Often times, filing a lawsuit is regarded as a last resort to resolving disputes because it can be expensive, time intensive, and invasive. As a result, engaging in alternative dispute resolution is encouraged. When insurers become members of Arbitration Forums for PIP, they have agreed to arbitrate disputes arising from PIP benefit payments and recovery rights rather than litigate them. In California Casualty Indemnity Exchange v. Federated Mutual Insurance Company, a member of the Arbitration Forums PIP Intercompany Reimbursement Agreement filed a lawsuit for reimbursement of PIP payments against another member instead of arbitrating the dispute. The court dismissed the lawsuit concluding the insurer, as a member of the forum, was required to arbitrate the dispute rather than file a lawsuit. California Casualty Indemnity Exchange v. Federated Mutual Insurance Company, in the Court of Appeals of the State of Oregon, A147246, --- P3d ---- (July 25, 2012).

**Claims Pointer:** If both insurers are members of Arbitration Forums for PIP, a PIP insurer seeking reimbursement from the liability insurer for personal injury protection benefits paid on behalf of its insured is required to arbitrate the dispute rather than filing a lawsuit against the liability insurer.

California Casualty Indemnity Exchange (Plaintiff) paid its insured personal injury protection (PIP) benefits after being injured in a car accident caused by another driver insured by Federated Mutual Insurance Company (Defendant). Plaintiff paid its PIP policy limits of $100,000 and property damage benefits on behalf of its insured. Both Plaintiff and Defendant were members of the Arbitration Forums PIP Intercompany Reimbursement Agreement. As signatories, they agreed to forgo litigation and arbitrate disputes arising from recovery rights of PIP claims or benefit payments. Plaintiff requested reimbursement of the PIP benefits it paid from Defendant. However, Plaintiff never filed for Intercompany Arbitration. Instead, Plaintiff filed a lawsuit seeking reimbursement of the PIP benefits under ORS 742.534, the “interinsurer reimbursement” statute which allows an insurer who paid PIP benefits to another’s insured to seek reimbursement from that tortfeasor’s insurer. Both parties filed motions for summary judgment. The trial court granted Defendant’s motion and dismissed the case because it determined Plaintiff was required to arbitrate the dispute. (As a side note, it appears the liability insurer settled with the injured party and the release included a release for medical expenses. Thus, while not clearly stated by the court, it appears the dispute between the insurers was whether this release terminated the right to repayment of PIP.)

On appeal, Plaintiff argued ORS 752.534(3) only required arbitration when there was a dispute regarding liability or the amount owed. Plaintiff claimed no such dispute existed in this matter because liability and the amount owed were established. The Court disagreed with Plaintiff’s narrow interpretation of the statute. Since the dispute involved the amount of reimbursement, the Court determined ORS 752.534(3) required the matter be decided by interinsurer arbitration. Thus, the trial court appropriately granted Defendant’s motion and dismissed the lawsuit.

*Full case available at:* [www.publications.ojd.state.or.us/Publications/A147246.pdf](http://www.publications.ojd.state.or.us/Publications/A147246.pdf)

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Winterizing Your Home
By Gale DeLisio, Halo Construction and Shannon Kerr, CRDN of WA
Reprinted from the PSAA August 2012 Newsletter

Yes, we know we’re in the midst of summer and it’s hard to think about winterizing your home, but seriously this is Pacific Northwest, and we all know that summer won’t last long.

With winter just about ready to make its cold presence known, ask yourself: Are you ready? Before it becomes uncomfortable for you to do so, give yourself some time to make sure your home is properly ready for winter.

Winterizing your home is going to do a couple of things for you. Number one, it's going to control energy and heating costs, and number two, it's also going to help you avoid disasters that could be very costly to you, such as from frozen pipes or other catastrophes. And, of course, you'll be much more comfortable even when it's very cold outside if you do the following:

1. Check the insulation level in your ceiling and attic. Be sure you have adequate insulation in your home so cold air isn't escaping through your roof and increasing your energy bills. The U.S. Department of Energy offers guidelines for the R-value you should have in your home based on where you are located in the country and the expected low temperatures there in the winter season. Simply type in "R value insulation" in any search engine and you'll be able to find this chart or a similar chart on an insulation manufacturer's website. Add any necessary insulation now so that your home is well insulated before the first cold spell hits.

2. Make sure you do caulking around gaps, cracks or spaces that let heat escape from your house and cold in. These cracks or gaps can occur in your porch, doors, windows, or round the foundation. By making sure these "escape routes" are sealed up, the heat you pay for will stay inside your home. You can also cover windows with plastic so that air won't leak out from around them and cold drafts won't come in.

3. If you put weather stripping around your windows and doors, you can seal gaps even if you can't caulk them.

4. Before winter sets in, turn off and then drain outside pipes and faucets so that they won't freeze and crack or burst, and disconnect hoses.

5. If you live in a mobile home or you have a crawl space underneath your house, go underneath to make sure that the pipes under your house are well insulated so that they won't freeze during the winter.

6. Ceiling fans can be a great way to direct heat downward during the winter months. Install ceiling fans in rooms where you don't have them and run them on low for the entire winter. They'll force warm air downward from the ceilings where it can actually be of good use.

7. Your furnace should be working properly; get it checked to make sure it's doing so and especially to make sure that it won't leak carbon monoxide into your house. Change the filter, which you should do every three months anyway. You should do it more often if you have pets or if it's especially dirty when you check it at normal intervals.

8. If you have air-conditioning units in your windows, take them out and store them for the winter. Windows should be closed and sealed to make sure that warm air doesn't leak out during the winter months. If you have central air conditioning, cover the unit so that moisture stays out of it off-season.

9. If you have old-fashioned windows that utilize screens, remove and replace them with storm windows and doors for the winter.

10. Plants should be trimmed back and trees should be pruned as necessary. If bulbs need to be dug up, do so, and cover shrubs and fragile plants with an old sheet or blanket and a plastic container like an inverted garbage can.

It takes a little time, but properly preparing your home for the winter months will pay off nicely in energy savings and a higher comfort level. ♥