BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

MARINA RAMOS, Claimant, v. INTERMOUNTAIN MANAGEMENT, LLC, Employer, and ZURICH AMERICAN INSURANCE, Surety, Defendants.	**IC 2011-021540** **IC 2013-013432** **ORDER DENYING PETITION FOR DECLARATORY RULING** **Filed March 20, 2014**

On February 25, 2014, Claimant filed a request for declaratory ruling with a supporting memorandum. Claimant requests a declaratory ruling on the following question: "Whether the 'alienage status' disability coverage exclusion of *Diaz* and its administrative progeny is nullified by Idaho Supreme Court precedent, or otherwise superseded and/or preempted/foreclosed by Idaho law?" Claimant contends that she was involved in two industrial accidents that resulted in potential permanent total or partial disability.

On February 28, 2014, Defendants filed an objection to Claimant's request. Defendants argue that Claimant's proposed issue is not proper for a declaratory ruling, because: 1) Claimant has failed to provide sufficient facts on which the Commission may base a ruling, 2) Claimant's arguments regarding her entitlement to permanent disability benefits are best addressed at hearing; and 3) Claimant has failed to show that she would be directly affected by a resolution of the issues presented in her petition.

On March 11, 2014, Claimant filed a reply brief, arguing, among other things, that a declaratory ruling is preferable to a hearing because it is more simple and summary than a hearing.

Pursuant to J.R.P. 15(F), the Commission has the authority to decline to make a declaratory ruling. The Commission finds that this matter is more properly handled as one of the issues to be decided by the Referee assigned to this case in the normal course of proceeding. Notwithstanding Claimant's argument about the simplicity of procedure, Defendants are correct that, at present, it is not apparent whether Claimant would be directly affected by the resolution of the issue presented. There has been no adjudication on whether or not Claimant is entitled to disability in excess of impairment. Claimant's disagreement with the Commission's holding in *Diaz v. Franklin Building Supply*, 2009 IIC 0652, is an inappropriate basis for a declaratory ruling.

Based on the foregoing, Claimant's request for a declaratory ruling is **DENIED**.

IT IS SO ORDERED.

DATED this _20th_ day of __March_____, 2014.

INDUSTRIAL COMMISSION

_/s/_____
Thomas Baskin, Chairman

_/s/_____
R.D. Maynard, Commissioner

_/s/_____
Thomas E. Limbaugh, Commissioner

ATTEST:

_/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the _20th___ day of __March_____, 2014, a true and correct copy of the **ORDER DENYING PETITION FOR DECLARATORY RULING** was served by United States Mail upon each of the following:

JUSTIN AYLSWORTH
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ka _/s/_____