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GUTHRIE & SKEEL, L.L.P.
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**ALSO ADMITTED IN OH
***ALSO ADMITTED IN NJ

January 8, 2009

Ron Diehl, Prothonotary
2 N. Main Street
Suite 501
Greensburg, PA 15601

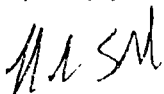
Re: State Farm Mutual Automobile Ins. Co. v. Melissa, Janet and Thomas Leonard
Docket No. : 13285 of 2008 (Westmoreland Cty.)
Date of Loss : 10/16/2000
Our File No. : 16388

Dear Mr. Diehl:

Enclosed for filing please find the original of Plaintiff's Amended Complaint in Declaratory Judgment. Kindly file the original and return a time-stamped copy of the enclosed coversheet to me in the self-addressed, stamped envelope I have provided.

Please do not hesitate to contact me with any questions or concerns. Thank you very kindly.

Very truly yours,



Robert J. Fisher, Jr.

RJF/sp
Enclosures
cc: ✓Virginia Shenkan, Esq. (w/ encl.)

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Plaintiff,

vs.

MELISSA LEONARD, JANET LEONARD
and THOMAS LEONARD,

Defendants.

CIVIL DIVISION

NO.: 13285 of 2008

**AMENDED COMPLAINT IN
DECLARATORY JUDGMENT**

(JURY TRIAL DEMANDED)

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

THOMAS A. MCDONNELL, ESQUIRE
PA I.D. #52711

ROBERT J. FISHER, JR., ESQUIRE
PA I.D. #92026

SUMMERS, McDONNELL, HUDOCK,
GUTHRIE & SKEEL, L.L.P.

Firm #911

The Gulf Tower, Suite 2400
707 Grant Street
Pittsburgh, PA 15219

(412) 261-3232

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Plaintiff,

vs.

MELISSA LEONARD, JANET LEONARD
and THOMAS LEONARD,

Defendants.

CIVIL DIVISION

NO.: 13285 of 2008

(JURY TRIAL DEMANDED)

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**LAWYER REFERRAL SERVICE
WESTMORELAND BAR ASSOCIATION
PO BOX 565
GREENSBURG, PA 15601**

TELEPHONE: (724) 834-8490

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

CIVIL DIVISION

NO.: 13285 of 2008

Plaintiff,

vs.

(JURY TRIAL DEMANDED)

MELISSA LEONARD, JANET LEONARD
and THOMAS LEONARD,

Defendants.

AMENDED COMPLAINT IN DECLARATORY JUDGMENT

AND NOW, comes the Plaintiff, State Farm Mutual Automobile Insurance Company, by and through their attorneys, Summers, McDonnell, Hudock, Guthrie & Skeel, L.L.P. and Robert J. Fisher, Jr., Esquire, and files the within Amended Complaint in Declaratory Judgment and in support thereof avers as follows:

1. The original Complaint in Declaratory Judgment is attached hereto as Exhibit "A" and is incorporated as part of the Amended Complaint.

2. Attached as Exhibit "B" is a copy of State Farm Mutual Automobile policy 9838.7 in effect on October 16, 2000.

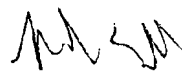
WHEREFORE, the Plaintiff respectfully ~~requests the Court to grant summary judgment in favor of the Plaintiff.~~

~~and praying that the Plaintiff, State Farm Mutual Automobile Insurance Company, is not obligated to provide coverage for first party benefits to the Defendant, Melissa Leonard, with~~

respect to the claims for first party benefits arising out of the accident of October 16, 2000 and grant such further relief as may deemed appropriate by the court.

Respectfully submitted,

SUMMERS, McDONNELL, HUDOCK, GUTHRIE & SKEEL

By: 

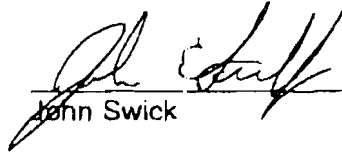
Robert J. Fisher, Jr., Esquire
Attorney for Plaintiff.

VERIFICATION

I, JOHN SWICK, am authorized to make this verification on behalf of STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, the Plaintiff herein, and state that the averments of fact made in the within Amended Complaint in Declaratory Judgment are true and correct to the best of my knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa C.S.A. §4904 relating to unsworn falsification to authorities, which provides that if I knowingly make false averments, I may be subject to criminal penalties.

Date: 1-7-09



John Swick

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Plaintiff,

vs.

MELISSA LEONARD, JANET LEONARD
and THOMAS LEONARD,

Defendants.

CIVIL DIVISION

NO.:

13285 of 2008

**COMPLAINT IN DECLARATORY
JUDGMENT**

(JURY TRIAL DEMANDED)

Filed on Behalf of Plaintiff.

Counsel of Record for this Party:

THOMAS A. MCDONNELL, ESQUIRE
PA I.D. #52711

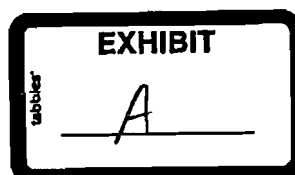
SUMMERS, MCDONNELL, HUDOCK,
GUTHRIE & SKEEL, L.L.P.

Firm #911

The Gulf Tower, Suite 2400
707 Grant Street
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(412) 261-3232

#16388



**IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY,
PENNSYLVANIA**

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Plaintiff,

vs.

MELISSA LEONARD, JANET LEONARD
and THOMAS LEONARD,

Defendants.

CIVIL DIVISION

NO.:

(JURY TRIAL DEMANDED)

COMPLAINT IN DECLARATORY JUDGMENT

AND NOW, comes the Plaintiff, State Farm Mutual Automobile Insurance Company, by and through their attorneys, Summers, McDonnell, Hudock, Guthrie & Skeel, L.L.P. and Thomas A. McDonnell, Esquire, and files the within Complaint in Declaratory Judgment and in support thereof avers as follows:

1. Plaintiff, State Farm Mutual Automobile Insurance Company (hereinafter "State Farm"), is an Illinois corporation with a principle place of business in Bloomington, Illinois and is licensed to transact insurance business in the Commonwealth of Pennsylvania.

2. The Defendant, Melissa Leonard, is an adult individual who resides on 37 Millersdale Road, Jeanette, Pennsylvania 15644.

3. The Defendants, Janet and Thomas Leonard, are adult individuals who reside on 37 Millersdale Road, Jeanette, Pennsylvania 15644

4. The Plaintiff, State Farm, had issued a policy of motor vehicle insurance to Janet and Thomas Leonard which was in force on October 16, 2000, policy #7289 - 611.

5. On that date, Melissa Leonard, minor and daughter of Janet and Thomas Leonard, was residing in her parents' household and, at that time, was a "covered person" or "insured" under her parents' policy.

6. On October 16, 2000, Janet and Thomas Leonard's State Farm policy had \$10,000 in available MPC coverage.

7. Kristy Leonard, also the daughter of Janet and Thomas Leonard, was killed in a pedestrian versus automobile accident on October 16, 2000.

8. The Defendant, Melissa Leonard, was an eyewitness to the accident and witnessed her sister's death.

9. As a result of witnessing her sister's death, Defendant Leonard sought psychological and psychiatric treatment for the emotional distress associated with witnessing this accident.

10. Defendant Leonard did not suffer any physical injuries as result of the October 16, 2000 accident.

11. The Defendant, Melissa Leonard, has submitted a claim for first party benefits to the Plaintiff, State Farm, pursuant to the policy of insurance issued to her parents.

12. The policy of insurance issued by State Farm, to which Melissa Leonard is an insured, provides that State Farm will pay for medical expenses for bodily injury to an insured arising out of the maintenance or use of a motor vehicle.

13. "Bodily injury" is defined under the State Farm policy, specifically the first party section, as:

Bodily injury – means accidental bodily harm to a person and that person's resulting illness, disease or death.

14. Under 75 Pa.C.S. § 1702, "injury" is defined as follows:

Injury – accidentally sustained bodily harm to an individual and that individual's illness, disease or death resulting therefrom.

15. The definition of "bodily injury" contained in the State Farm policy's first party section is similar to the definition of "injury" found in 75 Pa.C.S. § 1702.

16. Neither the Pa. General Assembly nor the Pennsylvania Supreme Court has yet to erect a bridge between the bodily injury and mental injury, in the context of automobile insurance law regarding a claim for first party benefits.

17. Clearly, the definition contained in 75 Pa.C.S. § 1702 shows a distinction between physical and psychological maladies such that one who suffers psychological illness cannot successfully claim benefits under the Pa.MVFRL for an "injury."

18. Similar to the Pa.MVFRL, the definition of bodily injury found in the State Farm policy, under first party benefits, does not permit a claim for psychological injury independent of a physical injury.

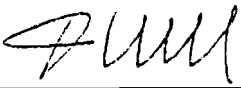
19. Defendant Melissa Leonard, who alleged psychological injuries as opposed to physical injuries as a result of this accident, is precluded from bringing a claim for first party medical benefits under the State Farm policy of her parents, Janet and Thomas Leonard.

20. The definition of "bodily injury" in the State Farm policy and the definition of "injury" found in the Pa.MVFRL only permit payment in the context of MPC coverage for bodily harm to an individual and any resulting illness, disease or death. Psychological injury is not considered bodily harm and is not considered independent so as to be defined as a "bodily injury" under either the Pa.MVFRL or the State Farm policy.

WHEREFORE, the Plaintiff respectfully requests this Honorable Court enter an Order declaring that the Plaintiff, State Farm Mutual Automobile Insurance Company, is not obligated to provide coverage for first party benefits to the Defendant, Melissa Leonard, with respect to the claims for first party benefits arising out of the accident of October 16, 2000 and grant such further relief as may deemed appropriate by the court.

Respectfully submitted,

SUMMERS, MCDONNELL, HUDOCK, GUTHRIE & SKEEL

By: 

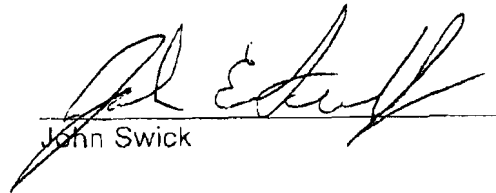
Thomas A. McDonnell, Esquire
Attorney for Plaintiff.

VERIFICATION

I, JOHN SWICK, am authorized to make this verification on behalf of STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, the Plaintiff herein, and state that the averments of fact made in the within Complaint in Declaratory Judgment are true and correct to the best of my knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities, which provides that if I knowingly make false averments, I may be subject to criminal penalties.

Date: 10-30-08



John Swick

PLEASE READ YOUR POLICY CAREFULLY. IF YOU HAVE AN ACCIDENT, CONTACT YOUR STATE FARM AGENT OR ONE OF OUR CLAIM OFFICES AT ONCE. (SEE "REPORTING A CLAIM-INSURED'S DUTIES" IN THIS POLICY.)

... case is to sell, out, store or park in
... id - means the person defined as *insured* if the information you is incorrect or incorrect policy period, State ease the premium due but in the provision of this section of this policy defined in Sections
Acquired Car - means *additional car*.
Replacement Car - means *leased to you or your spouse*. This policy will cover the *replacement car* if you tell us about it within 30 days of delivery to you.

Authorized Representative

State Farm Mutual Automobile Insurance Company, Home Office, Bloomington, Illinois
Pennsylvania Office • One State Farm Drive • Concordville, Pennsylvania 19339-0001



YOUR STATE FARM CAR POLICY

Pennsylvania Policy Form 9838.7

EXHIBIT
B

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY
BLOOMINGTON, ILLINOIS
A MUTUAL COMPANY

DEFINED WORDS
WHICH ARE USED THROUGHOUT THE POLICY

We define some words to shorten the policy. This makes it easier to read and understand. Defined words are printed in bold face italics. You can pick them out easily.

Bodily Injury – means bodily injury to a *person* and sickness, disease or death which results from it.

Car – means a land motor vehicle with four or more wheels, which is designed for use mainly on public roads. It does not include:

1. any vehicle while located for use as a dwelling or other premises; or
2. a truck-tractor designed to pull a trailer or semitrailer.

Car Business – means a business or job where the purpose is to sell, lease, repair, service, transport, store or park land motor vehicles or trailers.

Insured – means the *person, persons* or organization defined as *insureds* in the specific coverage. If the information you have provided State Farm is incorrect or incomplete, or changes during the policy period, State Farm may decrease or increase the premium during the policy period as set out in the provision titled Premium of the Conditions section of this policy.

Loss – defined in Sections II and IV.

Newly Acquired Car – means a *replacement car* or an *additional car*.

Replacement Car – means a *car* purchased by or leased to you or your spouse to replace your *car*. This policy will only provide coverage for the *replacement car* if you or your spouse:

1. tell us about it within 30 days after its delivery to you or your spouse; and
2. pay us any added amount due.

Additional Car – means an added *car* purchased by or leased to you or your spouse. This policy will only provide coverage for the *additional car* if:

1. it is a *private passenger car* and we insure all other *private passenger cars*; or
2. it is other than a *private passenger car* and we insure all *cars*

owned by or leased to you or your spouse on the date of its delivery to you or your spouse.

This policy provides coverage for the *additional car* only until the earlier of:

1. 12:01 A.M. Standard Time at the address shown on the declarations page on the 31st day after the delivery of the *car* to you or your spouse; or
2. the effective date and time of a policy issued by us or any other company that describes the *car* on its declarations page.

You or your spouse may apply for coverage beyond the 30th day for the *additional car*. Such coverage will be provided only if both the applicant and the vehicle are eligible for coverage at the time of application.

If a *newly acquired car* is not otherwise afforded comprehensive or collision coverage by this or any other policy, this policy will provide the comprehensive or collision coverage not otherwise provided for the *newly acquired car*. If such coverage is provided by this paragraph, it will apply only until 12:01 A.M. Standard Time at the address shown on the declarations page on the

sixth day after the delivery of the *car* to you or your spouse. Any comprehensive or collision coverage provided by this paragraph is subject to a deductible of \$500.

Non-Owned Car - means a *car* not owned by, registered to or leased to:

1. you, your spouse;
2. any *relative* unless at the time of the accident or loss:
 - a. the *car* currently is or has within the last 30 days been insured for liability coverage; and
 - b. the driver is an *insured* who does not own or lease the *car*;
3. any other *person* residing in the same household as you, your spouse or any *relative*; or
4. an employer of you, your spouse or any *relative*.

Non-owned car does not include a:

1. rented *car* while it is used in connection with the *insured's* employment or business; or
2. *car* which has been operated or rented by or in the possession of an *insured* during any part of each of the last 21 or more consecutive days. The 21 day limit is multiplied by the number of vehicles described on the declarations pages of all car policies issued by us under which the *insured* is an *insured*.

A **non-owned car** must be a *car* in the lawful possession of the *person* operating it.

Occupying - means in, on, entering or alighting from.

Person - means a human being.

Private Passenger Car - means a *car*:

1. with four wheels;
2. of the private passenger or station wagon type; and

3. designed solely to carry *persons* and their luggage.

Relative - as used in Sections I, III, IV and V means a *person* related to you or your spouse by blood, marriage or adoption who lives with you. It includes your unmarried and unemancipated child away at school.

See Section II for definition used there.

Serious injury - means a personal injury resulting in death, serious impairment of body function or permanent serious disfigurement.

Unless the injury sustained is a *serious injury*, each person who is bound by the limited tort election shall be precluded from maintaining an action for any noneconomic loss, except that:

(1) An individual otherwise bound by the limited tort election who sustains damages in a motor vehicle accident as the consequence of the fault of another person may recover damages as if the individual damaged had elected the full tort alternative whenever the person at fault:

(i) is convicted, or accepts Accelerated Rehabilitative Disposition (ARD) for driving under the influence of alcohol or a controlled substance in that accident;

(ii) is operating a motor vehicle registered in another state;

(iii) intends to injure himself or another person, provided that an individual does not intentionally injure himself or another person merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of causing injury or the act or omission causing the injury is for the purpose of averting bodily harm to himself or another person; or

(iv) has not maintained financial responsibility as required by Chapter 17 of Title 75 of the Pennsylvania Consolidated Statutes, provided that, nothing in this paragraph shall affect the limitation of section 1731(d)(2) of Title 75 of the Pennsylvania

Consolidated Statutes (relating to availability, scope and amount of coverage).

(2) An individual otherwise bound by the limited tort election shall retain full tort rights with respect to claims against a person in the business of designing, manufacturing, repairing, servicing or otherwise maintaining motor vehicles arising out of a defect in such motor vehicle which is caused by or not corrected by an act or omission in the course of such business, other than a defect in a motor vehicle which is operated by such business.

(3) An individual otherwise bound by the limited tort election shall retain full tort rights if injured while an occupant of a motor vehicle other than a private passenger motor vehicle.

Spouse - means your husband or wife while living with you.

Temporary Substitute Car - means a car not owned by or leased to you or your spouse, if it replaces your car for a short time. Its use has to be with the consent of the owner. Your car has to be out of use due to its breakdown, repair, servicing, damage or loss. A temporary substitute car is not considered a non-owned car.

Utility Vehicle - means a motor vehicle with:
1. a pickup, panel or van body; and
2. a Gross Vehicle Weight of 10,000 pounds or less.

You or Your - means the named insured or named insureds shown on the declarations page.

Your Car - means a car or a vehicle described on the declarations page.

DECLARATIONS CONTINUED

We, the State Farm Mutual Automobile Insurance Company, agree to insure you according to the terms of this policy based:

1. on your payment of premium for the coverages you chose; and
2. in reliance on your statements in these declarations.

You agree, by acceptance of this policy that:

1. the statements in these declarations are your statements and are true; and
2. we insure you on the basis your statements are true; and
3. this policy contains all of the agreements between you and us or any of our agents.

Unless otherwise stated in the exceptions space on the declarations page, your statements are:

1. **Ownership.** You are the sole owner(s) of your car.
2. **Insurance and License History.** Neither you nor any member of your household within the past three years has had:
 - a. vehicle insurance canceled by an insurer; or
 - b. a license to drive or vehicle registration suspended, revoked or refused.
3. **Use.** Your car is used for pleasure and business.

WHEN AND WHERE COVERAGE APPLIES

When Coverage Applies

The coverages *you* chose apply to accidents and losses that take place during the policy period.

The policy period is shown under "Policy Period" on the declarations page and is for successive periods of six months each for which *you* pay the renewal premium. Payments must be made on or before the end of the current policy period. The policy period begins and ends at 12:01 A.M. Standard Time at the address shown on the declarations page.

Where Coverage Applies

The coverages *you* chose apply:

1. in the United States of America, its territories and possessions or Canada; or
2. while the insured vehicle is being shipped between their ports.

The liability, medical payments, funeral benefits, loss of income and physical damage coverages also apply in Mexico within 50 miles of the United States border. A physical damage coverage loss in Mexico is determined on the basis of cost at the nearest United States point.

Death, dismemberment and loss of sight coverages apply anywhere in the world.

FINANCED VEHICLES

If a creditor is shown in the declarations, we may pay any comprehensive or collision loss to:

1. *you* and, if unpaid, the repairer; or
2. *you* and such creditor, as its interest may appear, when we find it is not practical to repair *your car*; or
3. the creditor, as to its interest, if *your car* has been repossessed.

When we pay the creditor for loss for which *you* are not covered, we are entitled to the creditor's right of recovery against *you* to the extent of our payment. Our right of recovery shall not impair the creditor's right to recover the full amount of its claim.

The coverage for the creditor's interest only is valid until we terminate it. We will not terminate such coverage because of:

1. any act or negligence of the owner or borrower; or
2. a change in the ownership or interest unknown to us, unless the creditor knew of it and failed to tell us within 10 days; or
3. an error in the description of the vehicle.

The date of termination of the creditor's interest will be at least 10 days after the date we mail or electronically transmit the termination notice.

REPORTING A CLAIM — INSURED'S DUTIES

1. Notice to Us of an Accident or Loss

The *insured* must give us or one of our agents written notice of the accident or loss as soon as reasonably possible. The notice must show:

- a. *your* name; and

- b. the names and addresses of all persons involved; and

- c. the hour, date, place and facts of the accident or loss; and

- d. the names and addresses of witnesses.

2. Notice to Us of Claim or Suit

If a claim or suit is made against an *insured*, that *insured* must at once send us every demand, notice or claim made and every summons or legal process received.

3. Other Duties Under the Physical Damage Coverages

When there is a *loss*, *you* or the owner of the property also shall:

- a. make a prompt report to the police when the *loss* is the result of theft or larceny.
- b. protect the damaged vehicle. We will pay any reasonable expense incurred to do so.
- c. show us the damage, when we ask.
- d. provide all records, receipts and invoices, or certified copies of them. We may make copies.
- e. answer questions under oath when asked by anyone we name, as often as we reasonably ask, and sign copies of the answers.

4. Other Duties Under Medical Payments, Funeral Benefits, Loss of Income, Death, Dismemberment and Loss of Sight, Uninsured Motor Vehicle and Underinsured Motor Vehicle Coverages

The *person* making claim also shall:

- a. give us all the details about the death, injury, treatment and other information we need to determine the amount payable.
- b. under the uninsured motor vehicle and underinsured motor vehicle coverages:
 - (1) consent to be examined by physicians chosen and paid by us as often as we reasonably may require. A copy of the report will be sent to the *person* upon written request. If the *person* is dead or unable to act, his or her legal representative shall authorize us to obtain all medical reports and records.

- (2) give us authorization to obtain copies of wage, tax, business or financial records, medical records or any other records necessary to determine the amount of the damages.

- (3) let us see the *insured car* the *person* occupied in the accident.

- (4) send us at once a copy of all suit papers if the *person* sues the party liable for the accident for damages.

- c. under the uninsured motor vehicle coverage, report an accident caused by an unidentified land motor vehicle to the police as soon as practicable and to us within 30 days or as soon as practicable.

- d. under the medical payments, funeral benefits, loss of income and death, dismemberment and loss of sight coverages:

- (1) authorize us to obtain all medical reports and records. If the *person* is dead or unable to act, his or her legal representative shall give us the authorization; and

- (2) give us proof of claim on forms we furnish unless we fail to supply them within 10 days after receiving the notice of claim.

5. Insured's Duty to Cooperate With Us

The *insured* shall cooperate with us and, when asked, assist us in:

- a. making settlements;
- b. securing and giving evidence;
- c. attending, and getting witnesses to attend, hearings and trials.

The *insured* shall not, except at his or her own cost, voluntarily:

- a. make any payment or assume any obligation to others; or
- b. incur any expense, other than for first aid to others.

SECTION I — LIABILITY — COVERAGE A

This coverage applies to the vehicles for which "A" appears in the "Coverages" space on the declarations page.

We will:

1. pay damages which an *insured* becomes legally liable to pay because of:

a. *bodily injury* to others, and

b. damage to or destruction of property including loss of its use,

c. caused by accident resulting from the ownership, maintenance or use of *your car*; and

2. defend any suit against an *insured* for such damages with attorneys hired and paid by us. We will not defend any suit after we have paid the applicable limit of our liability for the accident which is the basis of the lawsuit.

In addition to the limits of liability, we will pay for an *insured* any costs listed below resulting from such accident.

1. Court costs of any suit for damages that we defend;

2. Interest on damages owed by the *insured* due to a judgment and accruing:

a. after the judgment, and until we pay, offer or deposit in court the amount due under this coverage; or

b. before the judgment, where owed by law, and until we pay, offer or deposit in court the amount due under this coverage, but only on that part of the judgment we pay.

3. Premiums or costs of bonds:

a. to secure the release of an *insured's* property attached under a court order.

b. required to appeal a decision in a suit for damages if we have not paid our

limit of liability that applies to the suit; and

c. up to \$250 for each bail bond needed because of an accident or related traffic law violation.

We have no duty to furnish or apply for any bonds. The amount of any bond we pay for shall not be more than our limit of liability.

4. Expenses incurred by an *insured*:

a. for loss of wages or salary up to \$100 per day if we ask the *insured* to attend the trial of a civil suit.

b. for first aid to others at the time of the accident.

c. at our request.

We have the right to investigate, negotiate and settle any claim or suit.

Coverage for the Use of Other Cars

The liability coverage extends to the use, by *insured*, of a *newly acquired car*, a *temporary substitute car* or a *non-owned car*.

Who Is an Insured

When we refer to *your car*, a *newly acquired car*, or a *temporary substitute car*, *insured* means:

1. *you*;

2. *your spouse*;

3. the *relatives* of the first *person* named in the declarations;

4. any other *person* while using such a car if its use is within the scope of consent given by *you* or *your spouse*; and

5. any other person or organization listed in the declarations for the use of such a *car* by one of the above *insureds*.

8
8387

↓
"Class 5 Insured"

When we refer to a *non-owned car, insured* means:

1. the first *person* named in the declarations;
2. his or her *spouse*;
3. their *relatives*; and
4. any *person* or organization which does not own or hire the *car* but is liable for its use by one of the above *persons*.

THERE IS NO COVERAGE FOR NON-OWNED CARS:

1. IF THE DECLARATIONS STATE THE "USE" OF ALL OF YOUR CARS IS OTHER THAN "PLEASURE AND BUSINESS"; OR
2. WHILE:
 - a. BEING REPAIRED, SERVICED OR USED BY ANY *PERSON* WHILE THAT *PERSON* IS WORKING IN ANY *CAR BUSINESS*; OR
 - b. USED IN ANY OTHER BUSINESS OR OCCUPATION. This does not apply to a *private passenger car* driven or *occupied* by the first *person* named in the declarations, his or her *spouse* or their *relatives*.

Trailer Coverage

1. Trailers designed to be pulled by a *private passenger car* or a *utility vehicle*, except those trailers in 2a below, are covered while owned or used by an *insured*.

Farm implements and farm wagons are considered trailers while pulled on public roads by a *car* we insure for liability.

These trailers are not described in the declarations and no extra premium is charged.

2. The following trailers are covered only if described on the declarations page and extra premium is paid:
 - a. those trailers designed to be pulled by a *private passenger car* or a *utility vehicle*:

- (1) if designed to carry *persons*; or
 - (2) while used with a motor vehicle whose use is shown as "commercial" on the declarations page (trailers used only for pleasure use are covered even if not described and no extra premium paid); or
 - (3) while used as premises for office, store or display purposes; or
- b. any trailer not designed for use with a *private passenger car* or a *utility vehicle*.

THERE IS NO COVERAGE WHEN A TRAILER IS USED WITH A MOTOR VEHICLE OWNED OR HIRED BY YOU WHICH WE DO NOT INSURE FOR LIABILITY COVERAGE.

Limits of Liability

The amount of bodily injury liability coverage is shown on the declarations page under "Limits of Liability - Coverage A - Bodily Injury, Each Person, Each Accident". Under "Each Person" is the amount of coverage for all damages due to *bodily injury* to one *person*. "*Bodily injury* to one *person*" includes all injury and damages to others resulting from this *bodily injury*. Under "Each Accident" is the total amount of coverage, subject to the amount shown under "Each Person", for all damages due to *bodily injury* to two or more *persons* in the same accident.

The amount of property damage liability coverage is shown on the declarations page under "Limits of Liability - Coverage A - Property Damage, Each Accident".

We will pay damages for which an *insured* is legally liable up to these amounts.

The limits of liability are not increased because more than one *person* or organization may be an *insured*.

A motor vehicle and attached trailer are one vehicle. Therefore, the limits are not increased.

When two or more motor vehicles are insured under this section the limits apply separately to each.

When Coverage A Does Not Apply

In addition to the limitations of coverage in **Who Is an Insured and Trailer Coverage:**

THERE IS NO COVERAGE:

1. WHILE ANY VEHICLE INSURED UNDER THIS SECTION IS:

a. RENTED OR LEASED TO OTHERS.

b. USED TO CARRY *PERSONS* FOR A CHARGE. This does not apply to the use on a share expense basis of:

(1) a *private passenger car*; or

(2) a *utility vehicle*, if all passengers are riding in that area of the vehicle designed by the manufacturer of the vehicle for carrying passengers.

c. BEING REPAIRED, SERVICED OR USED BY ANY *PERSON* EMPLOYED OR ENGAGED IN ANY WAY IN A *CAR BUSINESS*. This does not apply to:

(1) *you* or *your spouse*;

(2) any *relative*;

(3) any resident of *your* household; or

(4) any agent, employee or partner of *you*, *your spouse*, any *relative* or such resident.

This coverage is excess for (3) and (4) above.

2. FOR ANY *BODILY INJURY* TO:

a. A FELLOW EMPLOYEE WHILE ON THE JOB AND ARISING FROM THE MAINTENANCE OR USE OF A VEHICLE BY ANOTHER EMPLOYEE IN THE EMPLOYER'S

BUSINESS. *You* and *your spouse* are covered for such injury to a fellow employee.

b. ANY EMPLOYEE OF AN *INSURED* ARISING OUT OF HIS OR HER EMPLOYMENT. This does not apply to a household employee who is not covered or required to be covered under any workers' compensation insurance.

3. FOR:

a. THE UNITED STATES OF AMERICA OR ANY OF ITS AGENCIES; OR

b. ANY *PERSON* WHO IS AN EMPLOYEE OF THE UNITED STATES OF AMERICA OR ANY OF ITS AGENCIES, IF THE PROVISIONS OF THE FEDERAL TORT CLAIMS ACT APPLY.

4. FOR ANY DAMAGES TO PROPERTY OWNED BY, RENTED TO, IN THE CHARGE OF OR TRANSPORTED BY AN *INSURED*. But coverage applies to a rented:

a. residence; or

b. private garage

damaged by a *car* we insure.

5. FOR ANY OBLIGATION OF AN *INSURED*, OR HIS OR HER INSURED UNDER ANY TYPE OF WORKER COMPENSATION OR DISABILITY OR SIMILAR LAW.

6. FOR LIABILITY ASSUMED BY TI *INSURED* UNDER ANY CONTRACT OR AGREEMENT.

7. TO THE EXTENT THE LIMITS LIABILITY OF THIS POLICY EXCEED THE LIMITS OF LIABILITY REQUIRED BY LAW WHILE ANY VEHICLE INSURED UNDER THIS SECTION IS OPERATED IN, IS ENGAGED IN PRACTICE FOR, OR

BEING PREPARED FOR ANY RACING OR SPEED CONTEST. This does not apply while the vehicle is operated on public roads.

If There Is Other Liability Coverage

1. Policies Issued by Us to You, Your Spouse, or Any Relative

If two or more vehicle liability coverages provided by us to *you, your spouse, or any relative* apply to the same accident, the total limits of liability under all such coverages shall not exceed that of the coverage with the highest limit of liability.

2. Other Liability Coverage Available From Other Sources

Subject to item 1, if other vehicle liability coverage applies, we are liable only for our share of the damages. Our share is the percent that the limit of liability of this policy bears to the total of all vehicle liability coverage applicable to the accident.

3. Temporary Substitute Car, Non-Owned Car, Trailer

If a *temporary substitute car, a non-owned car* or a trailer designed for use with a *private passenger car* or *utility vehicle*:

- a. has other vehicle liability coverage on it, or
- b. is self-insured under any motor vehicle financial responsibility law, a motor carrier law or any similar law,

then this coverage is excess over such insurance or self-insurance.

4. Newly Acquired Car

THIS COVERAGE DOES NOT APPLY IF THERE IS OTHER VEHICLE LIABILITY COVERAGE ON A *NEWLY ACQUIRED CAR*.

Motor Vehicle Compulsory Insurance Law or Financial Responsibility Law

1. Out-of-State Coverage

If an *insured* under the liability coverage is in another state or Canada and, as a non-resident, becomes subject to its motor vehicle compulsory insurance, financial responsibility or similar law:

- a. the policy will be interpreted to give the coverage required by the law; and
- b. the coverage so given replaces any coverage in this policy to the extent required by the law for the *insured's* operation, maintenance or use of a *car* insured under this policy.

Any coverage so extended shall be reduced to the extent other coverage applies to the accident. In no event shall a *person* collect more than once.

2. Financial Responsibility Law

When certified under any law as proof of future financial responsibility, and while required during the policy period, this policy shall comply with such law to the extent required. The *insured* agrees to repay us for any payment we would not have had to make under the terms of this policy except for this agreement.

SECTION II — FIRST PARTY COVERAGES

The coverages under this section are provided in accordance with and subject to the Pennsylvania Motor Vehicle Financial Responsibility Act, as amended.

MEDICAL PAYMENTS — COVERAGE C2

This coverage applies to the vehicles for which "C2" appears in the "Coverages" space on the declarations page.

What We Pay

We will pay for medical expenses for *bodily injury* to an *insured* arising out of the maintenance or use of a *motor vehicle*.

Medical expenses — these are expenses incurred for reasonable and necessary medical treatment and rehabilitation services. This includes expenses for:

1. hospital, dental, surgical, psychiatric, psychological, osteopathic, ambulance, chiropractic, nursing and optometric services;
2. licensed physical therapy, vocational rehabilitation, occupational therapy, speech pathology and audiology;
3. medications, medical supplies and prosthetic devices; and
4. nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing.

Medical expenses will be paid:

1. if incurred within 18 months from the date of the accident causing the *bodily injury*; or
2. without limitation as to time, provided that, within 18 months from the date of the accident causing the *bodily injury*, it can be determined with reasonable medical probability that further expenses may be incurred as a result of the *bodily injury*.

The amount we will pay for medical expenses is subject to the limitations of Title 75 of the Pennsylvania Consolidated Statutes.

EXTRAORDINARY MEDICAL PAYMENTS — COVERAGE Q

This coverage applies to the vehicles for which "Q" appears in the "Coverages" space on the declarations page.

What We Pay

We will pay up to the lifetime aggregate limit of \$1,000,000 for those reasonable medical expenses which exceed \$100,000. The medical expense must be for *bodily injury* to an *insured* caused by accident arising out of the maintenance or use of a *motor vehicle*.

Medical expenses — these are expenses incurred for reasonable and necessary medical treatment and rehabilitation services. This includes expenses for:

1. hospital, dental, surgical, psychiatric, psychological, osteopathic, ambulance, chiropractic, nursing and optometric services;
2. licensed physical therapy, vocational rehabilitation, occupational therapy, speech pathology and audiology;
3. medications, medical supplies and prosthetic devices; and
4. nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing.

Medical expenses will be paid:

1. if incurred within 18 months from the date of the accident causing the *bodily injury* or
2. without limitation as to time, provided that within 18 months from the date of the accident causing the *bodily injury*, it can be determined with reasonable medical probability that further expenses may be incurred as a result of the *bodily injury*.

The most we will pay in any 12 month period beginning 18 months after the date the *insured's* reasonable medical expenses exceed \$100,000 as a result of the *bodily injury* is \$50,000.

These expenses must be:

1. for
 - a. services performed, or
 - b. medical supplies, medication or drugs prescribed
 by a medical provider licensed by the state to provide the specific medical services; and
2. for diagnosis, direct care or treatment of the *bodily injury*. The diagnosis, direct care or treatment must be:
 - a. within the standards of good medical practice, and
 - b. not primarily for the convenience of the patient or medical provider.

We have the right to make or obtain an independent review of the medical expenses and services performed to determine if they are reasonable and necessary for the *bodily injury* sustained.

The amount we will pay for medical expenses is subject to the limitations of Title 75 of the Pennsylvania Consolidated Statutes.

REASONABLE MEDICAL EXPENSES DO NOT INCLUDE EXPENSES FOR TREATMENT, SERVICES, PRODUCTS OR PROCEDURES THAT ARE:

1. FOR RESEARCH, OR NOT PRIMARILY DESIGNED TO SERVE A MEDICAL OR REHABILITATIVE PURPOSE; OR
2. NOT COMMONLY AND CUSTOMARILY RECOGNIZED THROUGHOUT THE MEDICAL PROFESSIONS AND WITHIN THE UNITED STATES AS APPROPRIATE FOR THE TREATMENT OF THE *BODILY INJURY*.

LOSS OF INCOME - COVERAGE Z

This coverage applies to the vehicles for which "Z" with a number beside it appears in the "Coverages" space on the declarations page. "Z" with a number beside it is *your* coverage symbol. Check *your* coverage symbol with the schedule for the limits *you* have chosen.

We will pay income loss benefits with respect to *bodily injury* to an *insured* arising out of the maintenance or use of a *motor vehicle*. Income loss benefits are:

1. 80% of the *insured's* actual loss of gross income from work the *insured* would have performed except for the *bodily injury*;
2. reasonable expenses actually incurred for:
 - a. hiring a substitute to perform self-employment services to reduce loss of gross income; or
 - b. hiring special help thereby enabling the *insured* to work and reduce loss of gross income.

Income loss benefits do not include:

1. loss of expected income for any period following the death of an *insured*;
2. expenses incurred for services performed following the death of an *insured*; or
3. any loss of income during the first five working days the *insured* did not work after the accident because of the *bodily injury*.

SCHEDULE - COVERAGE Z

Coverage Symbol	Maximum Payable Per Month	Total Maximum Benefits
Z1	\$1,000	\$ 5,000
Z2	1,000	15,000
Z3	1,500	25,000
Z4	2,500	50,000

DEATH, DISMEMBERMENT AND LOSS OF SIGHT - COVERAGE Y

This coverage applies to the vehicles for which "Y" with a number beside it appears in the "Coverages" space on the declarations page. "Y" with a number beside it is *your* coverage symbol. Check *your* coverage symbol with the schedule for the limits *you* have chosen.

We will pay the amount shown in the schedule that applies for death of, or *loss* to, an *insured* arising out of the maintenance or use of a *motor vehicle*. The death or *loss* must be the direct result of the accident and not due to any other cause. The death must occur within 24 months from the date of the accident. If the death occurs within 24 hours after the accident, we will pay only the amount that applies to death. *Loss* must occur within 90 days of the accident.

Loss - means the *loss* of:

1. the foot or hand, cut off through or above the ankle or wrist; or
2. the whole thumb or finger; or
3. all sight.

Schedule - Coverage Y

Coverage Symbol	Y1	Y2	Y3
Death	\$5,000	\$10,000	\$25,000
<i>Loss</i> of: hands; feet; sight of eyes; one hand & one foot; or one hand or one foot & sight of one eye	5,000	10,000	25,000
one hand or one foot; or sight of one eye	2,500	5,000	12,500
thumb & finger on one hand; or three fingers	1,500	3,000	7,500
any two fingers	1,000	2,000	5,000

Payments of Benefits - Coverage Y

The death benefit shall be paid to the executor or administrator of the *insured's* estate.

FUNERAL BENEFITS - COVERAGE F

This coverage applies to the vehicles for which "F" appears in the "Coverages" space on the declarations page.

We will pay for funeral expenses directly related to the funeral, burial, cremation or other form of disposition of the remains of an *insured*. The death must be the result of the accident. The expenses must be incurred within 24 months from the date of the accident.

Definitions - Coverages C2, Q, Z, Y and F

Bodily Injury - means accidental bodily harm to a *person* and that *person's* resulting illness, disease or death.

First Party Benefits - means benefits paid or payable to an *insured* under Coverages C2, Q, Z, Y or F.

Insured - means:

1. *you* or any *relative*;
2. any other *person*:
 - a. *occupying your car* or a *newly acquired car*; or
 - b. not *occupying a motor vehicle* if injured as the result of an accident involving *your car*, or a *newly acquired car*. A parked and unoccupied *motor vehicle* is not a *motor vehicle* involved in the accident unless it was parked so as to cause unreasonable risk of injury.

Motor Vehicle - means a vehicle which is self-propelled except one which is propelled:

1. solely by human power; or
2. upon rails.

Relative - means:

1. *your* spouse;
2. anyone related to *you* by blood, marriage or adoption; and
3. a minor in the custody of *you*, *your spouse* or a *relative*

resident in *your* household, even if temporarily residing elsewhere.

Limits of Liability - Coverage C2

The amount of coverage for medical expenses is shown on the declarations page under "Limit of Liability - Coverage C2 - Each Person".

Limits of Liability - Coverage Z

The most we will pay an *insured* for income loss benefits per month and in the aggregate are shown in the coverage Z schedule next to *your* coverage symbol.

Limits of Liability - Coverage Y

The amount we will pay because of the death of the *insured* is shown under *your* coverage symbol in the Coverage Y schedule. The maximum amount payable to an *insured* for all *loss*, as shown in the schedule, shall not exceed the death benefit amount shown for *your* coverage symbol.

The amount shown in the schedule for death of or *loss* to the *insured* is doubled for an *insured* who, at the time of the accident, is using the vehicle's complete restraint system as recommended by the vehicle's manufacturer.

Limits of Liability - Coverage F

The amount of coverage for funeral expenses is shown on the declarations page under "Limit of Liability - Coverage F - Each Person".

Limits of Liability - Coverages C2, Q, Z, Y and F

These coverages are excess over, but shall not duplicate, any amount paid or payable to or for the *insured* under any workers' compensation law.

Priorities for the Payment of First Party Benefits

1. When more than one policy applies, the *person* who suffers *bodily injury* shall recover *first party benefits* against applicable insurance coverage in the following order of priority:

a. The policy on which the *person* is a named insured.

b. The policy providing coverage because the *person* is residing in the household of a named insured and is:

(1) a spouse or other relative of a named insured; or

(2) a minor in the custody of either a named insured or a relative of a named insured.

c. The policy covering the *motor vehicle occupied* by the injured *person* at the time of the accident.

d. For a *person* who is not the occupant of a *motor vehicle*, the policy on any *motor vehicle* involved in the accident. A parked and unoccupied *motor vehicle* is not a *motor vehicle* involved in the accident unless it was parked so as to cause unreasonable risk of injury.

2. THIS POLICY DOES NOT APPLY IF THERE IS ANOTHER POLICY AT A HIGHER PRIORITY LEVEL. Item a. above is considered the highest priority. Item d. is the lowest priority.

3. Subject to the above, if an *insured* is entitled to *first party benefits* under more than one coverage, the maximum recovery under all coverages for any *first party benefit* will not exceed the amount payable under the coverage with the highest limit of liability for that *first party benefit*.

When Coverages C2, Q, Z, Y and F Do Not Apply

THERE IS NO COVERAGE FOR *BODILY INJURY*:

1. TO ANY *PERSON* WHOSE CONDUCT CONTRIBUTED TO HIS OR HER *BODILY INJURY* IN ANY OF THE FOLLOWING WAYS:

a. WHILE INTENTIONALLY INJURING OR ATTEMPTING TO INJURE HIMSELF, HERSELF OR ANOTHER;

b. WHILE COMMITTING A FELONY; OR

c. WHILE SEEKING TO ELUDE LAWFUL APPREHENSION OR ARREST BY A LAW ENFORCEMENT OFFICIAL.

2. TO ANY *PERSON* WHO KNOWINGLY CONVERTS A *MOTOR VEHICLE* if the *bodily injury* arises out of the maintenance or use of the converted vehicle. This does not apply to *you* or any *relative*.

3. TO ANY *PERSON* WHO OWNS A CURRENTLY REGISTERED *MOTOR VEHICLE* AND DOES NOT HAVE THE REQUIRED FINANCIAL RESPONSIBILITY, EVEN IF THAT *PERSON* IS *OCCUPYING* OR STRUCK BY A *MOTOR VEHICLE* FOR WHICH FINANCIAL RESPONSIBILITY IS PROVIDED. This does not apply to *you* or *your spouse* while *occupying* a vehicle insured under the liability coverage of this policy or when struck as a pedestrian.

4. TO ANY *PERSON* WHILE OPERATING OR *OCCUPYING*:

a. A RECREATIONAL VEHICLE NOT INTENDED FOR HIGHWAY USE; OR

b. A MOTORCYCLE, MOTOR-DRIVEN CYCLE, MOTORIZED PEDALCYCLE OR LIKE-TYPE VEHICLE REQUIRED TO BE REGISTERED UNDER TITLE 75 OF THE PENNSYLVANIA CONSOLIDATED STATUTES.

Mental or Physical Examination

Whenever the mental or physical condition of a *person* is material to any claim for medical expenses or income loss benefits, a court of competent jurisdiction may order the *person* to submit to mental or physical examination by a physician. If a *person* fails to comply with the order, the court may order that the *person* be denied benefits until he or she complies.

COMBINED BENEFITS - COVERAGE M

This coverage applies to the vehicles for which "M" appears in the "Coverages" space on the declarations page.

What We Pay

We will pay for *bodily injury* to an *insured* arising out of the maintenance or use of a *motor vehicle*:

1. Medical expenses as payable under Coverage C2;
2. Income loss benefits as payable under Coverage Z;
3. The benefits as payable under Coverage Y3; and
4. Funeral expenses as payable under Coverage F.

Limits of Liability

1. The aggregate limit of liability is shown on the declarations page under "Limit of Liability - Coverage M - Each Person". This is the maximum amount payable for *bodily injury* to an *insured* as the result of an accident.

2. The most we will pay to or for an *insured* is as follows:

Benefit	Limit
Medical Expenses	Up to the Aggregate Limit
Income Loss	Up to the Aggregate Limit
Death	\$25,000
Funeral Expenses	Up to \$2,500

3. Any amount payable for medical expenses greater than \$100,000 shall be excess over any amount paid or payable under Extraordinary Medical Payments - Coverage Q.

Time Limitation

Subject to the limit of liability:

1. benefits are only payable for expenses and loss incurred up to three years from the date of the accident.
2. the death benefit is payable only if death occurs within three years of the date of the accident.

Other Provisions

Except as amended above, all provisions relating to Coverages C2, Z, Y and F apply to expense, loss or death benefits of Coverage M.

SECTION III — UNINSURED MOTOR VEHICLE AND UNDERINSURED MOTOR VEHICLE COVERAGES

UNINSURED MOTOR VEHICLE - COVERAGES U (STACKING OPTION) AND U3 (NON-STACKING OPTION)

Uninsured Motor Vehicle - Coverage U applies to the vehicles for which "U" appears in the "Coverages" space on the declarations page.

Uninsured Motor Vehicle - Coverage U3 applies to the vehicles for which "U3" appears in the "Coverages" space on the declarations page.

Coverages U and U3

We will pay damages for *bodily injury* an *insured* is legally entitled to collect from the owner or driver of an *uninsured motor vehicle*. The *bodily injury* must be sustained by an *insured* and caused by accident arising out of the ownership, maintenance or use of an *uninsured motor vehicle*.

The amount we will pay for damages is subject to the limitations of Title 75 of the Pennsylvania Consolidated Statutes.

Uninsured Motor Vehicle - means:

1. a land motor vehicle, the ownership, maintenance or use of which is:
 - a. not insured or bonded for bodily injury liability at the time of the accident; or
 - b. insured or bonded for bodily injury liability at the time of the accident; but
 - (1) the limits of liability are less than required by the financial responsibility act of the state where *your car* is mainly garaged; or
 - (2) the insuring company denies coverage or is or becomes insolvent; or
2. an unidentified land motor vehicle whose owner or driver remains unknown and causes *bodily injury* to the *insured*.

An *uninsured motor vehicle* does not include a land motor vehicle:

1. insured under the liability coverage of this policy;
2. furnished for the regular use of *you, your spouse* or any *relative*;
3. owned or operated by a self-insurer under any motor vehicle financial responsibility law, a motor carrier law or any similar law;
4. owned by any government or any of its political subdivisions or agencies;
5. designed for use mainly off public roads except while on public roads; or
6. while located for use as a dwelling or other premises.

UNDERINSURED MOTOR VEHICLE - COVERAGES W (STACKING OPTION) AND W3 (NON-STACKING OPTION)

Underinsured Motor Vehicle - Coverage W applies to the vehicles for which "W" appears in the "Coverages" space on the declarations page.

Underinsured Motor Vehicle - Coverage W3 applies to the vehicles for which "W3" appears in the "Coverages" space on the declarations page.

Coverages W and W3

We will pay damages for *bodily injury* an *insured* is legally entitled to collect from the owner or driver of an *underinsured motor vehicle*. The *bodily injury* must be sustained by an *insured* and caused by accident arising out of the ownership, maintenance or use of an *underinsured motor vehicle*.

The amount we will pay for damages is subject to the limitations of Title 75 of the Pennsylvania Consolidated Statutes.

THERE IS NO COVERAGE FOR **BODILY INJURY** ARISING OUT OF THE OWNERSHIP, MAINTENANCE OR USE OF AN **UN-INSURED MOTOR VEHICLE** UNTIL:

1. THE LIMITS OF LIABILITY OF ALL **BODILY INJURY LIABILITY BONDS AND POLICIES** THAT APPLY HAVE BEEN USED UP BY PAYMENT OF JUDGMENTS OR SETTLEMENTS TO OTHER PERSONS; OR
2. SUCH LIMITS OF LIABILITY OR REMAINING PART OF THEM HAVE BEEN OFFERED TO THE **INSURED** IN WRITING.

Underinsured Motor Vehicle - means a land motor vehicle:

1. the ownership, maintenance or use of which is insured or bonded for bodily injury liability at the time of the accident; and
2. whose limits of liability for bodily injury liability:
 - a. are less than the amount of the *insured's* damages; or
 - b. have been reduced by payments to *persons* other than the *insured* to less than the amount of the *insured's* damages.

An **underinsured motor vehicle** does not include a land motor vehicle:

1. insured under the liability coverage of this policy;
2. furnished for the regular use of *you*, *your spouse* or any *relative*;
3. owned by any government or any of its political subdivisions or agencies;
4. while located for use as a dwelling or other premises;
5. designed for use mainly off public roads except while on public roads; or
6. defined as an **uninsured motor vehicle** in *your* policy.

Who Is an Insured - Coverages U, U3, W and W3

Insured - means the *person* or *persons* covered by uninsured motor vehicle or underinsured motor vehicle coverage.

This is:

1. the first *person* named in the declarations;
2. his or her *spouse*;
3. their *relatives*; and
4. any other *person* while occupying:

a. *your car*, a *temporary substitute car*, or a trailer attached to such a *car*. Such other *person* is an *insured* only under the coverage applicable to the vehicle which that *person* was *occupying* and such *person* is not an *insured* under the coverage applicable to any other vehicle insured by this policy. Such vehicle has to be used within the scope of the consent of *you* or *your spouse*.

b. a *newly acquired car* or a trailer attached to such a *car*. If the *newly acquired car* is a *replacement car*, such other *person* is an *insured* only under the coverage applicable to the vehicle that was replaced. If the *newly acquired car* is an *additional car*, such other *person* is an *insured* only under the coverage applicable to any one vehicle insured by this policy or any other policy issued by us to *you* or *your spouse*. Such *car* has to be used within the scope of the consent of *you* or *your spouse*.

c. a *car* not owned by or leased to *you*, *your spouse* or any *relative*, or a trailer attached to such a *car*. It has to be driven by the first *person* named in the declarations or that *person's spouse* and within the scope of the owner's consent. Such other *person* is an *insured* only under the coverage applicable to any one vehicle insured by this policy or any other policy issued by us to *you* or *your spouse*.

Such other *person occupying* a vehicle used to carry *persons* for a charge is not an *insured*.

5. any *person* entitled to recover damages because of *bodily injury* to an *insured* under 1 through 4 above.

Deciding Fault and Amount - Coverages U, U3, W and W3

Two questions must be decided by agreement between the *insured* and us:

1. Is the *insured* legally entitled to collect compensatory damages from the owner or driver of an *uninsured motor vehicle* or *underinsured motor vehicle*; and
2. If so, in what amount?

If there is no agreement, these two questions shall be decided by arbitration at the request of the *insured* or us. The arbitrators' decision shall be limited to these two questions. The arbitrators shall not award damages under this policy which are in excess of the limits of liability of this coverage as shown on the declarations page. The Pennsylvania Arbitration Act of 1927 shall apply.

Each party shall select a competent arbitrator. These two shall select a competent and impartial third arbitrator. If unable to agree on a third one within 30 days, either party may request a judge of a court of record in the county in which the arbitration is pending to select a third one. The written decision of any two arbitrators shall be binding on each party.

The cost of the arbitrator, and any expert witness shall be paid by the party who hired them. The cost of the third arbitrator and other expenses of arbitration shall be shared equally by both parties.

The arbitration shall take place in the county in which the *insured* resides unless the parties agree to another place. State court rules governing procedure and admission of evidence shall apply.

We have the right to obtain statements under oath from the *insured* as often as we reasonably ask.

Arbitration shall not be a means of settlement to decide:

1. any form of interpolicy or intrapolicy stacking;
2. selection of coverage option, or waiver of such coverage;
3. determination of residency in defining who is or is not an *insured* under these coverages;
4. statutes of limitation; or
5. determination of whether a claimant is an *insured* under these coverages.

Either party may stay arbitration or execution of an arbitration award until final resolution of whether an issue is properly subject to arbitration.

Payment of Any Amount Due - Coverages U, U3, W and W3

We will pay any amount due:

1. to the *insured*;
2. to a parent or guardian if the *insured* is a minor or an incompetent *person*;
3. to the surviving *spouse*; or
4. to a *person* authorized by law to receive such payment.

Trust Agreement - Coverages U and U3

1. We are entitled to repayment of the amount we have paid from the proceeds of any recovery the *insured* makes from any party liable for the *bodily injury*.
2. If the *insured* has not recovered from the party at fault, he or she shall:
 - a. keep these rights in trust for us;
 - b. execute any legal papers we need; and
 - c. when we ask, take action through our representative to recover our payments.

We are to be repaid our payments, costs and fees of collection out of any recovery.

Trust Agreement - Coverages W and W3

1. We are entitled, to the extent of our payments, to the proceeds of any settlement the *insured* recovers from any party liable for the *bodily injury*, other than payments from bodily injury liability bonds or policies made prior to our payment.
2. If the *insured* has not been fully compensated for the *bodily injury* by the party at fault and we make payment for the *bodily injury*, the *insured* shall:
 - a. keep these rights in trust for us;
 - b. execute any legal papers we need; and
 - c. when we ask, take action through our representative to recover the amount of our payments.

We are to be repaid our payments, costs and fees of collection out of any such recovery.

Limits of Liability - Coverages U and U3

The amount of coverage is shown on the declarations page under "Limits of Liability - U - Each Person, Each Accident" or "Limits of Liability - U3 - Each Person, Each Accident". Under "Each Person" is the amount of coverage for all damages due to *bodily injury* to one *person*. "*Bodily injury* to one *person*" includes all injury and damages to others resulting from this *bodily injury*. Under "Each Accident" is the total amount of coverage, subject to the amount shown under "Each Person", for all damages due to *bodily injury* to two or more *persons* in the same accident.

Any payment made to a *person* under this coverage shall reduce any amount payable to that *person* under the *bodily injury* liability coverage.

The limits of liability are not increased because:

- a. more than one *person* is insured at the time of the accident; or
- b. more than one *uninsured motor vehicle* is involved in the same accident.

4. Any amount payable under this coverage shall be reduced by any amount paid or payable to or for the *insured*:
 - a. by or for any *person* or *organization* who is or may be held legally liable for the *bodily injury* to the *insured*; or
 - b. for the *bodily injury* under the liability coverage.
5. This coverage shall be excess over and shall not pay again any amount paid or payable to or for the *insured* under any workers' compensation, disability benefits or similar law.

Limits of Liability - Coverage U3

1. If there is more than one vehicle insured under this policy, the maximum limit of liability available is:
 - a. the limit applicable to the vehicle that was involved in the accident while *occupying your car*;
 - b. the limit applicable to the vehicle that was replaced while *occupying a replacement car*; or
 - c. the limit applicable to any one vehicle insured under this policy while injured as a pedestrian or injured while *occupying a temporary substitute car, non-owned car* or an *additional car*.
2. The limits of liability are not increased because more than one vehicle is insured under this policy.

Limits of Liability - Coverages W and W3

1. The amount of coverage is shown on the declarations page under "Limits of Liability - W - Each Person, Each Accident" or "Limits of Liability - W3 - Each Person, Each Accident". Under "Each Person" is the amount of coverage for all damages due to *bodily injury* to one *person*. "*Bodily injury* to one *person*" includes all injury and damages to others resulting from this *bodily injury*. Under "Each Accident" is the total amount of coverage, subject to the

amount shown under "Each Person", for all damages due to *bodily injury* to two or more persons in the same accident.

2. The limits of liability are not increased because:
 - a. more than one *person* is insured at the time of the accident; or
 - b. more than one *underinsured motor vehicle* is involved in the same accident.
3. The most we pay will be the lesser of:
 - a. the difference between the amount of the *insured's* damages for *bodily injury*, and the amount paid to the *insured* by or for any *person* or organization who is or may be held legally liable for the *bodily injury*; or
 - b. the limits of liability of this coverage.
4. This coverage shall be excess over and shall not pay again any amount paid or payable to or for the *insured* under any workers' compensation, disability benefits or similar law.

Limits of Liability - Coverage W3

1. If there is more than one vehicle insured under this policy, the maximum limit of liability available is:
 - a. the limit applicable to the vehicle that was involved in the accident while *occupying your car*;
 - b. the limit applicable to the vehicle that was replaced while *occupying a replacement car*; or
 - c. the limit applicable to any one vehicle insured under this policy while injured as a pedestrian or injured while *occupying a temporary substitute car, non-owned car or an additional car*.
2. The limits of liability are not increased because more than one vehicle is insured under this policy.

When Coverages U, U3, W and W3 Do Not Apply

1. THERE IS NO COVERAGE UNDER COVERAGES U, U3, W AND W3:
 - a. FOR ANY *INSURED* WHO, WITHOUT OUR WRITTEN CONSENT, SETTLES WITH ANY *PERSON* OR ORGANIZATION WHO MAY BE LIABLE FOR THE *BODILY INJURY* AND THEREBY IMPAIRS OUR RIGHT TO RECOVER OUR PAYMENTS.
 - b. TO THE EXTENT IT BENEFITS:
 - (1) ANY WORKERS' COMPENSATION OR DISABILITY BENEFITS INSURANCE COMPANY.
 - (2) A SELF-INSURER UNDER ANY WORKERS' COMPENSATION, OR DISABILITY BENEFITS OR SIMILAR LAW.
 - c. FOR PAIN, SUFFERING OR OTHER NONMONETARY DAMAGES SUSTAINED BY AN *INSURED* IF THE *BODILY INJURY* IS NOT A *SERIOUS INJURY* AND THE LIMITATION OF SECTION 1731(d)(2) OF TITLE 75 OF THE PENNSYLVANIA CONSOLIDATED STATUTES APPLIES.
2. THERE IS NO COVERAGE FOR *BODILY INJURY* TO AN *INSURED* UNDER COVERAGE U WHILE *OCCUPYING* A MOTOR VEHICLE OWNED BY OR LEASED TO THAT *INSURED* IF THE VEHICLE IS NOT INSURED FOR UNINSURED MOTOR VEHICLE COVERAGE UNDER THIS POLICY OR ANY OTHER POLICY.
3. THERE IS NO COVERAGE FOR *BODILY INJURY* TO AN *INSURED* UNDER COVERAGE U3:
 - a. WHILE *OCCUPYING* A MOTOR VEHICLE OWNED BY OR LEASED TO *YOU, YOUR SPOUSE* OR ANY *RELATIVE* IF IT IS NOT INSURED FOR

THIS COVERAGE UNDER THIS POLICY; OR

- b. THROUGH BEING STRUCK BY A MOTOR VEHICLE OWNED BY OR LEASED TO YOU, YOUR SPOUSE OR ANY RELATIVE.

THERE IS NO COVERAGE FOR **BODILY INJURY** TO AN **INSURED** UNDER COVERAGE W WHILE **OCCUPYING** A MOTOR VEHICLE OWNED BY OR LEASED TO THAT **INSURED** IF THE VEHICLE IS NOT INSURED FOR UNDERINSURED MOTOR VEHICLE COVERAGE UNDER THIS POLICY OR ANY OTHER POLICY.

THERE IS NO COVERAGE FOR **BODILY INJURY** TO AN **INSURED** UNDER COVERAGE W3:

- a. WHILE **OCCUPYING** A MOTOR VEHICLE OWNED BY OR LEASED TO YOU, YOUR SPOUSE OR ANY RELATIVE IF IT IS NOT INSURED FOR THIS COVERAGE UNDER THIS POLICY; OR
- b. THROUGH BEING STRUCK BY A MOTOR VEHICLE OWNED BY OR LEASED TO YOU, YOUR SPOUSE OR ANY RELATIVE.

There Is Other Coverage - Coverage U

If uninsured motor vehicle coverage for **bodily injury** is available to an **insured** from more than one policy provided by us or any other insurer, any coverage applicable:

- a. under this policy shall apply on a primary basis if the **insured** sustains **bodily injury** while not **occupying** a motor vehicle or trailer.
- b. to the vehicle covered under this policy which the **insured** was **occupying** when the **bodily injury** was sustained shall apply on a primary basis. Any other coverage provided by this policy shall apply on an excess basis.

- c. under this policy shall apply on an excess basis if the **insured** sustains **bodily injury** while **occupying** a vehicle other than **your car**.

2. Subject to item 1 above, if this policy and one or more other policies provide coverage for **bodily injury**:

- a. on a primary basis, we are liable only for our share. Our share is that percent of the damages payable on a primary basis that the limit of liability of this coverage bears to the total of all applicable uninsured motor vehicle coverage on a primary basis.
- b. on an excess basis, we are liable only for our share. Our share is that percent of the damages payable on an excess basis that the limit of liability of this coverage bears to the total of all applicable uninsured motor vehicle coverage provided on an excess basis.

If There Is Other Coverage - Coverage U3

1. If uninsured motor vehicle coverage for **bodily injury** is available to an **insured** from more than one policy provided by us or any other insurer, the total limits of liability available from all coverages provided by all insurers shall not exceed the limit of liability applicable to the coverage with the highest limit of liability. This is the most that will be paid regardless of the number of policies involved, **persons** covered, claims made, vehicles or premiums shown on the declarations page, premiums paid or vehicles involved in the accident.
2. Subject to 1 above, any coverage applicable under this policy shall apply:
 - a. on a primary basis if the **insured** sustains **bodily injury** while **occupying your car**, or while not **occupying** a motor vehicle or trailer.
 - b. on an excess basis if the **insured** sustains **bodily injury** while **occupying** a vehicle not owned by or leased to you, your spouse or any relative.

3. Subject to items 1 and 2 above, if this policy and one or more other policies provide coverage for *bodily injury*:

a. on a primary basis, we are liable only for our share. Our share is that percent of the damages payable on a primary basis that the limit of liability of this coverage bears to the total of all applicable uninsured motor vehicle coverage provided on a primary basis.

The total damages payable from all policies that apply on a primary basis shall not exceed the limit of liability of the coverage providing the highest limit of liability on a primary basis.

b. on an excess basis, we are liable only for our share. Our share is that percent of the damages payable on an excess basis that the limit of liability of this coverage bears to the total of all applicable uninsured motor vehicle coverage provided on an excess basis.

The total damages payable from all policies that apply on an excess basis shall not exceed the amount by which the limit of liability of the single policy providing the highest limit of liability on an excess basis exceeds the limit of liability of the coverage providing the highest limit of liability on a primary basis.

4. THIS COVERAGE DOES NOT APPLY IF THERE IS OTHER UNINSURED MOTOR VEHICLE COVERAGE ON A NEWLY ACQUIRED CAR.

If There Is Other Coverage - Coverage W

1. If underinsured motor vehicle coverage for *bodily injury* is available to an *insured* from more than one policy provided by us or any other insurer, any coverage applicable:

a. under this policy shall apply on a primary basis if the *insured* sustains *bodily injury* while not *occupying* a motor vehicle or trailer.

b. to the vehicle covered under this policy which the *insured* was *occupying* when the *bodily injury* was sustained shall apply on a primary basis. Any other coverage provided by this policy shall apply on an excess basis.

c. under this policy shall apply on an excess basis if the *insured* sustains *bodily injury* while *occupying* a vehicle other than *your car*.

2. Subject to item 1 above, if this policy and one or more other policies provide coverage for *bodily injury*:

a. on a primary basis, we are liable only for our share. Our share is that percent of the damages payable on a primary basis that the limit of liability of this coverage bears to the total of all applicable underinsured motor vehicle coverage on a primary basis.

b. on an excess basis, we are liable only for our share. Our share is that percent of the damages payable on an excess basis that the limit of liability of this coverage bears to the total of all applicable underinsured motor vehicle coverage provided on an excess basis.

If There Is Other Coverage - Coverage W3

1. If underinsured motor vehicle coverage for *bodily injury* is available to an *insured* from more than one policy provided by us or any other insurer, the total limits of liability available from all coverages provided by all insurers shall not exceed the limit of liability applicable to the coverage with the highest limit of liability. This is the most that will be paid regardless of the number of policies involved, *persons* covered, claims made, vehicles or premiums shown on the declarations page, premiums paid or vehicles involved in the accident.

2. Subject to 1 above, any coverage applicable under this policy shall apply:

a. on a primary basis if the *insured* sustains *bodily injury* while *occupying your car*,

or while not *occupying* a motor vehicle or trailer.

- b. on an excess basis if the *insured* sustains *bodily injury* while *occupying* a vehicle not owned by or leased to *you, your spouse* or any *relative*.

Subject to items 1 and 2 above, if this policy and one or more other policies provide coverage for *bodily injury*:

- a. on a primary basis, we are liable only for our share. Our share is that percent of the damages payable on a primary basis that the limit of liability of this coverage bears to the total of all applicable underinsured motor vehicle coverage provided on a primary basis.

The total damages payable from all policies that apply on a primary basis shall not exceed the limit of liability of the coverage providing the highest limit of liability on a primary basis.

- b. on an excess basis, we are liable only for our share. Our share is that percent of the damages payable on an excess basis that the limit of liability of this coverage bears to the total of all applicable underinsured

motor vehicle coverage provided on an excess basis.

The total damages payable from all policies that apply on an excess basis shall not exceed the amount by which the limit of liability of the single policy providing the highest limit of liability on an excess basis exceeds the limit of liability of the coverage providing the highest limit of liability on a primary basis.

- 4. THIS COVERAGE DOES NOT APPLY IF THERE IS OTHER UNDERINSURED MOTOR VEHICLE COVERAGE ON A NEWLY ACQUIRED CAR.

Consent to Be Bound - Coverages U, U3, W and W3

Any judgment for damages arising out of a suit brought without our written consent is not binding on us unless we:

1. receive reasonable notice of the pendency of the suit resulting in the judgment; and
2. have a reasonable opportunity to protect our interest in the suit.

SECTION IV — PHYSICAL DAMAGE COVERAGES

Loss — means, when used in this section, each direct and accidental loss of or damage to:

1. *your car*;
2. its equipment which is common to the use of *your car* as a vehicle;
3. clothes and luggage insured; and
4. a detachable living quarters attached or removed from *your car* for storage. Detachable living quarters includes its body and items securely fixed in place as a permanent part of the body. *You* must have told us about the living quarters before the *loss* and paid any extra premium needed.

COMPREHENSIVE — COVERAGE D. This coverage applies to the vehicles for which "D" appears in the "Coverages" space on the declarations page. If a deductible applies, the amount is shown on the declarations page for the vehicle to which it applies.

1. Loss to Your Car. We will pay for *loss* to *your car* EXCEPT LOSS BY COLLISION but only for the amount of each such *loss* in excess of the deductible amount, if any. If we offer to pay for the repair of damaged windshield glass instead of the replacement of the windshield and *you* agree to have such repair made, we will pay the full cost of repairing the windshield glass regardless of *your* deductible.

Breakage of glass, or *loss* caused by missiles, falling objects, fire, theft, larceny, explosion, earthquake, windstorm, hail, water, flood, malicious mischief or vandalism, riot or civil commotion, is payable under this coverage. *Loss* due to hitting or being hit by a bird or an animal is payable under this coverage.

2. We will repay *you* for transportation costs if *your car* is stolen. We will pay up to \$16 per day for the period that

begins 48 hours after *you* tell us of the theft. The period ends when we offer to pay for the *loss*.

COLLISION — COVERAGE G. This coverage applies to the vehicles for which "G" appears in the "Coverages" space on the declarations page. The deductible amount is shown on the declarations page for the vehicle to which it applies.

We will pay for *loss* to *your car* caused by *collision* but only for the amount of each such *loss* in excess of the deductible amount.

Collision — means *your car* upset or hit or was hit by a vehicle or other object.

Clothes and Luggage — Comprehensive and Collision Coverages

We will pay for *loss* to clothes and luggage owned by the first *person* named in the declarations, his or her *spouse*, and their *relatives*. These items have to be in or on *your car*. *Your car* has to be covered under this policy for:

1. Comprehensive, and the *loss* caused by fire, lightning, flood, falling objects, explosion, earthquake or theft. If the *loss* is due to theft, **YOUR ENTIRE CAR MUST HAVE BEEN STOLEN**; or
2. Collision, and the *loss* caused by *collision*.

We will pay up to \$200 for *loss* to clothes and luggage in excess of any deductible amount shown for comprehensive or collision. \$200 is the most we will pay in any one occurrence even though more than one *person* has a *loss*. This coverage is excess over any other coverage.

Limit of Liability — Comprehensive and Collision Coverages

The limit of our liability for *loss* to property or any part of it is the lower of:

1. the actual cash value; or
2. the cost of repair or replacement.

Actual cash value is determined by the market value, age and condition at the time the loss occurred. Any deductible amount that applies is then subtracted.

The cost of repair or replacement is based upon one of the following:

1. the cost of repair or replacement agreed upon by you and us;
2. a competitive bid approved by us; or
3. an estimate written based upon the prevailing competitive price. The prevailing competitive price means prices charged by a majority of the repair market in the area where the car is to be repaired as determined by a survey made by us. If you ask, we will identify some facilities that will perform the repairs at the prevailing competitive price. We will include in the estimate parts sufficient to restore the vehicle to its pre-loss condition.

Any deductible amount that applies is then subtracted.

Settlement of Loss - Comprehensive and Collision Coverages

We have the right to settle a loss with you or the owner of the property in one of the following ways:

1. pay the agreed upon actual cash value of the property at the time of the loss in exchange for the damaged property. If the owner and we cannot agree on the actual cash value, either party may demand an appraisal as described below. If the owner keeps the damaged property, we will deduct its value after the loss from our payment. The damaged property cannot be abandoned to us;
2. pay to:
 - a. repair the damaged property or part, or
 - b. replace the property or part.

If the repair or replacement results in betterment, you must pay for the amount of betterment; or

3. Return the stolen property and pay for any damage due to the theft.

Appraisal under item 1 above shall be conducted according to the following procedure. Each party shall select an appraiser. These two shall select a third appraiser. The written decision of any two appraisers shall be binding. The cost of the appraiser shall be paid by the party who hired him or her. The cost of the third appraiser and other appraisal expenses shall be shared equally by both parties. We do not waive any of our rights by agreeing to an appraisal. If you give us your consent, we may move the damaged property, at our expense, to reduce storage costs during the appraisal process. If you do not give us your consent, we will pay only the storage costs which would have resulted if we had moved the damaged property.

The Settlement of Loss provision for comprehensive and collision coverages incorporates the Limit of Liability provision of those coverages.

If we can pay the loss under either comprehensive or collision, we will pay under the coverage where you collect the most.

When there is loss to your car, clothes and luggage in the same occurrence, any deductible will be applied first to the loss to your car. You pay only one deductible.

EMERGENCY ROAD SERVICE - COVERAGE H. This coverage applies to the vehicles for which "H" appears in the "Coverages" space on the declarations page.

We will pay the fair cost you incur for your car for:

1. mechanical labor up to one hour at the place of its breakdown;
2. towing to the nearest place where the necessary repairs can be made during regular business hours if it will not run;

3. towing it out if it is stuck on or immediately next to a public highway;
4. delivery of gas, oil, battery or tire. **WE DO NOT PAY THE COST OF THE GAS, OIL, BATTERY OR TIRE.**

CAR RENTAL EXPENSE - COVERAGE R

This coverage applies to the vehicles for which "R" appears in the "Coverages" space on the declarations page.

We will repay you up to \$10 per day when you rent a car from a car rental agency or garage due to a loss to your car which would be payable under coverage D or G, starting:

1. when it cannot run due to the loss; or
 2. if it can run, when you leave it at the shop for agreed repairs;
- and ending when:

1. it has been repaired or replaced, or
2. we offer to pay for the loss, or
3. you incur 30 days rent, whichever comes first.

Any car rent payable under coverage R is REDUCED TO THE EXTENT IT IS PAYABLE UNDER COMPREHENSIVE.

CAR RENTAL AND TRAVEL EXPENSES - COVERAGE R1. This coverage applies to the vehicles for which "R1" appears in the "Coverages" space on the declarations page.

1. Car Rental Expense.

We will:

- a. pay you up to \$16 of the daily rental charge when you rent a car from a car rental agency or garage; or
- b. pay you \$10 for each complete 24 hour period that your car is not drivable if you choose to not rent a car. You must report to us the period of time that your car was not drivable.

We will pay only if your car is not drivable because of a loss which would be payable under coverage D or G.

This applies during a period starting:

- a. when your car cannot run due to the loss; or
- b. if your car can run, when you leave it at the shop for agreed repairs;

and ending:

- a. when it has been repaired or replaced, or
- b. (1) when we offer to pay for the loss, if your car is repairable, or (2) five days after we offer to pay for the loss, if:
 - (a) your car was stolen and not recovered, or
 - (b) we declare it a total loss,
 whichever comes first.

Any car rent payable under this coverage is REDUCED TO THE EXTENT IT IS PAYABLE UNDER COMPREHENSIVE.

2. Travel Expenses. If your car cannot run due to a loss which would be payable under coverage D or G more than 50 miles from home, we will repay you for expenses incurred by you, your spouse and any relative for:

- a. Commercial transportation fares to continue to your destination or home.
- b. Extra meals and lodging needed when the loss to your car causes a delay enroute. The expenses must be incurred between the time of the loss and your arrival at your destination or home or by the end of the fifth day, whichever occurs first.
- c. Meals, lodging and commercial transportation fares incurred by you or a person you choose to drive your car

from the place of repair to *your* destination or home.

3. **Rental Car - Repayment of Deductible Amount Expense.** We will repay the expense of any deductible amount *you* are required to pay the owner under comprehensive or collision coverage in effect on a substitute *car* rented from a car rental agency or garage.

Total Amount of Expenses Payable - Coverage R1

1. The most we will pay for the total of the "Car Rental Expense" and "Rental Car - Repayment of Deductible Amount Expense" incurred in any one occurrence is \$400.
2. The most we will pay for "Travel Expenses" incurred by all *persons* in any one occurrence is \$400.

CAR RENTAL AND TRAVEL EXPENSES - COVERAGE R5. This coverage applies to the vehicles for which "R5" appears in the "Coverages" space on the declarations page.

1. Car Rental Expense.

a. We will:

- (1) pay 80% of the rental charge when *you* rent a *car* from a car rental agency or garage. "Rental charge" means the daily rental rate plus charges for mileage and related taxes; or
- (2) pay *you* \$10 for each complete 24 hour period that *your car* is not drivable if *you* choose to not rent a *car*. *You* must report to us the period of time that *your car* was not drivable.

We will pay only if *your car* is not drivable because of a *loss* which would be payable under coverage D or G.

- b. Payment will be made for a period that:

(1) starts:

- (a) when *your car* is not drivable due to the *loss*; or
- (b) if *your car* is drivable, when *you* leave it at the shop for agreed repairs; and

(2) ends:

- (a) when *your car* has been repaired or replaced; or
- (b) when we offer to pay for the *loss*, if *your car* is repairable but *you* choose to delay repairs; or
- (c) five days after we offer to pay for the *loss* if:
 - (i) *your car* was stolen and not recovered; or
 - (ii) we declare that *your car* is a total loss;

whichever comes first.

Any car rent payable under this coverage is REDUCED TO THE EXTENT IT IS PAYABLE UNDER COMPREHENSIVE.

2. **Travel Expenses.** If *your car* is not drivable due to a *loss* which occurs more than 50 miles from home and which would be payable under coverage D or G, we will pay *you* for expenses incurred by *you, your spouse* and any *relative* for:

- a. commercial transportation fares to continue to *your* destination or home;
- b. extra meals and lodging needed when the *loss* to *your car* causes a delay enroute. The expenses must be incurred between the time of the *loss* and *your* arrival at *your* destination or home or by the end of the fifth day, whichever occurs first; and
- c. meals, lodging and commercial transportation fares incurred by *you* or a

person you choose to drive *your car* from the place of repair to *your* destination or home.

3. **Rental Car - Repayment of Deductible Amount Expense.** We will pay the expense of any deductible amount *you* are required to pay the owner under comprehensive or collision coverage in effect on a substitute *car* rented from a car rental agency or garage.

Total Amount of Expenses Payable - Coverage R5

1. The most we will pay for "Car Rental Expense" incurred in any one occurrence is \$500.
2. The most we will pay for "Travel Expenses" incurred by all *persons* in any one occurrence is \$400.
3. The most we will pay for "Rental Car - Repayment of Deductible Amount Expense" incurred in any one occurrence is \$400.

Trailer Coverage

1. Owned Trailer

Your trailer is covered:

- a. when it is described on the declarations page of the policy; and
- b. for the coverages shown as applying to it.

2. Non-Owned Trailer or Detachable Living Quarters

Any physical damage coverage in force on *your car* applies to a non-owned:

- a. trailer, if it is designed for use with a *private passenger car*, or
- b. detachable living quarters unit

used by the first *person* named in the declarations, his or her *spouse* or their *relatives*.

The most we will pay under the comprehensive or collision coverage for a *loss* to such non-owned trailer or unit is \$500.

A non-owned trailer or detachable living quarters unit is one that:

a. is not owned by or registered in the name of:

- (1) *you, your spouse, any relative;*
- (2) any other *person* residing in the same household as *you, your spouse* or any *relative;* or
- (3) an employer of *you, your spouse* or any *relative;* and

b. has not been used or rented by or in the possession of *you, your spouse* or any *relative* during any part of each of the last 21 or more consecutive days. The 21 day limit is multiplied by the number of vehicles described on the declarations pages of all car policies issued by us under which *you* are insured; and

c. is not rented and used in connection with the employment or business of *you, your spouse* or any *relative*.

Coverage for the Use of Other Cars

The coverages in this section *you* have on *your car* extend to a *loss* to a *newly acquired car*, a *temporary substitute car* or a *non-owned car*. These coverages extend to a *non-owned car* while it is driven by or in the custody of an *insured*.

Insured - as used in this provision means:

1. the first *person* named in the declarations;
2. his or her *spouse;* or
3. their *relatives*.

When the Physical Damage Coverages Do Not Apply

THERE IS NO COVERAGE FOR:

1. A NON-OWNED CAR:

- a. IF THE DECLARATIONS STATE THE "USE" OF ALL OF YOUR

CARS IS OTHER THAN "PLEASURE AND BUSINESS";

- b. WHILE BEING REPAIRED, SERVICED OR USED BY ANY PERSON WHILE THAT PERSON IS WORKING IN ANY CAR BUSINESS; OR
 - c. WHILE USED IN ANY OTHER BUSINESS OR OCCUPATION. This does not apply to a *private passenger car* driven or occupied by the first person named in the declarations, his or her spouse or their relatives.
2. ANY VEHICLE WHILE:
- a. RENTED OR LEASED TO OTHERS;
 - b. USED TO CARRY PERSONS FOR A CHARGE. This does not apply to the use on a share expense basis; OR
 - c. SUBJECT TO ANY LIEN, LEASE OR SALES AGREEMENT, NOT SHOWN IN THE DECLARATIONS.
3. LOSS TO ANY VEHICLE DUE TO:
- a. TAKING BY ANY GOVERNMENTAL AUTHORITY;
 - b. WAR OF ANY KIND;
 - c. AND LIMITED TO WEAR AND TEAR, FREEZING, MECHANICAL OR ELECTRICAL BREAKDOWN OR FAILURE. This does not apply when the loss is the result of a theft covered by this policy. Nor does it apply to emergency road service; OR
 - d. CONVERSION, EMBEZZLEMENT OR SECRETION BY ANY PERSON WHO HAS THE VEHICLE DUE TO ANY LIEN, RENTAL, LEASE OR SALES AGREEMENT.
4. TIRES unless:
- a. stolen, or damaged by fire or vandalism; or

b. other loss covered by this section happens at the same time.

5. TAPES OR DISCS FOR RECORDING OR REPRODUCING SOUND.
6. ANY LASER OR RADAR DETECTOR.
7. ANY VEHICLE INSURED UNDER THIS SECTION WHILE IT IS OPERATED IN, IS ENGAGED IN PRACTICE FOR, OR IS BEING PREPARED FOR ANY RACING OR SPEED CONTEST. This does not apply while the vehicle is operated on public roads.

If There Is Other Coverage

1. Policies Issued by Us to You

If two or more vehicle coverages provided by us to you apply to the same loss or occurrence, we will pay under the coverage with the highest limit.

2. Coverage Available From Other Sources

Subject to item 1, if other coverage applies to the loss or expenses, we will pay only our share. Our share is that percent the limit of liability of this policy bears to the total of all coverage that applies.

3. Temporary Substitute Car, Non-Owned Car or Trailer

If a *temporary substitute car*, a *non-owned car* or trailer designed for use with a *private passenger car* has other coverage on it, then this coverage is excess.

4. Newly Acquired Car

THIS INSURANCE DOES NOT APPLY IF THERE IS SIMILAR COVERAGE ON A NEWLY ACQUIRED CAR.

No Benefit to Bailee

These coverages shall not benefit any carrier or other bailee for hire liable for loss.

Two or More Vehicles

If two or more of your cars are insured for the same coverage, the coverage applies separately to each.

CONDITIONS

1. Policy Changes

a. **Policy Terms.** The terms of this policy may be changed or waived only by:

(1) an endorsement signed by one of our executive officers; or

(2) the revision of this policy form to give broader coverage without an extra charge. If any coverage *you* carry is changed to give broader coverage, we will give *you* the broader coverage without the issuance of a new policy as of the date we make the change effective.

b. **Change of Interest.** No change of interest in this policy is effective unless we consent in writing. However, if *you* die, we will protect as named insured, except under death, dismemberment and loss of sight coverage:

(1) *your* surviving spouse;

(2) any *person* with proper custody of *your* car, a newly acquired car or a temporary substitute car until a legal representative is qualified; and then

(3) the legal representative while acting within the scope of his or her duties.

Policy notice requirements are met by mailing the notice to the deceased named insured's last known address.

c. **Consent of Beneficiary.** Consent of the beneficiary under death, dismemberment and loss of sight coverage is not needed to cancel or change the policy.

d. **Joint and Individual Interests.** When there are two or more named insureds, each acts for all to cancel or change the policy.

2. Suit Against Us

There is no right of action against us:

a. until all the terms of this policy have been met; and

b. under the liability coverage, until the amount of damages an *insured* is legally liable to pay has been finally determined by:

(1) judgment after actual trial, and appeal if any; or

(2) agreement between the *insured*, the claimant and us.

Bankruptcy or insolvency of the *insured* or his or her estate shall not relieve us of our obligations.

c. under uninsured motor vehicle, underinsured motor vehicle or any physical damage coverages until 30 days after we get the *insured's* notice of accident or loss.

3. Subrogation

The rights of recovery of the *person* to or for whom we paid pass to us to the extent of our payments. That *person* shall:

a. not hurt our rights to recover; and

b. help us get our money back.

Subrogation applies to all coverages except death, dismemberment and loss of sight coverage.

4. Cancellation

How You May Cancel. *You* may cancel *your* policy by notifying us in writing of the date to cancel, which must be later than the date *you* mail or deliver it to us. We may waive these requirements by confirming the date and time of cancellation to *you* in writing.

How and When We May Cancel. We may cancel *your* policy by written notice, mailed or delivered to *your* last known address. The notice shall give the date cancellation is effective.

If we cancel during the first 59 days following the policy effective date, the cancellation notice will be mailed or delivered to *you* at least 15 days before the cancellation effective date.

After the policy has been in force for more than 59 days, any notice of cancellation will be mailed or delivered to *you* at least:

- a. 15 days prior to the effective date of the cancellation if such cancellation is because the premium was not paid; and
- b. 30 days prior to the effective date of the cancellation if such cancellation is because of any other reason.

The mailing of the notice shall be sufficient proof of notice.

Unless the policy is canceled within 59 days of its effective date, we will not cancel *your* policy before the end of the current policy period unless:

- a. *you* fail to pay the premium when due; or
- b. at any time during the policy period *your* driver's license was under suspension or revocation. If we send *you* a notice of cancellation solely because *your* driver's license was suspended or revoked due to *your* failure to respond to a citation, we will reinstate *your* policy to provide continuous coverage if *you* furnish to us, before the cancellation effective date, proof that *you* have:

- (1) responded to all citations; and
- (2) paid all fines and penalties in connection with them.

Return of Unearned Premium. If *you* cancel, premium may be earned on a short rate basis. If we cancel, premium will be earned

on a pro-rata basis. Any unearned premium may be returned at the time we cancel or within a reasonable time thereafter. Delay in the return of unearned premium does not affect the cancellation.

5. Renewal

Unless we mail or deliver to *you* a notice of cancellation or a notice of our intention not to renew the policy, we agree to renew the policy for the next policy period upon *your* payment of the renewal premium when due. It is agreed that the renewal premium will be based upon the rates in effect, the coverages carried, the applicable limits of liability, deductibles and other elements that affect the premium that apply at the time of renewal.

Other elements that may affect *your* premium include, but are not limited to:

- a. drivers of *your car* and their ages and marital status;
- b. *your car* and its use;
- c. eligibility for discounts or other premium credits;
- d. applicability of a surcharge based either on accident history, or on other factors.

A notice of our intention to not renew will be mailed or delivered to *your* last known address at least 60 days before the end of the current policy period. The mailing of it shall be sufficient proof of notice.

6. Premium

The premium for this policy may vary based upon the purchase of other insurance from one of the State Farm affiliated companies.

The premium for this policy is based on information State Farm has received from *you* or other sources. If the information is incorrect or incomplete, or changes during the policy period, *you* must inform State Farm of any changes regarding the following:

- a. *your car*, or its use, including annual mileage;
- b. the *persons* who regularly drive *your car*, including newly licensed family members;
- c. *your* marital status; or
- d. the location where *your car* is principally garaged.

You agree that if this information or any other information used to determine the premium is incorrect or incomplete, or changes during the policy period, we may decrease or increase the premium during the policy

period based upon the corrected, completed or changed information. *You* agree that if the premium is decreased or increased during the policy period, State Farm will refund or credit to *you* any decrease in premium and *you* will pay for any increase in premium.

7. Concealment or Fraud

There is no coverage under this policy if *you* or any other *person* insured under this policy has made false statements with the intent to conceal or misrepresent any material fact or circumstance in connection with any claim under this policy.

MUTUAL CONDITIONS

1. Membership. While this policy is in force, the first insured named in the declarations is entitled to vote at all meetings of members and to receive dividends the Board of Directors in its discretion may declare in accordance with reasonable classifications and groupings of policyholders established by such Board.

2. No Contingent Liability. This policy is non-assessable.

3. Annual Meeting. The annual meeting of the members of the company shall be held at its home office at Bloomington, Illinois, on the second Monday of June at the hour of 10:00 A.M., unless the Board of Directors shall elect to change the time and place of such meeting, in which case, but not otherwise, due notice shall be mailed each member at the address disclosed in this policy at least 10 days prior thereto.

In Witness Whereof, the State Farm Mutual Automobile Insurance Company has caused this policy to be signed by its President and Secretary at Bloomington, Illinois, and countersigned on the declarations page by a duly authorized representative of the Company.

Lama P. Sullivan

SECRETARY

Edward B. Rust, Jr.

PRESIDENT

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- 6 Reporting a Claim — Insured's Duties — What to do if *you* have an accident, claim or are sued.
- 3 Defined Words
- 5 Declarations Continued
- 6 When and Where Your Coverage Applies
- 6 Financed Vehicles — Coverage for Creditor

Coverages

- 8 A — Liability — When there is damage to others.
- 12 C2 — Medical Payments — Pays for an *insured's* medical expenses.
- 12 Q — Extraordinary Medical Payments — Pays for an *insured's* medical expenses.
- 13 Z — Loss of Income — Pays income loss benefits to an *insured*.
- 14 Y — Death, Dismemberment and Loss of Sight — Pays for death of or certain injuries to an *insured*.
- 14 F — Funeral Benefits — Pays for an *insured's* funeral expenses.
- 16 M — Combined Benefits — Pays medical and funeral expenses, income loss benefits, and for death of or certain injuries to an *insured*.
- 18 U — Uninsured Motor Vehicle (Stacking Option) — When the other car or driver is not insured.
- 18 U3 — Uninsured Motor Vehicle (Non-Stacking Option) — When the other car or driver is not insured.
- 18 W — Underinsured Motor Vehicle (Stacking Option) — When the other car or driver is underinsured.
- 18 W3 — Underinsured Motor Vehicle (Non-Stacking Option) — When the other car or driver is underinsured.
- 26 D — Comprehensive — When *your car* is damaged except by collision or upset. Any deductible amounts are shown on the declarations page.
- 26 G — Collision — When *your car* is damaged by collision or upset. Deductible amounts are shown on the declarations page.
- 27 H — Emergency Road Service — When *your car* breaks down or needs a tow.
- 28 R — Car Rental Expense — When *you* need to rent a *car* because of damage to *your car*.
- 28 R1 — Car Rental and Travel Expenses — When *you* need to rent a *car* and pay extra travel expenses because of damage to *your car*.
- 29 R5 — Car Rental and Travel Expenses — When *you* need to rent a *car* and pay extra travel expenses because of damage to *your car*.

Conditions

- 32 1. Policy Changes
- 32 2. Suit Against Us
- 32 3. Subrogation
- 32 4. Cancellation
- 33 5. Renewal
- 33 6. Premium
- 34 7. Concealment or Fraud

34 **Mutual Conditions**

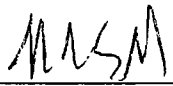
Policy Form 9838.7

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Amended Complaint in Declaratory Judgment** has been served via first-class U.S. mail, postage prepaid, this 8th day of January, 2009, addressed as follows:

Virginia Shenkan, Esquire
Richard Shenkan, Esquire
2712 Carlisle Street
PO Box 1130
New Castle, PA 16103

SUMMERS, McDONNELL, HUDOCK, GUTHRIE & SKEEL

By: 

Robert J. Fisher, Jr., Esquire
Attorney for Plaintiff.