Box 660636            Dallas, TX 75266            954-956-3707            Fax 866-220-5414</p>	<p>Elizabeth Jones, 713-277-3910            Clara Rodriguez, 713-277-9383            Andrea Wharton, 713-277-9349            Shauna K. Vaughan, 713-277-9379            Sara L. Hajiebrahmimi, 713-277-9372            William T. Hodges, 713-277-9392            Elsa M. Sanchez, 713-277-9360            Jesus H. Alvarado, 713-277-9382            Steven W. Bobjak, 713-277-9399            Mark McPhail, 877-224-2641            Hanan Afrad, 713-277-9504            Jennifer Burch, 713-277-9550            Keren Soto Gonzalez, 713-277-9509            Jennifer Burch, 713-277-9550            Alexandra Vera, 713-277-9395            Jenny Bolt, 713-277-9280            Timothy Westergard, 615-874-6972            Ross Phillips, 615-884-6557            Heather Hinson 615-884-6537</p>

**Kentucky Insurance Arbitration Association**

<p>Kim McCollom (2022)  <b>State Farm Mutual Insurance Co.</b>  Murfreesboro, TN  615-692-3319</p>	<p>David Johnson, 615-692-3462  Phillip R. Vandiver, 615-692-7190  Gregory T. Alverides, 615-692-7273  Brandi Osborne, 205-944-4761  Al Rahal, 615-692-7221  Sis Thavongsa, 615-692-6598  Richard Spruell, 205-944-4972  Sandy Williamson, 615-692-7198  Bonnie Winslow, 615-692-7130  Kelle Taylor, 205-944-4928  John Brewer, 615-692-7269  Sibyl Lapinski, 205-944-4961  Donna Parslow, 205-944-8030</p>
<p>Samuel McKenzie Carter (2022)  <b>Shelter Mutual Insurance Co.</b>  1121 Monarch Street  Lexington, KY 40513  859-260-3490</p>	<p>Michelle M. Miller, 573-214-4145  Heather Schmidt, 572-214-4312  Catherine Bail, 573-214-4801  Elizabeth Pfeiffer, 573-214-4130  Melinda Hughes, 573-214-4120  Janelle Wieland, 573-214-4216</p>
<p>Andrew Bursh (2024)  <b>Grange Insurance Company</b>  PO Box 183243  Columbus, OH 43218  <u>614-593-7261</u>  (Fax) 859-278-5481</p>	<p>Cathryn Tomlinson, 800-837-0801 ext. 263  Erin Wethington, 800-837-0801 x267  Tracy L. Senovitz, 800-605-4490 x229</p>

**Kentucky Insurance Arbitration Association**

<p>Vivian Judy (2022) <b>Travelers Insurance Company</b> PO Box 950293 Dallas, TX 75265 317-818-5208</p>	<p>Karen M. Niemiec, 212-643-2191 Gwen K. Lawrence, 216-643-2206 Mark E. Urbanowicz, 216-643-2188 Andrew P. Riggins, 216-643-2224 Anne M. Connolly, 216-643-2116 Elizabeth Graf, 216-643-2195 Matthew Jones, 317-818-5308 Vivian Judy, 317-818-5205 Krystle Compton, 317-818-5127 Nikki Brunello, 317-818-5389</p>
<p>Allan Faber (2022) <b>Kentucky National Insurance Company</b> PO Box 55108 Lexington, KY 40555 859-367-5216</p>	
<p><b>Kentucky Department of Insurance Representative</b></p>	<p><b>Shawn Boggs</b> <b>Kentucky Department of Insurance</b> P.O. Box 517 Frankfort, Kentucky 40602-0517</p>

**Kentucky Insurance Arbitration Association**

<b>KIAA Staff</b>	Stephen "Mark" Hillis, Panel Secretary Rebecca Darst

## ANTITRUST PREAMBLE

### **Kentucky Insurance Arbitration Association**

This statement applies to the members of the Kentucky Insurance Arbitration Association Board and Kentucky Insurance Arbitration Association Staff.

Antitrust laws aim to protect the public from agreements among insurance competitors that affect the price or distribution of products. Also, the laws aim to promote fair and vigorous competition in the insurance marketplace.

The agenda and discussion items for each meeting are limited to matters of the Kentucky Insurance Arbitration Association, and attendees shall not discuss business interests of their individual insurer members. Each Board member and/or officer shall not discuss competitive information of any insurer member.

It is the policy of the Board members of the Kentucky Insurance Arbitration Association to fully comply with applicable federal and state antitrust law. These laws apply to member conduct at all Board meetings, sub-committee meetings, other adjunct meetings, coffee breaks, meals, social gatherings, and informal conversations. This includes, but is not limited to:

- Raising, lowering or stabilizing rates;
- Actual current or future rates, including actuarial projections and capacity;
- Profit levels or actual costs;
- Credit terms and other price-related terms;
- Allocation of markets, territories, or potential insureds;
- Individual company results, or current or future marketing or pricing strategies or business plans;
- Joint action on pricing, products, markets or innovation;
- Whether to quote or not to quote certain classes or types of risks or products;
- Restrictions on availability of insurance;
- Use of standard forms;
- Any other matters on which insurers ordinarily compete with each other.

It is the responsibility of all Board members and Kentucky Insurance Arbitration Association staff to comply with the antitrust laws. Violation of antitrust laws can lead to serious civil and criminal punishment. Check with legal counsel with any questions.



**Kentucky Insurance Arbitration Association  
Annual Meeting May 22, 2024  
Minutes**

The Annual Meeting of the Kentucky Insurance Arbitration Association was held at 10:30 AM on May 22, 2024, via virtual platform.

**Board of Directors:**

Ericka Gocke (Chair)  
Clarissa Flores  
Scot McFarland (Vice Chair)  
McKenzie Carter  
Owen Caster  
Kimberly McCollom  
Taylor Martin  
Vivian Judy  
Andrew Bursh  
Allan Faber

**Those in attendance were:**

Kentucky Farm Bureau Insurance Co.  
Liberty Mutual Ins. Co  
Allstate Insurance Co.  
Shelter Insurance Co.  
Progressive Insurance Co.  
State Farm Insurance Co.  
Nationwide Mutual Ins. Co.  
Travelers Insurance Co.  
Grange Insurance Co.  
Kentucky National Ins. Co.

**Staff:**

Mark Hillis  
Rebecca Darst  
Carrie Manor

Secretary Treasurer  
Claims Manager  
Claims Supervisor

**Guests:**

Sarah Antle  
Emily Whatley  
Brad Erdman

Deming, Malone, Livesay & Ostroff  
Deming, Malone, Livesay & Ostroff  
Kentucky National Ins. Co.

**Department of Insurance:**

Shawn Boggs, Deputy Commissioner

**1. Call to Order**

Ms. Gocke called the meeting to order.

**2. Roll Call**

Ms. Gocke conducted a roll call to confirm attendees and noted a quorum was present.

**3. Anti-Trust Preamble**

Ms. Gocke reminded the Board that everyone is bound by the Anti-Trust Preamble, noting that all attendees had been provided with a copy in the meeting documents.

**4. Approval of Minutes**

The minutes of the May 11, 2023, Annual Meeting were included with the meeting documents. Mr. Caster motioned, and Mr. McFarland seconded to accept the minutes and the motion carried.

**5. Election of Board Members**

Mr. Hillis advised that the Plan has new Board members to approve. The Kentucky DOI approved new Governing Committee Members Andrew Brush of Grange Insurance, who replaced Brooke McNeil and Clarissa Flores of Liberty Mutual Insurance, who replaced Christa Hobe.

Ms. McCollom motioned to seat the Board members and to extend the 3-year term of Taylor Martin, Nationwide Insurance. Mr. Caster seconded, and the motion carried.

**6. Other Business**

None.

**7. Adjournment**

There being no further business, Mr. Caster motioned, and Ms. McCollom seconded, and the motion was approved to adjourn the meeting.

Respectfully submitted,



Mark Hillis  
Panel Secretary

**Kentucky Insurance Arbitration  
Association Board of Directors  
Meeting May 22, 2024  
Minutes**

A Board Meeting of the Kentucky Insurance Arbitration Association was held immediately following the Plans Annual Meeting on May 22, 2024, via virtual platform.

**Those in attendance were:**

**Board of Directors:**

Ericka Gocke (Chair)	Kentucky Farm Bureau Insurance Co.
Clarissa Flores	Liberty Mutual Ins. Co
Scot McFarland (Vice-Chair)	Allstate Insurance Co.
McKenzie Carter	Shelter Insurance Co.
Owen Caster	Progressive Insurance Co.
Kimberly McCollom	State Farm Insurance Co.
Taylor Martin	Nationwide Mutual Ins. Co.
Vivian Judy	Travelers Insurance Co.
Andrew Bursh	Grange Ins. Co.
Allan Faber	Kentucky National Ins. Co.

**Staff:**

Mark Hillis	Secretary
Rebecca Darst	Treasurer
Carrie Manor	Claims Manager
	Claims Supervisor

**Guests:**

Sarah Antle	Deming, Malone, Livesay & Ostroff
Emily Whatley	Deming, Malone, Livesay & Ostroff
Mike Thompson	Liberty Mutual Ins. Co.
Brad Erdman	Kentucky National Ins. Co.

**Department of Insurance:**

Shawn Boggs, Deputy Commissioner

**1. Call to Order**

Ms. Gocke called the meeting to order.

**2. Roll Call**

Ms. Gocke advised that a quorum was established in the annual meeting held prior to this meeting.

**3. Anti-Trust Preamble**

Ms. Gocke reminded the Committee that it was bound by the Anti-Trust Preamble provided in the meeting documents.

**4. Approval of Minutes**

The minutes of the September 27, 2023, Board meeting were included with the meeting documents. Mr. Caster motioned, and Ms. Judy seconded, that the minutes be approved. The motion carried.

**5. Election of Officers**

Mr. Caster, Chairman of the Nominating Committee, moved to nominate Ms. Gocke as Chair, Scot McFarland as Vice Chair and Mr. Hillis as Panel Secretary. Mr. Caster asked for other nominations from the floor, to which there were none. Ms. McCollom motioned to accept the nominations as outlined by Mr. Caster. Mr. Carter seconded. The motion carried.

**6. Auditors Report and Financial Statement**

Mr. Hillis recognized Ms. Antle for her knowledge and understanding of the Plans and their operations. Ms. Antle discussed the 2023 Independent Auditor's Report and Financial Statement as described in the Financial Highlights, prepared by Deming, Malone, Livesay & Ostroff, CPA, which was distributed to Board Members prior to the meeting and included with meeting materials. Ms. Antle noted the Plan uses Cash Basis Accounting.

Ms. Antle noted the decrease in cash as there was no assessment this year. She further stated that adequate controls are in place and the audit firm was reporting a clean audit with no irregularities noted. Ms. Antle reminded those in attendance that there is a cost sharing agreement in effect with The Kentucky FAIR Plan. There were no questions for Ms. Antle.

**7. Panel Secretary's Report**

Mr. Hillis thanked the Committee for their dedication, as well as their respective alternate arbitrators, and Plan staff, for their ongoing efforts to make accurate decisions relative to arbitration filings. Mr. Hillis advocated for the consistent need of KIAA to have technically sound and high performing associates on the roster as alternate arbitrators.

Mr. Hillis led through the KIAA 4th Quarter Report to the Board as outlined in the meeting documents. Mr. Hillis indicated the increase in filing fees is related to the increase in filing reflected in the report.

Mr. Hillis stated KIAA starts with a zero-based budget. Mr. Hillis informed the Board that the Plan is 6% over budget through March 2024 and 2023 came in 7% under budget. He also reminded the Board the Plans do not have a pension but rather a defined contribution plan. Mr. Hillis noted that health and employee benefits came in under budget in 2023 which is rare and not likely to happen again. Mr. Hillis noted the Plans will have competitive wages to keep up with the industry and attract talented personnel. Mr. Hillis explained that every year, each budget center is reviewed to see where efficiency can be gained.

Ms. Darst discussed KIAA filing increased in 2023 with a total filing of 1,261 compared to 2022 with total filings of 1,149. KIAA Hearing Assignments totaled 277 for the year ending 2023. Ms. Darst noted that assignments are based on market share and shared data reflecting the same. Ms. Darst discussed the 1st Quarter Report of Activity for 2024 which had been sent previously and reported to the Department of Insurance. New filings increased 16.1%. Dockets withdrawn, open and deferred have all increased as well.

Ms. Darst shared data for Q1 2024. Total filings through March 2024 are 396 compared to 336 last year at this same time. 88 files have been set for hearing through March of 2024 which is increased slightly from this same period in 2023. Ms. Darst discussed the development opportunity for new alternate arbitrators. She also thanked members for their quality submissions and alternate arbitrator referrals. Ms. Darst noted seven new alternate arbitrators have been trained this year.

## **8. Other Business**

### **KIAA System**

Ms. Hillis discussed the KIAA new system build. Finys (the vendor that built the Kentucky Assigned Claims Plan, Kentucky FAIR Plan system, as well as the Member Equity system) agreed to undertake the new KIAA system build. Mr. Hillis acknowledged that Ms. Darst & Ms. Manor are actively testing the new KIAA system being built by Finys. Testing is a daily occurrence at this point, and the team is meeting with the developers at least once a week to continue to perfect the new system. We are hopeful that this new system will increase efficiency for our staff, improve the end-user experience, and produce more reporting functionality for external users. Mr. Hillis noted that there is not a go-live date just yet, but things are progressing each week.

Ms. Gocke thanked Deputy Commissioner Boggs for attending the meeting and solicited any feedback. Mr. Boggs thanked the Plan and Committee for the invitation to participate and reminded the group that the Kentucky Department of Insurance is available if companies have questions or need assistance.

Ms. Gocke noted the next meeting will be held in-person on September 25, 2024, at the Plans office building and the Spring meeting will be held virtually on May 21, 2025.

**9. Adjournment**

There being no further business Ms. McCollom motioned, Mr. McFarland seconded, and the motion was approved to adjourn the meeting.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark Hillis". The signature is written in a cursive style with a large initial "M" and a long, sweeping underline.

Mark Hillis  
Panel Secretary

## Kentucky Insurance Arbitration Association

### Budget

	2024 Budget	2025 Budget
Wages (W-2)	\$ 229,183	\$ 274,161
Payroll Taxes	\$ 22,918	\$ 27,416
401K Match and Defined Contribution Benefits	\$37,128	\$ 44,414
Office Supplies and Equip.	\$ 2,700	\$ 3,640
Professional Services	\$ 7,900	\$ 8,395
Human Resources	\$ 1,500	\$ 1,800
Rent	\$ 11,200	\$ 11,200
Telephone	\$ 7,234	\$ 6,400
Travel	\$ 7,550	\$ 5,500
Meals and Entertainment	\$ 1,200	\$ 1,200
Insurance - P & C	\$ 9,400	\$ 10,800
Health and Employee Benefits	\$ 79,984	\$ 82,194
Postage	\$ 5,100	\$ 3,400
Computer and Systems	\$ 29,688	\$ 32,806
Dues & Subscriptions	\$ 500	\$ 500
Board Meetings	\$ 300	\$ 300
Education	\$ 300	\$ 300
Miscellaneous	\$ 1,000	\$ 1,000
<b>Total</b>	<b>\$ 454,785</b>	<b>\$ 515,426</b>

**KENTUCKY INSURANCE ARBITRATION ASSOCIATION PLAN OF OPERATION** states under '**Article 2. Board of Directors number 4.** At each **annual** meeting, the Board of Directors shall elect a Chairman from among its members and such other officers, as it deems necessary. The Board shall promptly notify the Insurance Commissioner, Kentucky Department of Insurance of all newly elected directors and officers, the designated alternates specified in subsection (3) hereof, and shall request his written approval of such Board and Alternates.' **Under number 6.** The Board shall meet **annually** to report to the Insurance Commissioner, Kentucky Department of Insurance and participating members of the Association. Such meetings will be held at the office of the Kentucky Insurance Arbitration Association at such time and location as directed.(Call the Association Office to confirm the time and place of the meeting.) At each **Annual** meeting the Board shall:

- a. Review the Plan and proposed amendments, if any.
- b. Review, consider, and act on any other matters deemed by it to be necessary and proper for the administration of the Association.
- c. Review the Association's financial condition, consider funds received and receivable from membership and arbitration fees, expenses incurred, each member's equitable share of the cost to provide compensation to reparations obligors for the actual cost of travel and time by their employees in performing duties for the Association and develop plans to fund a budget for the ensuing years projected needs.

**Article 3. Membership D.** There will be an **annual** meeting of the membership to receive a report of the Association's activities during the preceding calendar year.

Nothing in KIAA Rules regarding meetings.



# ***Kentucky Insurance Arbitration Association***

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PO Box 436509  
Louisville, Kentucky 40243  
(502) 327-0372  
Email Address: [KyAuto@KAIP.org](mailto:KyAuto@KAIP.org)  
[www.kyinsplans.org](http://www.kyinsplans.org)

Mark Hillis  
Panel Secretary

September 16, 2024

Ken Cadematori  
President and Chief Executive Officer  
GuideOne Mutual Insurance  
1111 Ashworth Road  
West Des Moines, IA 50265

RE:

<b>Assigned Docket #:</b>	41965
<b>Applicant Company:</b>	Safeco Ins. Co. of Illinois
Claim Number:	053104558
Insured's Name:	Leticia Cruz Meza
<b>Respondent Company:</b>	GuideOne Mutual Insurance
Claim Number:	AA174193
Insured's Name:	United Auto Delivery and Recovery

Dear Mr. Cadematori:

We have been advised that the decision rendered in the above referenced arbitration docket has not been complied with even after multiple attempts to have your claims associate, Jeremy Nunz comply. We have previously advised your company that failure to comply with the award would result in notification to the Kentucky Department of Insurance.

There is an outstanding balance of \$1,000.00. Please see the most recent response for your claims associate, Jeremy Nunz dated September 13<sup>th</sup> for your records and which were copied to the Kentucky Department of Insurance.

In reference to email communication from Jeremy Nunz on July 22, 2024, disputing the decision rendered on this docket due to the signed release, KIAA responds on July 23, 2024, stating the signed release by the injured party does not release the PIP subrogation claim of Liberty/Safeco. We cannot render a decision against statute or case law. Kentucky case law *Stoval v. Ford*, Ky., 661 S.W. 2d 467 (1983) states a PIP carrier's subrogation claims for reparations benefits is not released when their insured releases the tortfeasor since the PIP subrogation claim is a claim of the insurance company and not the injured insured who received the benefits. Therefore, the insured's executed bodily injury release does not release the PIP carrier's subrogation claim.

According to 304.39-070 "Secured person" -- Obligor's rights to recovery.

A reparation obligor shall have the right to recover basic reparation benefits paid to or for the benefit of a person suffering the injury from the reparation obligor of a secured person as provided in this subsection,

except as provided in KRS 304.39-140(3). The reparation obligor shall elect to assert its claim (i) by joining as a party in an action that may be commenced by the person suffering the injury, or (ii) to reimbursement, pursuant to KRS 304.39-030, sixty (60) days after said claim has been presented to the reparation obligor of secured persons. The right to recover basic reparation benefits paid under (ii) shall be limited to those instances established as applicable by the Kentucky Insurance Arbitration Association as provided in KRS 304.39-290. The decision is final and binding.

In reference to Jeremy Nunz's email of July 24th, in part questioning why this was heard twice and citing 411.188, KIAA responded on July 25, 2024, stating Docket 41965 was for supplemental PIP damages paid by Liberty/Safeco. These PIP damages were not included in the prior Docket 41056. The liability of the tortfeasor to Safeco was not discharged prior to the PIP payments made by Safeco. Since the bodily injury claim comes first before the insurance carrier's PIP subrogation claim, according to statute, it does not appear the PIP payments were discharged. When PIP payments are timely paid, the insurance carrier has the right to assert their claim against the other reparation obligor for their PIP subrogation. This statute for filing PIP subrogation is governed by KIAA Article 4c of our Plan of Operations and Rules. It states... A claim may be submitted to arbitration not later than two (2) years after the last basic reparation payment made by any reparation obligor, or two (2) years after the settlement of the last bodily injury claim arising out of the same accident; or, if there is no settlement, two (2) years after the expiration of the statute of limitations of the last bodily injury claim arising out of the same accident **whichever later occurs**.

Safeco does not have to assert its subrogation rights prior to the signing of their insured's release with GuideOne. The bodily injury claim is a claim of the injured party and not the insurance carrier just as the PIP subrogation claim is the claim of the insurance company and not their insured. Case law, *Stoval V Ford* and *State Farm v Allstate*. GuideOne did not have the legal right to pay the attorney and the injured party the insurance carrier's PIP subrogation as previously indicated per statute and case law. Safeco's insured's bodily injury claim does come before consideration of the carrier's PIP subrogation claim. It is a common occurrence for PIP payments to be made after the injured party signs their bodily injury release. PIP payments can continue before and after a bodily injury release is signed and does not have any effect on their PIP subrogation claim unless your limits have been paid.

411.188 does not pertain to no-fault benefits. This statute limits mandatory notification to persons who 'hold subro rights to any award received by the plaintiff as a result of the action'. The no-fault carrier does not meet this description. See case law *Ohio Casualty v Ruschell* and *Saxe v State Farm*. The injured party has a *contractual* claim for BRB benefits, to which they are entitled regardless of fault, and the *tort* claim is covered by the general release, the court stated: "In short, we are dealing with apples and oranges. A release as to the tortfeasor has no effect on the contractual claim." The case states 'Thus the subject matter of [KRS 411.188](#) is a statutory change in the way "collateral source payments" are presented to the trier of fact: it requires persons who "hold subrogation rights" against the plaintiff, not only to be notified by certified mail, but "to assert subrogation rights by intervention" or *lose* "those rights with respect to any final award." It is directed at a type of benefit *different* in kind and character to BRB payments structured by the MVRA. While we do not question the right of the General Assembly to require a person receiving BRB to provide formal notice to the reparations obligor when filing a tort action for damages, and to provide for some type of protection to the reparations obligor (or reasonable penalty) from failure to do so, there is nothing in the context of [KRS 411.188](#) nor the circumstances in which it was enacted to suggest BRB payments are the type of payments addressed by that statute. The

statute expressly limits mandatory notification to persons who "hold subrogation *rights to any award received by the plaintiff as a result of the action.*" Emphasis added. The no-fault carrier does not meet this description'.

[Saxe v. State Farm Mutual Automobile Insurance](#) states 'Under Kentucky law, a reparation obligor is not required to intervene pursuant to KRS 411.188 in order to preserve its rights. In *Ohio Casualty Insurance Company v. Ruschell, Ky., 834 S.W.2d 166,171 (1992)*, the Kentucky Supreme Court held that KRS 411.188 does not extend to no-fault coverage in the first instance: But the essential fact in the payment of no-fault benefits is that it is for elements of damages for which tort liability has been "abolished," see discussion of KRS 304.39-070 (3). No-fault benefits are payments for items which will not be claimed in a tort action.

KIAA received an email from Liberty/Safeco on 8/27/24 requesting our assistance in collecting the remainder of the award owed on Docket 41965 with the email chain attached between Jeremy Nunz and Liberty/Safeco stating payment had been made for all but \$1,000.00 the offset should apply to this docket as well. Liberty/Safeco asked for KIAA assistance in collecting the remaining \$1,000.00. KIAA emailed Jeremy Nunz and Liberty/Safeco on 8/27/24 the offset applies to the claim as a whole and comes off the total of all PIP payments made on that claim and is applied only once and was applied to the prior docket. Jeremy Nunz emailed back stating the initial award is final and binding with no option for a re-hearing or appeal and second hearing is violation of our Arbitration Rules or stating the second hearing docket 41965 would be a new hearing and require an additional \$1,000.00 offset. KIAA emailed Jeremy Nunz again on 8/27/24 advising the offset was taken on the first filing and does not apply to the second filing as it is the same claim. Jeremy Nunz then emails stating your legal team disagrees and states the second filing is double jeopardy the first decision was final and binding and 'res judicata'.

KIAA responds back 8/27/24 reiterating the decision is final and binding for those damages that were ruled upon and that the same damages cannot be heard twice. Jeremy Nunz emails back on 8/27/24 again stating your legal counsel disagrees states again asks us to point out where the subsequent hearing qualifies to overrule the double jeopardy statutes.

KIAA responds to Jeremy Nunz on September 9, 2024, stating GuideOne may apply only \$1,000 as an "inter-company" deductible on Kentucky PIP subrogation claims. The rationale for GuideOne applying \$2,000 to the Applicant's PIP claim is not based on Kentucky law. The details as to why this is so were explained below.

Kentucky's Motor Vehicle Reparations Act (MVRA) permits reparation obligors to subrogate their PIP payments via KRS 304.39-070(3) and stipulates the processes the reparation obligor may utilize to collect. Part 3 of this statute also establishes that reparation obligors who use the arbitration process to collect their PIP subrogation must do so via the guidelines established by the Kentucky Insurance Arbitration Association (KIAA) in KRS 304.39-290.

### **304.39-070 "Secured person" -- Obligor's rights to recovery.**

(3) A reparation obligor shall have the right to recover basic reparation benefits paid to or for the benefit of a person suffering the injury from the reparation obligor of a secured person as provided in this subsection, except as provided in KRS 304.39- 140(3). The reparation obligor shall elect to assert its claim (i) by joining as a party in an action that may be commenced by the person suffering the injury, or (ii) to reimbursement, pursuant to KRS 304.39-030, sixty (60) days after said claim has been presented to

the reparation obligor of secured persons. The right to recover basic reparation benefits paid under (ii) shall be limited to those instances established as applicable by the Kentucky Insurance Arbitration Association (KIAA) as provided in KRS 304.39-290.

KRS 304.39-290 was established to grant authority and power to the KIAA to conduct and manage the arbitration process for reparation obligors. This particular statute is very lengthy but specifically, the KIAA is granted the authority to establish the rules that all carriers doing business in Kentucky or contractually bind themselves to provide PIP coverage in accordance with Kentucky law must abide by.

### **304.39-290 Kentucky Insurance Arbitration Association -- Creation -- Membership -- Powers -- Duties.**

(5) The association shall submit to the commissioner a plan of operation and any amendments thereto necessary, or suitable to assure the fair, reasonable, and equitable administration of the association. The plan shall become effective upon approval in writing by the commissioner:

(a) All reparation obligors shall comply with the provisions of the plan of operation;

(b) The plan of operation shall;

1. Establish procedures whereby all the powers and duties of the association will be performed;
2. Establish minimum requirements for the initial submission of a case for reimbursement or arbitration;
3. Establish minimum requirements beneath which reimbursements shall not be made in order that there be fair allocation of significant losses and the elimination of unnecessary costs in the reimbursement mechanism;
4. Encourage voluntary reimbursement procedures between reparation obligors so that resort to arbitration shall be as infrequent as possible;

Via the power granted in KRS 304.39-290, the KIAA established a **Plan of Operations and Rules of Arbitration**. The Plan of Operations states specially that “the first \$1,000 in the aggregate of loss so paid arising from a single occurrence without regard to the number of persons to whom basic or added reparations were paid or payable:

#### **Article 4. Operations**

E. In order that there be fair allocation of significant losses, while at the same time eliminating the unnecessary costs in the handling and shifting of insignificant losses, no member shall make application for or be entitled to receive, and no arbitration award shall be made for damages paid or payable by the member reparations obligor for the first \$1,000 in the aggregate of loss so paid arising from a single occurrence without regard to the number of persons to whom basic or added reparations benefits were paid or payable.

Article E stipulates that only one inter-company deductible of \$1,000 can be applied to a reparation obligor’s aggregate subrogation claim for the PIP benefits the reparation obligor paid on behalf of its injured insured or insureds. The inter-company deductible is applied to the first \$1,000 of PIP benefits paid. Until \$1,000 of PIP benefits have been paid, the Applicant has no subrogation claim against the Respondent carrier. In this particular claim, the Applicant has paid a total of \$10,000 in PIP benefits and is rightfully owed \$9,000 in PIP subrogation from the Respondent.

Failure to comply with the KIAA’s Plan or Operation and Rules **will result in intervention by the Kentucky Department of Insurance**. Accordingly, the KIAA expects that member carriers comply with its rules and we respectfully request that GuideOne immediately reimburse the Applicant carrier, Safeco,

for its additional PIP subrogation payments as it is not permitted to take an additional \$1,000 inter-company deductible on the additional PIP subrogation claim of the Applicant.

Jeremy Nunz emails back on September 9, 2024 stating we still have not addressed how the same claim can be heard twice and that GuideOne objected to the second filing, the matter was already adjudicated by binding arbitration from the initial filing and confirmed by KIAA the initial filing was final and binding, and KIAA Plan rules say all decisions are “Res Judicata” and also stating GuideOne is not rejecting any settlement that is PROPER and ask that an explanation be provided to ensure that the additional settlement was proper and so we can avoid similar issues in the future.

KIAA has provided the explanation previously. Liberty/Safeco has attempted settlement of this claim prior to filing arbitration as indicated on their filing. Liberty/Safeco attempted to recover the award in full prior to asking KIAA for assistance. Jeremy Nunz states GuideOne did not agree to arbitration. GuideOne is a member of KIAA and can be filed against as stipulated by 304.39-290 Kentucky Insurance Arbitration Association -- Creation -- Membership -- Powers – Duties:(1) There is created a nonprofit unincorporated legal entity to be known as the Kentucky Insurance Arbitration Association to provide a mechanism for the reimbursement, among reparation obligors of losses paid as basic or added reparation benefits, based solely on the law of torts without regard to subsections (1), (2), and (3) of KRS 304.39-060.

(2) All basic reparation obligors shall be and remain members of the association as a condition of their authority to transact business in this Commonwealth.

The \$1,000.00 unpaid balance of the award is owed by GuideOne to Liberty/Safeco and should be paid immediately with notification of same to the Kentucky Insurance Arbitration Association.

**I have included a copy of Jeremy Nunz most recent email which he directly copied the Deputy Commissioner of Insurance for Kentucky. I have since asked Deputy Commissioner Boggs to hold the DOI’s investigation into GuideOne to allow for your response. I have also bullet pointed a few basic items below.**

- There is nothing in the KIAA’s Plan of Operations and Rules that restricts the number of times a Reparation Obligor can file arbitration via the KIAA for PIP subrogation it is attempting to collect but is denied by the tortfeasor’s carrier when the additional damages have not already been decided upon.
- Additionally, the KIAA’s Plan of Operation’s statement in **Article 5 B(3)** which states “A decision of an Arbitrator or Arbitration Panel is final and binding with no right of rehearing or appeal“ applies only to the particular hearing set to make a ruling on the particular damages being presented. The damages Safeco was presenting in the second arbitration had not been previously ruled upon. These were new damages that GuideOne denied and thus was eligible for Safeco to file arbitration on via the KIAA.
- Kentucky law permits PIP claims to be presented within 2 years of the last payment of PIP. This can extend the life of a PIP claims for many years in some cases. All reparation obligors must abide by this law.

- GuideOne denied Safeco's PIP subrogation claim for the additional PIP claims Safeco was legally bound to pay. Subsequently, Safeco had a right to file arbitration for the PIP subrogation GuideOne denied.

Your claims associate is misinterpreting the KIAA's Rules. Safeco did not sign any release stating it would accept GuideOne's subrogation payment as a "full and final settlement" of any and all future PIP subrogation claims for any future PIP it may have to pay. Your claims associates interpretation that a subsequent KIAA arbitration hearing is "res judicata" applies is incorrect.

- KIAA General Rule 11 states: "Where there are *companion claims* arising out of the same accident each of which would be, or is subject to this Plan, only one filing is necessary to determine the issue of liability as to the drivers of the respective vehicles. A decision on the issue is res judicata on the liability issue in all companion matters involving the same reparation obligors under this Plan, except as to special defenses arising in companion claim or suit." This rule is referring to situations in which the opposing parties agree that a "companion claim" such as Collision or Med Pay coverage, will be heard in conjunction with the PIP subrogation claim. The KIAA's decision on liability will apply to all these claims so that liability does not have to be decided multiple times

GuideOne's continued failure to comply the KIAA's direction to the pay the award to the Applicant will result in intervention by the Kentucky Department of Insurance.

Yours very truly,



Stephen Hillis

Stephen Hillis, Panel Secretary  
Kentucky Insurance Arbitration Association

CC: Rachelle Roberts, Safeco Ins.  
Shawn Boggs, Deputy Commissioner KYDOI  
Ericka Gocke, KIAA Board Chair  
Stephen Hillis, KIAA Panel Secretary  
Brian Nelson, Chief Claims Officer  
Jeremy Nunz, GuideOne

Enc: email from Jeremy Nunz dated September 13, 2024

**From:** Nunz, Jeremy <JNunz@guideone.com>  
**Sent:** Friday, September 13, 2024 7:37 PM  
**To:** Stephen M. Hillis <SHillis@fairplanalliance.com>; Rebecca A. Darst <Rebecca.Darst@fairplanalliance.com>; Roberts, Rachele <rachele.roberts@libertymutual.com>  
**Cc:** Gocke, Ericka <Ericka.Gocke@kyfb.com>; [Shawn.Boggs@ky.gov](mailto:Shawn.Boggs@ky.gov)  
**Subject:** RE: [EX] FW: KY Arb Payment - GuideOne Claim #: AA174193 // Safeco Claim #: Claim#:053104558-01

**Stephen/Rebecca:**

I have repeatedly asked for clarification as to why this same claim was allowed to be arbitrated TWICE. It appears that this is an issue of law that is not being understood by the parties involved. The legal principle “Res Judicata” is referenced in the Kentucky Insurance Arbitration Association “plan”; and that principle exclusively prevents the same claim or defense from being relitigated after it has been decided. As a direct translation, res judicata means “a matter judged”. Should our inquiry into the grounds to which our insured was “subject for the same offense to be twice put in jeopardy of life or limb”, prohibited under the Fifth Amendment of the Constitution, is declared “non-compliant”, than the rule in which we are failing to comply with, is unenforceable.

As a Veteran-Servicemember in the United States military, I swore to uphold and protect the Constitution of the United States of America, against all enemies foreign and domestic. As an adjuster achieving licensure in compliance with all applicable state laws, I have an ethical obligation with a “right and duty to defend any insured” against suit seeking Property Damage or Bodily Injury to which our coverage applies; Upon which, that duty only ends when the liability limit of insurance has been exhausted by payment of judgments or settlements. Additionally, the responsibility to represent the insured with a defense, flows from Kentucky Revised Statutes 304.12-230 and bestows upon me this good faith requirement. As an educated member of society, it is a civil duty under the Second Amendment of the Constitution to challenge the government when they have exceeded their powers and is “necessary to the security of a free State”. These are not just laws, they are Civil Rights and my ethical obligations to the general public. If you view GuideOne’s inquiries as “non-compliant”, using the term to force the hand that would require someone submit to payment without any justification, you would be responsible for “taxation without representation”. A similar issue led to the American Revolutionary War in 1775.

Stephen, you will notice that Deputy Commissioner Boggs is, again, formally copied on this response. I hope that he can bear witness to the egregious grievances stated and maybe provide instruction to you, me or your subordinates, on how to communicate the rules of KIAA, as they relate to the matter.

**ALL:**

The underlying claim that was arbitrated, through the Kentucky Insurance Arbitration Association, was a subrogation matter pertaining to liability for an auto collision between two individual parties. There was ONE occupant in the Plaintiff (Safeco) vehicle. There was ONE occupant in the Defendant (GuideOne) vehicle. Safeco, as subrogee to Jonathan Morales Velazquez, filed the arbitration matter against GuideOne, as the insurer for UAR Direct, LLC & Joshua Maddox.

The first filing, through KIAA docket number 41056, was adjudicated by arbitrator, Dianne Spalding on November 30<sup>th</sup>, 2023. The “final” decision was rendered on December 15<sup>th</sup>, 2023. Under that petition, the arbitrator opined: “The Applicant {Safeco} proved their case for liability and damages.” The arbitrator

further detailed that “the medical bills paid were as a result of the Applicant’s {Safeco} injuries sustained in the automobile accident.” The arbitrator entered a “final” and binding award in favor of the Applicant and in the amount of \$7,160.60. The total award was reduced less the Inter-Company Offset of \$1,000, for a total sum, to be payable by GuideOne, in the amount of \$6,160.60. GuideOne faithfully complied with the ruling and closed the claim.

A subsequent filing, through KIAA docket number 419865, was the SECOND adjudication of the same claim and GuideOne’s objection to arbitration was not honored or overlooked by the arbitrator, Sibyl Lapinski. GuideOne’s objection to arbitration was based on the aforementioned issues regarding “double jeopardy” and the Arbitrator’s lack of legal authority to set-aside a binding release/contract. However, the hearing proceeded without comment to the objections raised and was heard on June 13<sup>th</sup>, 2024. The SECOND “final” decision was rendered on July 22<sup>nd</sup>, 2024. Under that petition, the arbitrator opined “Safeco submitted medical bills and its PIP ledger supporting total medical expenditures in the amount of \$8,270.00. Of this amount, \$5,430.60 was sought and awarded in the initial arbitration. The remaining balance is \$2,839.40.” **The remaining balance was incurred by Safeco, subsequent to the initial arbitration ruling, as well as, being subsequent to the execution of a full release of liability by the Plaintiff.**

**To Commissioner, Shawn Boggs:**

I am a law abiding citizen and I pride myself on the integrity behind my work or everyday demeanor. I do not threaten adjusters or any party to a claim, with complaints to their managers or superiors to avoid conflict. In my experience, conflict is how we grow and become better. As you can see, I have laid all “my cards” on the table and I have nothing to hide regarding my actions.

Most recently on 09/12/2024, I took the exam for the Arizona - Adjuster Line of Authority. While that has nothing to do with Kentucky, I can produce those testing scores to prove that my understanding of claim related legal principles is proficient. I am not a licensed attorney and I would not declare myself as an expert. I understand that there is always something to learn but with no formal training offered by KIAA, on the rules and procedures, I can only apply the knowledge that I have acquired.

This issue has escalated beyond any measure that it should have been resolved. I have pleaded with the KIAA representative, Rebecca Darst, for the last few months to provide the rule that allows the same claim to be adjudicated twice. Rebecca has not responded to that inquiry with any definitive answer. Thus, this is the situation we find ourselves in. If GuideOne is required to pay both awards, please help me better understand how a KIAA Arbitration Decision differs from that of other arbitration forums. If there is training I can attend or materials I can review, I am happy to do so.

I look forward to a resolution and hope that we can bring this matter to conclusion amicably.

Very Respectfully,

Jeremy Nunz

Casualty Adjuster





**Jeremy Nunz**

Adjuster, Casualty

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a 1111 Ashworth Rd, West Des Moines, IA 50265

Brian Nelson, Qualified Manager, CA license #4358685

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[GUIDEONE.COM](http://GUIDEONE.COM) / [FACEBOOK](#) / [LINKEDIN](#)

9/16 4:49 pm ET Voicemail

Mark , this is Jeremy with Guideone insurance calling with regards to Guideone claim number 8 8 1 7 4 1 9 3 . I believe I don't know if you guys have a Case number or something like that that you guys are looking at this through, but I wanted to discuss your email and then also my response to you as far as the information that I put in that email big picture wise. I'm just looking to see if there's any kind of training or documentation that you can provide to me that I can put into my file to show why the claim is arbitrated twice. I think that my email to you might've been a little bit exaggerative as far as what the email the big impression or the egregious nature of it is because it is just \$1000 payment, but I have scoured through the The plan rules are the plan I guess I think they Respect format and there's nothing in there that says when you can or cannot arbitrate the same claim twice and that's I think I'm taking issue as if it's two separate claims then there would be two separate offsets if they are the same claim and they shouldn't be allowed to be adjudicated twice So I'm just looking to see if I can get an answer to this ultimately and I can issue the payment for \$1000 but There's no there's no justification behind it and that's what I'm looking for so could give me a call back. My phone number is 5 1 5- 2 6 7- 5 0 6 4. I think that the context of the emails maybe comes off as a little bit more aggressive, and then inquisitive, and ultimately I'm I'm just being inquisitive because I would like to document my file accordingly. So if you could give me a call back , that would be appreciated again . Guidance claim number is AA..."