

**MONTANA ELEVENTH JUDICIAL DISTRICT COURT  
FLATHEAD COUNTY**

*A court has authorized this Notice. This is not a solicitation from a lawyer.  
You are not being sued.*

**If you are a Class Member, your legal rights are affected whether you act or do not act.**

**PLEASE READ THIS NOTICE CAREFULLY**

- This Notice provides information about a proposed settlement of a class action lawsuit concerning whether Safeco Insurance Company of America and Safeco Insurance Company of Illinois (collectively “Safeco”) properly recovered subrogation in Montana on automobile accident claims. Safeco denies any wrongdoing and maintains that it has complied with its obligations under Montana law.
- Under the settlement, Safeco will pay a total of \$4,766,169.72. If the Court approves the settlement, Class Members will receive compensation from Safeco (in the form of a check). The amount you will receive is explained below.

| <b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b> |  |
|---|--|
| <b>EXCLUDE YOURSELF</b>                                 | Get no payment. This is the only option that allows you to ever be a part of any other lawsuit against Safeco about the legal claims in this case. |
| <b>OBJECT</b>   | Write to the Court about why you do not like the settlement.   |
| <b>GO TO A HEARING</b>                                  | Ask to speak in Court about the fairness of the settlement.  |
| <b>DO NOTHING</b>                                       | Get your share of the settlement amount which will be paid automatically in the form of a check.   |

- These rights and options, **and the deadlines to exercise them**, are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve this settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

**WHAT THIS NOTICE CONTAINS**

**BASIC INFORMATION .....**

- 1. Why did I get this Notice package?
- 2. Which companies are part of the settlement?
- 3. What is this lawsuit about?
- 4. Why is this a class action?
- 5. Why is there a settlement?

**WHO IS IN THE SETTLEMENT .....**

- 6. How do I know if I am part of the settlement?
- 7. Are there exceptions to being included?
- 8. How do I know if information in Safeco’s possession shows that I am a Class Member?

**THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU DO NOT OPTOUT.....**

- 9. What does the settlement provide?
- 10. When will I get my payment?
- 11. What if I disagree with the amount of my payment?
- 12. What am I giving up to get a payment or stay in the Class?

**EXCLUDING YOURSELF FROM THE SETTLEMENT .....**

- 13. How do I get out of the settlement?
- 14. What is a “Legally Authorized Representative”?
- 15. If I do not exclude myself, can I sue the Defendants for the same thing later?
- 16. If I exclude myself, can I get a payment from this settlement?

**THE LAWYERS REPRESENTING YOU .....**

- 17. Do I have a lawyer in this case?
- 18. How will the lawyers get paid? What is the Class Representative Incentive Award?

**OBJECTING TO THE SETTLEMENT .....**

- 19. How do I tell the Court that I do not like the settlement?
- 20. What is the difference between objecting and excluding yourself?

**THE COURT’S FINAL APPROVAL HEARING .....**

- 21. When and where will the Court decide whether to approve the settlement?
- 22. Do I have to come to the Hearing?
- 23. May I speak at the Hearing?

**IF YOU DO NOTHING .....**

- 24. What happens if I do nothing at all?

**GETTING MORE INFORMATION.....**

- 25. How do I get more information about the settlement?

**BASIC INFORMATION****1. Why did I get this Notice package?**

A Court authorized this Notice because you have a right to know about a proposed settlement of this class action, and about all of your options, before the Court decides whether to give “final approval” to the settlement. If the Court approves the parties’ Stipulation of Settlement, and after any objections and appeals are resolved, payments will be made to those who qualify.

Judge Katherine Curtis of the Eleventh Judicial Circuit, Flathead County, is overseeing this class action. This case is known as *Margaret Ferguson, et al. v. Safeco Insurance Company of America, et al* Case No. DV 04-626B.

This Notice explains the lawsuit, the settlement, your legal rights and what benefits are available under the settlement.

**2. Which companies are part of the settlement?**

This settlement involves Safeco Insurance Company of Illinois and Safeco Insurance Company of America. This Notice also sometimes refers to these companies as the “Defendants.”

**3. What is this lawsuit about?**

The lawsuit claims that Safeco improperly recovered subrogation on automobile accident claims where it had already paid its insureds for covered losses under automobile insurance policies in Montana.

Safeco denies that it did anything wrong, and maintains that it has complied with its obligations under Montana law. The Parties, however, have agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of continued litigation.

**4. Why is this a class action?**

In a class action lawsuit, one or more people called “Class Representatives” (in this case, Margaret Ferguson) sue on behalf of people who have similar claims. All these people are a “Class” or “Class Members.” One court resolves the issues for everyone in the Class, except for those people who choose to exclude themselves from the Class.

**5. Why is there a settlement?**

Both sides agreed to a settlement to avoid the cost, delay, and uncertainty of further litigation. Class Counsel think that the settlement is in the best interest of the Class and that the settlement is fair, adequate, and reasonable.

**WHO IS IN THE SETTLEMENT****6. How do I know if I am part of the settlement?**

Because you are receiving this Notice, Safeco believes that you are part of the Class, based on a review of its records. The Class includes all persons, from September 1, 1996 through December 31, 2010, who:

- (a) was insured under an auto insurance policy issued by Safeco Insurance Company of America or Safeco Insurance Company of Illinois in Montana; and
- (b) who, as a result of an automobile accident, suffered losses covered by such policy; and
- (c) received payments under the coverages of such policy; and
- (d) with respect to whom Safeco recovered from a third party subrogation for all or some of such payments, excluding the individuals identified in Question 7, below.

**7. Are there exceptions to being included?**

Yes. Excluded from the Settlement Class are all officers, directors, employees, and agents of Safeco, Class Counsel and Safeco's counsel of record, members of the Montana judiciary assigned to this case.

**8. How do I know if information in Safeco's possession shows that I am a Class Member?**

If you were sent this Notice by the Settlement Administrator that means that Safeco's records show that between September 1, 1996 through January 31, 2010 you were a policyholder under a Montana personal auto insurance policy issued by Safeco Insurance Company of America or Safeco Insurance Company of Illinois in Montana; (b) who, as a result of an automobile accident, suffered losses covered by such policy; (c) received payments under the coverages of such policy; and (d) with respect to whom Safeco recovered from a third party subrogation for all or some of such payments.

**THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU DO NOT OPT-OUT****9. What does the settlement provide?**

The total settlement amount for the class will be \$4,766,169.72, which includes a recovery of attorney's fees, costs and expenses.

Safeco will pay Ms. Ferguson an incentive award in an amount to be approved by the Court of up to \$7,500, and will also pay the costs of settlement notice and administration.

If the settlement becomes final, the lawsuit will be dismissed with prejudice, and Safeco will receive a complete release and discharge of the claims asserted in the lawsuit.

**10. When will I get my payment?**

The exact date that Class Members will receive checks (the "Distribution Date") is not known at this time.

The Court will hold a hearing on **May 5, 2015, at 1:00 p.m. (Mountain time)** to decide whether to approve the settlement. If the Court approves the settlement (see the section "The Court's Final Approval Hearing," below), there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time.

If the Court approves the settlement, and the settlement becomes final (in other words, any appeals have been finally resolved), the Distribution Date will be no later than 60 days after the settlement becomes final.

The settlement website ([www.FergusonMontanaSettlement.com](http://www.FergusonMontanaSettlement.com)) will post updates on the Distribution Dates. Or you can call us toll-free at 1- (855) 382-6457 or send an e-mail to [info@fergusonmontanasettlement.com](mailto:info@fergusonmontanasettlement.com) to learn the status.

**11. What if I disagree with the amount of my payment?**

All calculations under this settlement are final, binding, and non-appealable. If the settlement is given final approval by the Court, Class Members will not thereafter have the right to object to the calculation of their payment, or the decision whether they are eligible for payment. All Class Members who do not ask to be excluded may object to the terms of the settlement as described in section 19 below.

**12. What am I giving up to get a payment or stay in the Class?**

Unless you exclude yourself, you are staying in the Class, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against Safeco about the legal issues in *this* case. It also means that all of the Court's orders will apply to you and legally bind you. If you stay in the Class, you will agree to "release and discharge" Safeco as described in Paragraphs 13, 30 and 31 of the Stipulation of Settlement.

A complete copy of the Stipulation of Settlement can be obtained at [www.FergusonMontanaSettlement.com](http://www.FergusonMontanaSettlement.com). Talk to Class Counsel (see the section on "The Lawyers Representing You") or your own lawyer if you have questions about the Released Claims or what they mean.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from this settlement, but you want to keep the right to sue Safeco on your own about the legal issues in this case, then you must take steps to exclude yourself from the settlement. This is sometimes referred to as “opting out” of the Class.

### 13. How do I get out of the settlement?

To exclude yourself from the settlement, you must send a letter to the Settlement Administrator by first-class mail with a clear statement that you want to be excluded from the *Ferguson v. Safeco* settlement.

Be sure to include your name, address, telephone number, and your signature. If you are sending the request to be excluded as the “Legally Authorized Representative” of a Class Member (see Question 14 for the definition of that term), you must include any information or documents that confirm your appointment or status as a Legally Authorized Representative. Requests for exclusion must be submitted individually by a Class Member or his or her Legally Authorized Representative, and not on behalf of a group or class of persons. If you have a personal lawyer, your lawyer may assist you with your exclusion request, but you must sign the exclusion request, unless the lawyer is also your Legally Authorized Representative.

You must mail your exclusion request **postmarked no later than April 21, 2015**, to:

Ferguson Montana Settlement  
P.O. Box 35100  
Seattle, WA 98124-1100

You cannot exclude yourself on the phone, by e-mail, or on the website. If you ask to be excluded, you will not get any money from the settlement, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) Safeco.

### 14. What is a “Legally Authorized Representative”?

“Legally Authorized Representative” means an administrator/administratrix or executor/executrix of a deceased Settlement Class Member’s estate or a guardian, conservator, personal representative or next friend of an incapacitated Settlement Class Member or minor. A Legally Authorized Representative does not include a professional objector or claim filing or similar service purporting to act on behalf of an individual class member or group of settlement class members.

### 15. If I do not exclude myself, can I sue the Defendants for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Safeco for the claims that this settlement resolves. If you have a pending lawsuit, speak to your lawyer in that case immediately. You must exclude yourself from *this* Class to continue your own lawsuit.

Remember, the exclusion deadline is **April 21, 2015**.

### 16. If I exclude myself, can I get a payment from this settlement?

No. If you exclude yourself, you are not eligible for a payment under the settlement. But you may sue, continue to sue, or be part of a different lawsuit against Safeco.

## THE LAWYERS REPRESENTING YOU

### 17. Do I have a lawyer in this case?

The Court has appointed the following law firms to represent the Class:

Allan M. McGarvey, Esq.  
McGarvey, Heberling,  
Sullivan & Lacey, PC  
345 1<sup>st</sup> Avenue East  
Kalispell, MT 59901  
(406) 752-5566

Alan J. Lerner  
Lerner Law Firm  
P.O. Box 1158  
128 Second Street East  
Kalispell, MT 59903

Judah M. Gersh  
Viscomi and Gersh,  
PLLP  
121 Wisconsin Ave.  
Whitefish, MT 59937

These lawyers are called Class Counsel. Services performed by Class Counsel will be compensated by a Court approved fee paid out of the total class settlement as described in section 18. If you want to be represented by your own lawyer, you may hire one at your own expense.

### 18. How will the lawyers be paid? What is the Class Representative Incentive Award?

Class Counsel will ask the Court to approve a payment of attorneys' fees, expenses, and costs which is one third (1/3) of the total class recovery of \$4,766,169.72. This amount includes costs and expenses up to \$50,000.00. Class Counsel will also ask for a payment of up to \$7,500 to the named Plaintiff, Margaret Ferguson, for her service as Class Representative, to be paid by Safeco. Safeco has agreed not to oppose the request for fees, expenses, and awards to Class Counsel and the Class Representative up to these amounts. The Court may award less than these amounts.

## OBJECTING TO THE SETTLEMENT

If you are a Class Member and do not exclude yourself, you can tell the Court that you do not agree with the settlement or some part of it.

### 19. How do I tell the Court that I do not like the settlement?

If you are a Class Member (or a Class Member's Legally Authorized Representative, see Question 14), and you have not excluded yourself from the settlement, you can object to the proposed settlement. You cannot object if you have excluded yourself. In other words, you must participate in the settlement as a Class Member in order to object to its terms.

You can give reasons why you think the Court should not approve the settlement or the request for fees, expenses or awards to the Class Representative and Class Counsel. The Court will consider your views. To object, you must (a) **serve** your objection on counsel for Safeco and Class Counsel for the Plaintiffs **and** (b) **file** it with the Court. To be timely, your objection must be **postmarked** by **April 21, 2015**, and must be **filed** with the Court by no later than **April 21, 2015**, at the following addresses:

#### Address of Class Counsel:

Allan McGarvey  
McGarvey, Heberling, Sullivan & Lacey, PC  
345 1<sup>st</sup> Avenue East  
Kalispell, MT 59901

#### Address of Court:

Flathead County District Court  
Case No. DV 04-628B  
920 South Main Street  
Kalispell, MT 59901

**Address of Safeco Counsel:**

Daniel F. Diffley  
Alston & Bird LLP  
1201 West Peachtree Street  
Atlanta, GA 30309

Carey E. Matovich  
Matovich, Keller & Murphy  
2812 First Avenue North  
P.O. Box 1098  
Billings, MT 59103-1098

Note: You may mail your objection to the Court, but it must be **received** by the Court **and filed** by **April 21, 2015**. See Paragraphs 54-60 of the Stipulation of Settlement for more information on how to object to or intervene in the settlement.

Your objection must include all of the following: (a) a heading which includes the name of the case and case number (*Ferguson v. Safeco*, Case No. DV 04-628B); (b) your full name, address, telephone number, and signature; (c) the specific reasons why you object to the settlement, attorney fees or any other part of the settlement; (d) the name, address, and telephone number of your counsel, if represented by an attorney (if you are represented by an attorney, he/she or it must comply with all applicable laws and rules for filing pleadings and documents); (e) a list of other cases in which you or your counsel has appeared either as an objector or counsel for an objector in the last five years; and (f) whether you intend to appear at the Final Approval Hearing, either in person or through counsel. All objections must be signed by the objecting Class Member (or his or her Legally Authorized Representative), even if the Class Member is represented by counsel. If you object, you must make yourself available to be deposed by any Party in the county of your residence within seven (7) days of service of your timely written objection.

If you intend to appear at the Final Approval Hearing to object to the settlement, you must also provide with your written objection a detailed statement of the specific legal and factual basis for each objection, a list of any witnesses you will call at the Hearing with each witness' address and summary of the witness' testimony, a detailed description of all evidence you will offer at the Hearing with copies of the exhibits attached, and documentary proof of your membership in the Class. You or your lawyer may appear at the Final Approval Hearing if you have filed a written objection as provided above. (See the section on the "Court's Final Approval Hearing" below.) If you have a lawyer file an objection for you, he or she must follow all applicable court rules and must list the attorney's name, address, and telephone number in the written objection filed with the Court.

Unless you submit a proper and timely written objection, according to the above requirements, you will not be allowed to object or appear at the Final Approval Hearing.

Please note that any objections or motions must be submitted by an individual Class Member or his or her attorney, not as a member of a group, class, or subclass. The only exception is that an objection may be submitted on behalf of an individual Class Member by his or her Legally Authorized Representative (see Question 14 above for a definition of that term).

**20. What is the difference between objecting and excluding yourself?**

Objecting is simply telling the Court that you do not like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object, because the case no longer affects you. If you object, and the Court approves the settlement anyway, you will still be legally bound by the result.

**THE COURT'S FINAL APPROVAL HEARING**

The Court will hold a hearing called a "Final Approval Hearing" (also known as a "Fairness Hearing") to decide whether to approve the settlement. If you have not excluded yourself from the settlement, you may attend the Final Approval Hearing and you may ask to speak, but you do not have to.

**21. When and where will the Court decide whether to approve the settlement?**

The Court will hold a Final Approval Hearing to decide whether to finally approve the proposed settlement. You may attend and you may ask to speak, but you do not have to do either one.

The Final Approval Hearing will be on **May 5, 2015, at 1:00 p.m. (Mountain time)** before Judge Katherine Curtis, Montana Eleventh Judicial Circuit, at the Flathead County Courthouse, 920 S. Main St., Kalispell, Montana.

At this Hearing, the Court will consider whether the proposed settlement and all of its terms are adequate, fair, and reasonable. If there are objections, the Court will consider them. The Court may listen to people who have asked for permission to speak at the Hearing and complied with the other requirements for objections explained in Question 19 above. The Court will also decide how much to award Class Counsel for fees and expenses for representing the Class and whether and how much to award the Class Representative for representing the Class.

At or after the Hearing, the Court will decide whether to finally approve the proposed settlement. There may be appeals after that. We do not know how long these decisions will take.

The Court may change deadlines listed in this Notice without further notice to the Class. To keep up on any changes in the deadlines, please contact the Settlement Administrator or review the website.

**22. Do I have to come to the Hearing?**

No. Class Counsel will answer any questions asked by the Court. But you are welcome to come at your own expense. If you intend to have a lawyer appear at your expense on your behalf at the Final Approval Hearing, your lawyer must enter a written notice of appearance of counsel with the Clerk of the Court no later than **April 21, 2015**, and you must comply with all of the requirements explained above.

If you send an objection, you do not have to come to Court to talk about it. So long as you mailed your written objection on time and complied with the other requirements for a proper objection, the Court will consider it.

**23. May I speak at the Hearing?**

If you submitted a proper written objection to the settlement, you or your lawyer acting on your behalf may speak at the Hearing. To do so, you must send a Notice of Intention to Appear and follow the procedures set out in Question 19. Your Notice of Intention to Appear must be mailed to the Lead Counsel, Safeco's counsel, and the Court so that it is **postmarked no later than April 21, 2015**, and it must be **filed** with the Clerk of the Court by that same date. See Question 19 for the addresses. You cannot speak at the Hearing if you excluded yourself.

**IF YOU DO NOTHING**

**24. What happens if I do nothing at all?**

Unless you exclude yourself, you will be part of the Class and this settlement, you will receive the payment called for in the settlement, and you will not be able to sue or be part of any other lawsuit against Defendants about the legal issues in this case, ever again.

If you do not exclude yourself, you do not have to do anything to receive a payment. You will receive a check automatically. (See Question 10 for more details.)

**GETTING MORE INFORMATION**

**25 .How do I get more information about the settlement?**

You may obtain additional information by

- Calling the Settlement Administrator toll-free at 1- (855) 382-6457 to ask questions and receive copies of documents, or e-mailing the Settlement Administrator at [info@fergusonmontanasettlement.com](mailto:info@fergusonmontanasettlement.com).



- Writing to the Settlement Administrator at the following address:

Ferguson Montana Settlement  
P.O. Box 35100  
Seattle, WA 98124-1100

- Visiting the settlement website, where you will find answers to common questions about the settlement plus other information to help you.
- Reviewing legal documents that have been filed with the Clerk of Court in this lawsuit at the Court offices stated in Question 19 above during regular office hours.
- Contacting Class Counsel at (406) 752-5566

**PLEASE DO NOT CALL THE JUDGE OR THE COURT CLERK TO ASK QUESTIONS ABOUT THIS LAWSUIT OR NOTICE.**

**THE COURT WILL NOT RESPOND TO LETTERS OR TELEPHONE CALLS. IF YOU WISH TO ADDRESS THE COURT, YOU MUST FILE AN APPROPRIATE OBJECTION, PLEADING OR MOTION WITH THE CLERK OF THE COURT IN ACCORDANCE WITH THE COURT'S USUAL PROCEDURES.**