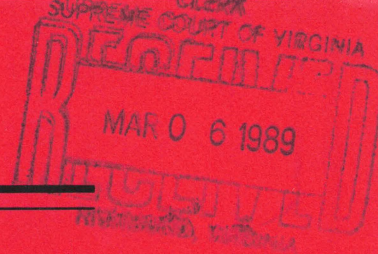


238Va 257



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IN THE  
**Supreme Court of Virginia**  
AT RICHMOND

---

RECORD NO. 880554

---

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,

Appellant,

v.

HAROLD GANDY,

Appellee.

---

JOINT APPENDIX

---

John W. Zunka  
Jane P. Long  
TAYLOR & ZUNKA, LTD.  
414-A Park Street  
Charlottesville, Virginia 22901  
(804) 977-0191

Counsel for Appellant

F. Guthrie Gordon, III  
GORDON & WYATT  
416 Park Street  
Charlottesville, Virginia 22901  
(804) 296-4130

Counsel for Appellee



TABLE OF CONTENTS

Appendix Page

Motion for Judgment filed 3/4/87 .....	1
Plaintiff's Pre-Trial Memorandum filed 7/10/87 .....	3
Defendant's Answers to Interrogatory Numbers 2, 3, 4, 5; Responses to Request for Admissions Numbers 1, 2,; filed 7/21/87 .....	6
Defendant's Pre-Trial Memorandum filed 7/24/87 .....	11
Letter Opinion dated 10/7/87 .....	21
Stipulation with attached Certificate of Coverage, Declarations Page and State Farm Family Automobile Policy Combination Form filed 2/2/88 .....	23
Final Order Granting Summary Judgment filed 2/9/88 .....	55
Written Statement of Facts, Testimony and Other Incidents filed 3/1/88 .....	57
Assignments of Error .....	60

VIRGINIA: IN THE GENERAL DISTRICT COURT FOR ALBEMARLE COUNTY

HAROLD GANDY,

Plaintiff

v.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,  
Serve: Donald Zimmerman, Registered Agent  
1500 State Farm Boulevard  
Charlottesville, Virginia 22909

Defendant

MOTION FOR JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT;

Now comes your Plaintiff, Harold Gandy, by counsel, and represents unto the Court as follows:

1. Your Plaintiff is over the age of eighteen (18) years and a citizen of Virginia. The Defendant is a large automobile insurance company doing business in many states including Virginia.

2. On or about September 10, 1986, your Plaintiff was an insured with Defendant automobile insurance company for a private passenger automobile.

3. On that same date, your Plaintiff, while on the premises of a roofing supply company, suffered injury when a fork lift, being operated by an employee of said supply company, ran over his foot causing him severe injury.

4. As a direct and proximate result of the injury suffered by your Plaintiff, your Plaintiff incurred medical bills which to date total Eight Hundred Seventy Two Dollars and Seventy Cents (\$872.70).

5. At the time of the accident, your Plaintiff was the

beneficiary of medical payments coverage on his automobile insurance policy, which had been issued in Virginia and pursuant to Virginia's automobile insurance statutes.

6. Under the terms of said statutes, your Plaintiff is entitled to medical payments coverage when he suffers injury "through being struck by an automobile", which is defined in Virginia as a self-propelled device. Said fork lift qualifies as an automobile in Virginia.

7. Your Plaintiff has made demand upon Defendant insurance company for medical payments coverage under his policy, which claim has been denied on the ground that said automobile is not designed for use primarily on the highways as specified in the policy.

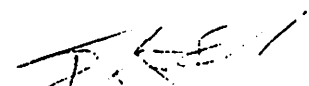
8. The terms of the policy contradict the terms of the statute, and said qualification or exemption is thus ineffectual, see USAA v. Yaconiello, 226 Va. 423 (1983).

9. Said denial of claim constitutes a breach of contract for which the Defendant is liable to your Plaintiff in damages.

WHEREFORE, your Plaintiff prays for judgment against the Defendant in the amount of Nine Hundred Fifty Dollars (\$950.00) in that Defendant has breached his contract of insurance and is thus liable to your Plaintiff in damages. And your Plaintiff further prays for such other and further relief as may be appropriate including attorneys fees, costs and interest.

HAROLD GANDY

By Counsel

  
\_\_\_\_\_  
F. Guthrie Gordon, III  
Gordon & Wyatt  
416 Park Street  
Charlottesville, Virginia 22901  
(804) 296-4130

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

HAROLD GANDY,

Plaintiff,

v.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Defendant.

PRE-TRIAL MEMORANDUM

For the purposes of this "med pay" case, the facts are not in substantial dispute -- except for one important question. On September 10, 1986, Harold Gandy was an employee of ABC Supply Company, 1129 Summit Street, Fredericksburg, Virginia, when he was assigned the task of driving materials for his employer to the site of a supplier, National Building Supply, in Purcellville, Virginia. Mr. Gandy did so, and his vehicle was unloaded. However, the supplier in Purcellville asked if the Plaintiff could wait and receive a supply of materials from the Purcellville business to take back to Mr. Gandy's own employer in Fredericksburg.

While Mr. Gandy was waiting for his vehicle to be filled, a forklift, operated by an employee of the Purcellville supplier accidentally ran over Mr. Gandy's foot and ankle causing the subject injury.

Mr. Gandy was a State Farm insured under his own personal automobile insurance policy, and submitted the bills incurred in this "while not occupying a motor vehicle, through being struck by an automobile..." case.

The damages to this date have been stipulated at \$836.36 and are not in dispute.

The unresolved fact question is whether the forklift in question is a "motor vehicle".

#### ARGUMENT

It is quite clear that, if the Plaintiff had been struck by a passenger automobile under identical circumstances, he would be entitled to prevail by the terms of the policy. However, State Farm relies upon a provision of its policy which, it argues, limits "med pay" to automobiles only to deny the claim.

Plaintiff relies upon §§ 38.2-124 and 38.2-2201, Code of Virginia (1950), as amended, (see copies attached) and their predecessor sections' interpretation in USAA v. Yaconiello, 226 Va. 423, (see copy attached) to establish the proposition that med pay coverage, because mandated by statute, is in fact broader than the specific language in the policy would indicate. Under the statutes, med pay is available to one who is struck by a "motor vehicle", not just an "automobile".


The Code of Virginia defines a "motor vehicle" as "every vehicle as herein defined which is self-propelled or designed for self-propulsion..." § 46.1-1 (15) (see copy attached) and "vehicle" is defined as "every device in, upon or by which any person or property is or may be transported or drawn upon a highway,..." § 46.1-1 (34). Thus a forklift, while not normally thought of as a highway vehicle, nonetheless is perfectly capable of transporting persons and materials along highways. Thus the

forklift is a "motor vehicle" and, under the rationale of USAA v. Yaconiello, the statutory definition of "motor vehicle" prevails over contrary policy provisions and the policy is amended to conform with the statute.

For these reasons, the injury suffered as a result of being struck by a "motor vehicle" gives rise to med pay coverage. Plaintiff should be awarded his damages plus costs and interest.

HAROLD GANDY

By Counsel

  
\_\_\_\_\_  
F. Guthrie Gordon, III  
Gordon & Wyatt  
416 Park Street  
Charlottesville, Virginia 22901  
(804) 296-4130

Mailing Certificate

I hereby certify that on or before this 10<sup>th</sup> day of July, 1987, I mailed or delivered a true copy of the foregoing to Jane P. Long, Esquire, Taylor & Zunka, Ltd., 414 Park Street, P. O. Box 1567, Charlottesville, Virginia 22902.

  
\_\_\_\_\_  
F. Guthrie Gordon, III

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE:

HAROLD GANDY,

Plaintiff

v.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Defendant

DEFENDANT'S ANSWERS TO INTERROGATORIES  
AND  
RESPONSE TO REQUEST FOR ADMISSIONS

Comes now the Defendant, State Farm Mutual Automobile Insurance Company, and for its Answers to Interrogatories and Response to Request for Admissions states as follows:



VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

HAROLD GANDY,

Plaintiff

v.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

Defendant

PLAINTIFF'S FIRST INTERROGATORIES TO DEFENDANT  
AND REQUEST FOR ADMISSIONS

Now comes the Plaintiff, Harold Gandy, by counsel, and propounds to Defendant State Farm Mutual Automobile Insurance Company the following Interrogatories and Request for Admissions. Sworn answers to the Interrogatories and Request for Admissions must be served on the Plaintiff within twenty-one (21) days after service hereof, in accordance with Rule 4:8 and 4:11 of the Rules of Court of the Supreme Court of Virginia.

Interrogatories

1. Identify the person making answers to these interrogatories.

ANSWER: Lee Martin, Claim Superintendent, State Farm Mutual Automobile Insurance Company.

2. Describe in detail the forklift that struck the Plaintiff on September 10, 1986.

ANSWER: 1985 Clark forklift. The forklift has 1 seat for the operator only. It is not registered with the Division of Motor Vehicles; it is not licensed with a vehicle tag and it is used only in the company's yard. It is self-propelled and can operate forward and reverse.

3. State what speeds the forklift in question can attain.  
ANSWER: It is possible that the forklift could reach a speed of approximately 20 miles per hour, but to attain such a speed would take a long time and would be very unusual.

4. State whether the forklift in question is capable of transporting persons or property upon a highway.  
ANSWER: It is not.

5. State whether the forklift in question is self-propelled or designed for self-propulsion.  
ANSWER: It is.

#### Request for Admissions

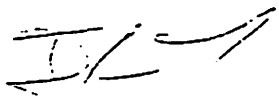
1. Admit or deny that the forklift vehicle which struck the Plaintiff in the instant case is capable of transporting persons or property upon a highway. DENIED

2. Admit or deny that the forklift vehicle which struck the Plaintiff in this case is self-propelled or designed for self-propulsion. ADMITTED

These Interrogatories and Requests for Production of Documents are deemed continuing requiring supplemental answers from time to time as information becomes available to you, your attorneys, adjusters, employee, or agents.


HAROLD GANDY

By Counsel

  
\_\_\_\_\_  
F. Guthrie Gordon, III  
Gordon & Wyatt  
416 Park Street  
Charlottesville, Virginia 22901  
(804) 296-4130

Mailing Certificate

I hereby certify that on or before this 30<sup>th</sup> day of June, 1987, I mailed or delivered a true copy of the foregoing to John W. Zunka, Esquire, of Taylor & Zunka, 414 Park Street, Charlottesville, Virginia 22901.

  
\_\_\_\_\_  
F. Guthrie Gordon, III  
-----

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY  
BY COUNSEL

*Lee Martin*

LEE MARTIN, Claim Superintendent

STATE OF VIRGINIA:

CITY OF CHARLOTTESVILLE, to-wit:

On the 22nd day of July, 1987,  
Lee Martin, Claim Superintendent of State Farm Mutual  
Automobile Insurance Company, acknowledged before me  
that the foregoing Answers to Interrogatories are true  
and correct to the best of his information.

My Commission expires

November 11, 1989

NOTARY PUBLIC

*Janita B. Payne*

TAYLOR & ZUNKA, LTD.  
414-A Park Street  
P. O. Box 1567  
Charlottesville, Virginia, 22902

By *Jan P. Long*

I hereby certify that a true copy of the foregoing  
Answer to Interrogatories and Response to Request for  
Admissions was mailed on the 21st day of  
July, 1987 to F. Guthrie Gordon, III, Esquire,  
416 Park Street, Charlottesville, Virginia, 22901, counsel  
for Harold Gandy.

*Jan P. Long*

VIRGINIA:

IN THE CIRCUIT COURT FOR ALBEMARLE COUNTY:

HAROLD GANDY,

Plaintiff

v.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Defendant

PRE-TRIAL MEMORANDUM OF

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

TO THE HONORABLE E. GERALD TREMBLAY, JUDGE OF SAID COURT

Defendant, State Farm Mutual Automobile Insurance Company, respectfully files this Memorandum in support of its position herein, pursuant to the Pre-Trial Order of this Court.

FACTS

In September of 1986, Plaintiff Gandy's foot was run over by a forklift while Plaintiff was standing on the ground outside of any motor vehicle.

The forklift which Plaintiff states ran over his foot was a 1985 Clark model forklift. It has one seat, for the operator only. It was capable of operating in forward and reverse. It was not licensed by the Division



Page Two

of Motor Vehicles, was not tagged, and at no time was the forklift operated anywhere other than in a company yard. While the forklift could possibly reach a speed of approximately 20 miles per hour, this would be difficult and very unusual...

As a result of this incident, the Plaintiff incurred medical bills of \$836.36.

At the time of the incident, Plaintiff was insured by a State Farm Automobile Liability Policy. A copy of the Declaration Page of Plaintiff's policy is attached hereto as ATTACHMENT ONE. Plaintiff seeks to recover payment of his medical bills for this incident under the Medical Payments Provision of his State Farm policy.

The applicable provisions of Plaintiff's State Farm policy appear in Part II, Coverage C (Virginia Amendatory Endorsement). A copy of the relevant provision is attached hereto as ATTACHMENT TWO.

Division 1 provides medical payments coverage for the named insured, "(c) while not occupying a motor vehicle, through being struck by an automobile or trailer of any type." (emphasis added)

Exclusion (b) states that the policy does not apply under Part II to bodily injury: "(b) sustained by

the named insured...through being struck by (1) a farm type tractor or other equipment designed for use principally off public roads, while not upon public roads, or (2) a vehicle operated on rails or crawler-treads." (emphasis added)

No factual issues are presented by this case.

LAW AND ARGUMENT

I. Plaintiff's medical payments coverage does not extend to this incident by the specific terms of the policy.

There can be no question that the forklift involved in this case was designed for use principally off public roads. Further, this incident occurred in a private company yard and not upon a public road.

Thus, Plaintiff's claim squarely falls within Exclusion (b) of his medical payments coverage. Excluded from coverage is an injury sustained while not occupying a motor vehicle, through being struck by equipment designed for use principally off public roads, while not upon public roads.

II. The medical payments provisions of Plaintiff's policy do not violate any Virginia statutory mandate, nor are the policy's coverage provisions expanded by statute.

Plaintiff argues that VA. CODE § 38.2-2201 (a) requires medical payments coverage to an insured who, while not occupying a motor vehicle, is struck by "any motor vehicle". Plaintiff then cites the Virginia Supreme Court's decision in USAA v. Yaconiello, 226 Va. 423 (1983) to argue that the medical payments coverage, because mandated by statute, is broader than the specific policy language. Plaintiff's reliance is misplaced.

Yaconiello was decided under VA. CODE § 38.1-380.1. That Code section is now 38.2-2201. By its very terms, the coverage described by § 38.2-2201 is optional. The first words of that Code section are, "Upon request of an insured....". Thus, the coverage mandated by that Code section is required only where that coverage is requested by the insured.

This type of coverage is called "PIP" in a policy. As indicated on the Declarations Page, no such coverage was requested by the Plaintiff. ATTACHMENT THREE is the Notice to policyholders of their right to purchase this additional medical payments coverage should they so choose. The first paragraph of that Notice shows that it clearly would provide coverage required by § 38.2-2201.

An examination of VA. CODE § 38.2-124(B)(1) reveals that the Coverage C medical payments provisions of Plaintiff's insurance policy are permissible limitations. That section clearly permits a policy to contain "appropriate provisions" in providing its coverage.

The difference between the statutory language of § 38.2-2201 and § 38.2-124 cannot be ignored. Condensing the language of those Code sections emphasize the relevant provisions makes the differences clear.

Section 38.2-2201 provides that (1) upon request of an insured, a policy (2) shall provide coverage to an insured not occupying a motor vehicle, through being struck by (3) any motor vehicle. PIP coverage was not requested by this insured and no premium was paid for such coverage.

Quite to the contrary, § 38.2-124 provides that a policy (1) may include (2) appropriate provisions, when an insured is struck by (3) a motor vehicle.

Thus, Plaintiff's policy was not required to provide medical payments coverage for his being struck by any and all motor vehicles, and the limiting provisions of the policy are quite permissible.

III. Even if Plaintiff's argument was correct that § 38.2-2201 requires medical payments coverage to an insured struck by any motor vehicle, Plaintiff still has no coverage because the forklift is not within the Virginia statutory definition of a motor vehicle.

VA. CODE § 46.1-1 (15) defines a "motor vehicle" as, "every vehicle as herein defined which is self-propelled or designed for self-propulsion...." Subsection (34) of that same Code section defines a "vehicle" as "every device in, upon or by which any person or property is or may be transported or drawn upon a highway....."

Plaintiff claims that a forklift, "while not normally thought of as a highway vehicle, nonetheless is perfectly capable of transporting persons and materials along the highway." However, this argument is not valid.

Virginia statutes require that, in order for a vehicle to be operated upon a highway, that vehicle must be registered and licensed. Such is not the case with the subject forklift. It is incapable of being transported upon a highway.

#### CONCLUSION

An automobile liability insurance policy is not health insurance. There is no public policy in Virginia



Page Seven

that liability coverage must exist for every accident. See Early Settler's Insurance Company v. Jordan, 217 Va. 462 (1976).

For the reasons set forth above, judgment must be entered in favor of the Defendant, State Farm Mutual Automobile Insurance Company, on the grounds that Plaintiff's policy provides no medical payments coverage for the subject incident.

Respectfully submitted

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY

By Counsel

TAYLOR & ZUNKA, LTD.  
414-A Park Street  
P. O. Box 1567  
Charlottesville, Virginia, 22902

by Gene P. Long

CERTIFICATE

I hereby certify that on the 24<sup>th</sup> day of July 1987, a true copy of the foregoing Memorandum was mailed/hand-delivered to F. Guthrie Gordon, III, Esquire, 416 Park Street, Charlottesville, Virginia, 22901, counsel for Plaintiff.

Gene P. Long



NAMED INSURED

Gandy, Harold L  
Rt 3 Box 2122  
Spotsylvania Va 22553

SEE BACK OF THIS FORM FOR IMPORTANT  
COVERAGE U MESSAGE

THIS PAGE, ANY ENDORSEMENTS INDICATED  
HEREON AND FORM  
CONSTITUTE THE POLICY 9946F.4  
IDENTIFIED BY THE POLICY NUMBER.

DO NOT PAY PREMIUMS SHOWN ON THIS PAGE. SEPARATE  
STATEMENT ENCLOSED IF AMOUNT DUE.

Class  
1- 1B301  
2- 1B3H1

POLICY NUMBER

S61-6731-C18-46B

POLICY PERIOD (MONTH-DAY-YEAR)

Mar-20-86 To Sep-18-86

DESCRIBED VEHICLE/MAKE-YEAR-BODYSTYLE-NUMBER  
VEH.

1 Corolla 76 2Dr TE51527036  
2 Toyota 86 Pickup JT4RN50R3G0123628

LIMITS OF LIABILITY

(Thousands Dollars)		(Dollars)		(Thousands Dollars)	
A	B	C		U	
Bodily Injury	Property Damage	Medical Payments		Bodily Injury	Property Damage
Each Person	Each Occurrence	Each Person		Each Person	Each Accident
25	50	25	1000	25	50
25	50	25	1000	25	50

COVERAGES IN FORCE WHERE PREMIUM SHOWN (PREMIUM IS FOR POLICY PERIOD SHOWN)

VEH.	PART I (A-B)	PART II (C)	PART III (D-E)	PART III (F-G)	PART III (H)	PART IV (U)	R-R1	PIP	TOTAL
1	93.75	11.67				8.90			114.32
2	93.75	11.67	D 29.47	G100 105.63	3.16	7.91			251.59

EXCEPTIONS AND ENDORSEMENTS

Car 1,2 6256W.1 Sound Excl, 6273H.2 Supp Cov u. 6328U Amend  
End. 6520.5 Cov U. 6571.4 Chg Cov C. 6589 Duties. 6778  
Out St Ins. Car 2 6845A Appraisal End. 6893B Chg Cov D

Current  
Semiannual  
Premium  
1- 115.60  
2- 254.40

PERSONS INSURED COVERAGES S/T

S (AMOUNTS) T

PREMIUM

REPLACED POLICY

S616731-46A

Countersigned \_\_\_\_\_ 19\_\_\_\_  
By \_\_\_\_\_ AGENT

Note: The following endorsement applies when the endorsement number appears on the declarations page.

**FAMILY  
6571.4 VIRGINIA AMENDATORY ENDORSEMENT**

It is agreed that Part II — Expenses for Medical Services of the policy is amended as follows:

1. The insuring agreement of Coverage C — Medical Payments is amended to include reasonable expenses for necessary chiropractic services incurred within one year from the date of accident.

2. Division 1 of Coverage C — Medical Payments is amended to read:

Division 1. To or for the named insured and each relative who sustains bodily injury, sickness or disease, including death resulting therefrom, hereinafter called "bodily injury", caused by accident,

(a) while occupying the owned automobile,

(b) while occupying a non-owned automobile, but only if such person has, or reasonably believes he has, the permission of the owner to use the automobile and the use is within the scope of such permission, or

(c) while not occupying a motor vehicle, through being struck by an automobile or trailer of any type.

3. The following definition is added.

"medical expense insurance" means any automobile insurance providing benefits for medical expenses payable without regard to fault.

4. Exclusion (b) is amended to read:

This policy does not apply under Part II to bodily injury:

(b) sustained by the named insured or a relative while occupying or, while not occupying a motor vehicle, through being struck by (1) a farm type tractor or other equipment designed for use principally off public roads, while not upon public roads, or (2) a vehicle operated on rails or crawler-treads;

5. The "Limit of Liability" provision is deleted and replaced by the following:

Regardless of the number of:

1. persons or organizations who are insureds under this policy;
2. persons who sustain bodily injury;
3. claims made or suits brought on account of bodily injury;

the limit of the company's liability for all expenses incurred by or on behalf of each person who sustains bodily injury as the result of any one accident shall not exceed:

(a) the limit of liability stated in the declarations as applicable to "each person" when there is only one "owned automobile", or

(b) the sum of the highest limits of liability stated in the declarations as applicable to "each person" for each "owned automobile" up to a maximum of 4, when the medical expense costs incurred by the insured person exceed the limit of liability for any one vehicle so insured.

6. The "Other Insurance" provision is deleted and replaced by the following:

If other valid and collectible medical expense insurance is applicable to the bodily injury of an insured person as defined in Division 1. and 2., the benefits shall be paid according to the following order of priority:

(1) the medical expense insurance of the owner of the automobile the insured person was occupying at the time of the accident;

(2) the medical expense insurance of the operator of the automobile the insured person was occupying at the time of the accident;

(3) the medical expense insurance of the insured person.

However, in no event shall any insured person collect more than his actual medical expense incurred as a result of any accident from this or any other automobile insurance policy or combination of such policies providing medical expense insurance applicable to such accident.

7. The following provision is added to the Notice Condition:

The failure or refusal of the injured person to give such notice shall not relieve the company of its obligation to pay unless such failure or refusal prejudices the company in establishing the validity of any claim under this Coverage.

18  
8464F

*The State of Virginia requires that policyholders  
be informed of the following coverages:*

**MEDICAL EXPENSE AND INCOME LOSS BENEFITS**

**IMPORTANT NOTICE**

**IN ADDITION TO THE MINIMUM INSURANCE REQUIRED BY LAW, YOU MAY PURCHASE ADDITIONAL INSURANCE COVERAGE FOR THE NAMED INSURED AND FOR HIS RELATIVES WHO ARE MEMBERS OF HIS HOUSEHOLD WHILE OCCUPYING, OR WHILE NOT OCCUPYING THROUGH BEING STRUCK BY, ANY MOTOR VEHICLE AND FOR OCCUPANTS OF THE INSURED MOTOR VEHICLE. THE FOLLOWING HEALTH CARE AND DISABILITY BENEFITS ARE AVAILABLE FOR EACH ACCIDENT:**

**(A) PAYMENT OF UP TO \$2,000 PER PERSON FOR ALL REASONABLE AND NECESSARY EXPENSES FOR MEDICAL, CHIROPRACTIC, HOSPITAL, DENTAL, SURGICAL, AMBULANCE, PROSTHETIC AND REHABILITATION SERVICES, AND FUNERAL EXPENSES RESULTING FROM THE ACCIDENT AND INCURRED WITHIN ONE YEAR AFTER THE DATE OF THE ACCIDENT; AND**

**(B) AN AMOUNT EQUAL TO THE LOSS OF INCOME UP TO \$100 PER WEEK IF THE INJURED PERSON IS ENGAGED IN AN OCCUPATION FOR WHICH HE RECEIVES COMPENSATION, FROM THE FIRST WORKDAY LOST AS A RESULT OF THE ACCIDENT UP TO THE DATE THE PERSON IS ABLE TO RETURN TO HIS USUAL OCCUPATION. SUCH PAYMENTS ARE LIMITED TO A PERIOD EXTENDING ONE YEAR FROM THE DATE OF THE ACCIDENT.**

**IF YOU DESIRE TO PURCHASE EITHER OR BOTH OF THESE COVERAGES AT AN ADDITIONAL PREMIUM, YOU MAY DO SO BY CONTACTING THE AGENT OR COMPANY THAT ISSUED YOUR POLICY.**

Following are the minimum and maximum rates to give you an idea of the cost of coverage for Medical Expenses and Income Loss Benefits (Coverage P1), Medical Expense only (Coverage P2) and Income Loss Benefits only (Coverage P3):

	COVERAGE	STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY		STATE FARM FIRE AND CASUALTY COMPANY	
		MINIMUM	MAXIMUM	MINIMUM	MAXIMUM
Private Passenger* (semi-annual)	P1	\$7.92	\$69.56	\$12.60	\$97.50
	P2	4.92	51.06	7.80	71.50
	P3	3.00	18.50	4.80	26.00
Commercial (semi-annual)	P1	5.87	31.31	8.63	49.13
	P2	4.37	29.81	7.13	47.63
	P3	1.50	1.50	1.50	1.50
Motorcycles (annual)	P1	120.00 per vehicle		192.00 per vehicle	
	P2	90.00 per vehicle		144.00 per vehicle	
	P3	30.00 per vehicle		48.00 per vehicle	

Below are two typical examples of private passenger semi-annual rates:

Territory 3 - Richmond: Adult, pleasure use; 7,500 miles or less annually

COVERAGE	STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY	STATE FARM FIRE AND CASUALTY COMPANY
P1	\$18.00	\$30.00
P2	12.00	20.00
P3	8.00	12.00

**20**

Territory 3 - Richmond: Unmarried male 21 thru 24; occasional operator; pleasure use

COVERAGE	STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY	STATE FARM FIRE AND CASUALTY COMPANY
P1	\$32.90	\$45.00
P2	24.15	35.20
P3	8.75	12.80

DAVID F. BERRY  
BOX 608  
CHARLOTTESVILLE, VA. 22901

HERBERT A. PICKFORD III  
CITY COURTHOUSE  
CHARLOTTESVILLE, VA. 22901

F. WARD HARRINGTON JR.  
BOX 799  
LOUISA, VA. 23093  
E. GERALD TREMBLAY  
BOX 608  
CHARLOTTESVILLE, VA. 22901

## SIXTEENTH JUDICIAL CIRCUIT

CIRCUIT COURTS OF THE CITY OF CHARLOTTESVILLE AND THE COUNTIES OF  
ALBEMARLE, CULPEPER, FLUVANNA, GREENE, GOOCHLAND, LOUISA, MADISON AND ORANGE

October 7, 1987

F. Guthrie Gordon  
Gordon & Wyatt  
416 Park Street  
Charlottesville, Va. 22901

John W. Zunka, Esq.  
Taylor & Zunka, Ltd.  
414 Park Street  
Charlottesville, Va 22901

Re: Gandy v. State Farm Insurance Company

Gentlemen:

The plaintiff, Harold Gandy, was injured when his foot was run over by a 1985 Clark model forklift. He seeks recovery of his medical bills under the medical payments provision of his State Farm policy. This policy provides medical coverage to an insured non-occupant of a motor vehicle when the insured is struck by an automobile or trailer. It explicitly precludes payment where the insured is struck by "equipment designed for use principally off public roads," unless said equipment is on a public road at the time of the accident.

The Court is faced with two questions. First, does Virginia law mandate broader medical payments coverage than the plaintiff's State Farm policy provides? Second, if broader coverage is required, does it extend to injuries sustained by a forklift?

In determining the requisite scope of medical coverage, this court finds USAA Ins. Co v. Yaconiello, 226 Va. 423 (1983), to be controlling. In Yaconiello, the Virginia Supreme Court relied on Va. Code Ann. Section 38.1--380.1 to find that medical payments coverage must extend beyond injuries resulting from automobiles and trailers to include injuries received from all motor vehicles. Id. at 425-26. While the pertinent statutory law is now Va. Code Ann. Section 38.2-2201, it does not substantially differ from 38.1-380.1, nor does it warrant a departure from the Yaconiello ruling. Thus, medical coverage must continue to protect against all motor vehicle injuries.

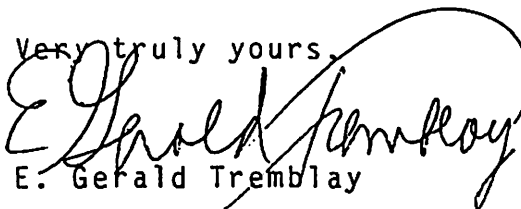


F. Guthrie Gordon, III, Esq.  
John W. Zunka, Esq.  
October 7, 1987  
Page two

Does medical coverage, however, extend to injuries received by a forklift? A motor vehicle is "every vehicle as herein defined which is self-propelled or designed for self-propulsion." Va. Code Ann. Section 46.1-1(15). A vehicle is subsequently defined as "Every device in, upon or by which any person or property is or may be transported or drawn upon a highway ...." Va. Code Ann. Section 46.1-1(34). A forklift is self-propelled and can transport a person on the highway. Indeed, as the defendant admits, a forklift can travel at a speed of up to 20 miles per hour. A forklift thus clearly falls within Virginia's "motor vehicle" definition.

Because medical payments coverage must extend to motor vehicles, and because a forklift falls within the "motor vehicle" definition, the injured Mr. Gandy is entitled to recover under the medical payments provision of his State Farm policy.

Very truly yours,



E. Gerald Tremblay

EGT/je

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

HAROLD GANDY,

Plaintiff

v.

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,

Defendant

STIPULATION

The parties do hereby stipulate as follows:

1. Defendant's Answers to Interrogatories and Response to Request for Admissions shall stand as evidence in this case and part of the trial record.

2. The Certificate of Coverage, Declarations Page, and State Farm Family Automobile Policy Combination Form attached hereto (Policy Form GF9946F.4, pages 1-19, and Virginia Amendatory Endorsement, 6845A - Appraisal, and 6893B - Amendment of Coverage D) shall stand as evidence in this case and part of the trial record.

3. Plaintiff purchased Coverage C (Medical Payments) from State Farm.

4. Except for Coverage C, Plaintiff did not purchase any additional medical payment coverage from State Farm, including Medical Expense and Income Loss Benefit Insurance (Coverage PIP) - Medical Expenses and Income Loss Benefits (Coverage P1), Medical Expense only (Coverage P2), and Income Loss Benefits only (Coverage P3).


HAROLD GANDY

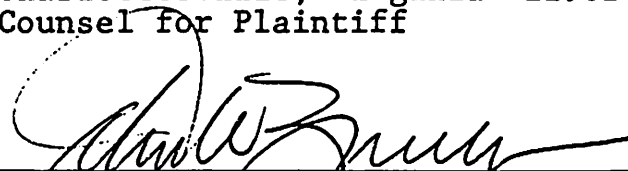
By Counsel

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY

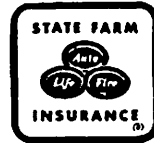
By Counsel

Counsel:

  
\_\_\_\_\_  
F. Guthrie Gordon, III  
Gordon & Wyatt  
416 Park Street  
Charlottesville, Virginia 22901  
Counsel for Plaintiff

  
\_\_\_\_\_  
John W. Zunka  
Taylor & Zunka, Ltd.  
414 Park Street  
Charlottesville, Virginia 22901  
Counsel for Defendant

# State Farm Insurance Companies



## CERTIFICATE OF COVERAGE

Eastern Office  
1500 State Farm Boulevard  
Charlottesville, Virginia 22909-0001

The undersigned is custodian of the records of policies issued by the Inland Division of the State Farm Fire and Casualty Company of Bloomington, Illinois.

This certifies that policy number S61 6731 C18 46B covering a 1976 Corolla, serial #TE51527036, and a 1986 Toyota, serial #JT4RN50R3G0123628, was issued to Harold L. Gandy Route 3, Box 2122, Spotsylvania, Virginia 22553 and was in full force and effect on the accident date of September 10, 1986. The coverages and limits of liability for this policy on that date were AB \$25,000/\$50,000/\$25,000, C \$1,000, U \$25,000/\$50,000/\$25,000 on the 1976 Corolla and AB \$25,000/\$50,000/\$25,000, C \$1,000, Comprehensive, \$100 Deductible Collision, H, and U \$25,000/\$50,000/\$25,000 on the 1986 Toyota.

Richard H. Hawkins  
Operations Superintendent

State of Virginia  
County of Albemarle )<sup>SS</sup>

Subscribed and sworn to before me this 2<sup>nd</sup> day of April, 1987.

James E. Porter  
Notary Public

My commission expires:

6/27/90

FO/RG/04

25



# Declarations Page

State Farm Mutual Automobile Insurance Co.

REGIONAL OFFICE

Eastern Off Charlottesville Va 22909

(155) G 4178a. 10

## NAMED INSURED

Gandy, Harold L  
Rt 3 Box 2122  
Spotsylvania Va 22553

SEE BACK OF THIS FORM FOR IMPORTANT  
COVERAGE U MESSAGE

THIS PAGE, ANY ENDORSEMENTS INDICATED  
HEREON AND FORM  
CONSTITUTE THE POLICY 9946F.4  
IDENTIFIED BY THE POLICY NUMBER.

DO NOT PAY PREMIUMS SHOWN ON THIS PAGE. SEPARATE  
STATEMENT ENCLOSED IF AMOUNT DUE.

Class

1- 1B301

2- 1B3H1

## POLICY NUMBER

S61-6731-C18-46B

## POLICY PERIOD (MONTH-DAY-YEAR)

Mar-20-86 To Sep-18-86

## DESCRIBED VEHICLE/MAKE-YEAR-BODYSTYLE-NUMBER VEH.

1 Corolla 76 2Dr TE51527036  
2 Toyota 86 Pickup JT4RN50R3G0123628

## LIMITS OF LIABILITY

(Thousands Dollars)		(Dollars)		(Thousands Dollars)	
A		B		U	
Bodily Injury		Property Damage		Bodily Injury	
Each Person		Each Occurrence		Each Person	
25	50	25	1000	25	50
25	50	25	1000	25	50

## COVERAGES IN FORCE WHERE PREMIUM SHOWN (PREMIUM IS FOR POLICY PERIOD SHOWN)

VEH.	PART I (A-B)	PART II (C)	PART III (D-E)	PART III (F-G)	PART III (H)	PART IV (U)	R-R1	PIP	TOTAL
1	93.75	11.67				8.90			114.32
2	93.75	11.67	D 29.47	G100 105.63	3.16	7.91			251.59

## EXCEPTIONS AND ENDORSEMENTS

Car 1,2 6256W.1 Sound Excl, 6273H.2 Supp Cov u. 6328U Amend  
End. 6520.5 Cov U. 6571.4 Chg Cov C. 6589 Duties. 6778  
Out St Ins. Car 2 6845A Appraisal End. 6893B Chg Cov D

Current  
Semiannual  
Premium  
1- 115.60  
2- 254.40

PERSONS INSURED COVERAGES S/T

S (AMOUNTS) T

PREMIUM

REPLACED POLICY

S616731-46A

Countersigned \_\_\_\_\_ 19\_\_\_\_  
By \_\_\_\_\_ AGENT  
☐



Your policy has been issued with the uninsured motorist insurance coverage limits you have selected as shown on the front of the Declarations Page. No further action on your part is necessary unless you have changed your mind as to the limits of uninsured motorist coverage desired. If other limits are desired, please see your agent. While it does not change the uninsured motorist insurance coverage limits you have selected, we are required by law to furnish you with the following "Important Notice."

#### **IMPORTANT NOTICE**

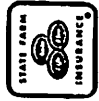
**IN ADDITION TO THE INSURANCE COVERAGE REQUIRED BY LAW TO PROTECT YOU AGAINST A LOSS CAUSED BY AN UNINSURED MOTORIST, IF YOU HAVE PURCHASED LIABILITY INSURANCE COVERAGE THAT IS HIGHER THAN THAT REQUIRED BY LAW TO PROTECT YOU AGAINST LIABILITY ARISING OUT OF THE OWNERSHIP, MAINTENANCE OR USE OF YOUR MOTOR VEHICLES COVERED BY THIS POLICY, AND YOU HAVE NOT PURCHASED UNINSURED MOTORIST INSURANCE COVERAGE EQUAL TO YOUR HIGHER LIABILITY INSURANCE COVERAGE, THEN:**

- 1. YOUR UNINSURED MOTORIST INSURANCE COVERAGE HAS INCREASED TO THE LIMITS OF YOUR LIABILITY COVERAGE AND THIS INCREASE MAY COST YOU AN EXTRA PREMIUM CHARGE; AND**
- 2. YOUR UNDERINSURED MOTORIST INSURANCE COVERAGE HAS INCREASED TO THE LIMITS OF YOUR LIABILITY COVERAGE; AND**
- 3. YOUR TOTAL PREMIUM CHARGE FOR YOUR MOTOR VEHICLE INSURANCE COVERAGE MAY INCREASE IF YOU DO NOT NOTIFY YOUR AGENT OR INSURER WITHIN 20 DAYS OF THE MAILING OF THE NEW OR RENEWAL POLICY, EXTENSION CERTIFICATE OR OTHER WRITTEN STATEMENT OF COVERAGE CONTINUANCE, OR THE ORIGINAL OR RENEWAL PREMIUM NOTICE, AS THE CASE MAY BE.**

PLEASE READ YOUR POLICY CAREFULLY. IF YOU HAVE AN ACCIDENT, CONTACT YOUR STATE FARM AGENT OR ONE OF OUR CLAIM OFFICES AT ONCE.

...pedient.  
mentary Payments. To the limits of liability:  
xpenses incurred by the insured in any such  
ire amount of any judgment after entry of the judgment which does not exceed \$100 per  
ation to apply for or furnish incurred by the insured and surgical relief at the time of an  
ile insured hereunder ar

Authorized Representative



State Farm Fire and Casualty Company, Home Office, Bloomington, Illinois  
EASTERN OFFICE • 1500 STATE FARM BOULEVARD • CHARLOTTESVILLE, VIRGINIA 22909

# YOUR STATE FARM FAMILY AUTOMOBILE POLICY

COMBINATION FORM

Policy Form GF9946F.4

## DECLARATIONS

**POLICY PERIOD:** The policy period shall be as shown in the Declarations under "Policy Period" and for such succeeding periods of six months each thereafter as the required renewal premium is paid by the insured on or before the expiration of the current policy period. The policy period shall begin and end at 12:01 A.M., standard time at the address of the named insured as stated herein. The premium shown is for the policy period indicated in the Declarations.

**COVERAGES, LIMITS OF LIABILITY, PREMIUMS:** The insurance afforded is only with respect to such of the coverages as are indicated in the Declarations by specific premium charge or charges. The limit of the company's liability against each such coverage shall be as stated herein, subject to all terms of the policy having reference thereto.

**GARAGED:** The owned automobile will be principally garaged in the declared town and state, unless otherwise stated in the exceptions.

**CANCELLATION OF PREVIOUS INSURANCE:** During the past three years no insurer has canceled insurance, issued to the named insured, similar to that afforded hereunder, unless otherwise stated in the exceptions.

**LOSS PAYEE:** Any loss under Part III is payable as interest may appear to the named insured and the Loss Payee, if any, shown in the Declarations and this insurance as to such additional interest shall not be invalidated by any act or negligence of the mortgagor or owner, nor any change in the title or ownership, nor by any error, or inadvertence in the description of the automobile until after notice of termination of the policy shall be given to the mortgage owner, conditional vendor, mortgagee or assignee stating when not less than 10 days thereafter such termination shall be effective; provided, the lien-holder shall notify the company within 10 days of any change of interest or ownership which shall come to the knowledge of said lien-holder and failure to do so will render this policy null and void.

**COVERAGE S OR T** is afforded only with respect to the person or persons designated in the Declarations as insured.

**UNDER COVERAGE T** (a) each insured is engaged in a remunerative occupation; (b) the sum of the weekly indemnity afforded by this insurance and by all personal accident insurance carried by such person is not more than two-thirds of his average weekly earnings during the past 12 months.

## STATE FARM FIRE AND CASUALTY COMPANY

BLOOMINGTON, ILLINOIS

A Stock Insurance Company Herein Called The Company

Agrees with the insured, named in the declarations made a part hereof, in consideration of the payment of the premium and in reliance upon the statements in the declarations and subject to all of the terms of this policy:

### PART I — LIABILITY

#### COVERAGE A — Bodily Injury Liability;

**COVERAGE B — Property Damage Liability.** To pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because of:

A. bodily injury, sickness or disease, including death resulting therefrom, hereinafter called "bodily injury", sustained by any person;

B. injury to or destruction of property, including loss of use thereof, hereinafter called "property damage";

arising out of the ownership, maintenance or use of the owned automobile or any non-owned automobile, and the company shall defend any suit alleging such bodily injury or property damage and seeking damages which are payable under the terms of this policy, even if any of the allegations of the suit are groundless, false or fraudulent; but the company may make such investigation and settlement of any claim or suit as it deems expedient.

**Supplementary Payments.** To pay, in addition to the applicable limits of liability:

(a) all expenses incurred by the company, all costs taxed against the insured in any such suit and all interest on the entire amount of any judgment therein which accrues after entry of the judgment and before the company has paid or tendered or deposited in court that part of the judgment which does not exceed the limit of the company's liability thereon;

(b) premiums on appeal bonds required in any such suit, premiums on bonds to release attachments for an amount not in excess of the applicable limit of liability of this policy, and the cost of bail bonds required of the insured because of accident or traffic law violation arising out of the use of an automobile insured hereunder, not to exceed \$100 per bail bond, but without any obligation to apply for or furnish any such bonds;

(c) expenses incurred by the insured for such immediate medical and surgical relief to others as shall be imperative at the time of an accident involving an automobile insured hereunder and not due to war;

(d) all reasonable expenses, other than loss of earnings, incurred by the insured at the company's request.

**Persons Insured.** The following are insureds under Part I:

(a) with respect to the owned automobile,

(1) the named insured and any resident of the same household,

(2) any other person using such automobile with the permission of the named insured, provided his actual operation or (if he is not operating) his other actual use thereof is within the scope of such permission, and

(3) any other person or organization but only with respect to his or its liability because of acts or omissions of an insured under (a)(1) or (2) above;

(b) with respect to a non-owned automobile,

(1) the named insured,

(2) any relative, but only with respect to a private passenger automobile or trailer,

provided his actual operation or (if he is not operating) the other actual use thereof is with the permission, or reasonably believed to be with the permission, of the owner and is within the scope of such permission, and

(3) any other person or organization not owning or hiring the automobile, but only with respect to his or its liability because of acts or omissions of an insured under (b)(1) or (2) above.

The insurance afforded under Part I applies separately to each insured against whom claim is made or suit is brought, but the inclusion herein of more than one insured shall not operate to increase the limits of the company's liability.

**Definitions.** Under Part I:

"named insured" means the individual named as named insured in the declarations and also includes his spouse, if a resident of the same household;

"insured" means a person or organization described under "Persons Insured";

**"relative"** means a relative of the named insured who is a resident of the same household;

**"owned automobile"** means

(a) a private passenger, farm or utility automobile described in this policy for which a specific premium charge indicates that coverage is afforded,

(b) a trailer owned by the named insured,

(c) a private passenger, farm or utility automobile ownership of which is acquired by the named insured during the policy period, provided

(1) it replaces an owned automobile as defined in (a) above, or

(2) the company insures all private passenger, farm and utility automobiles owned by the named insured on the date of such acquisition and the named insured notifies the company during the policy period or within 30 days after the date of such acquisition of his election to make this and no other policy issued by the company applicable to such automobile, or

(d) a temporary substitute automobile;

**"temporary substitute automobile"** means any automobile or trailer, not owned by the named insured, while temporarily used with the permission of the owner as a substitute for the owned automobile or trailer when withdrawn from normal use because of its breakdown, repair, servicing, loss or destruction;

**"non-owned automobile"** means an automobile or trailer not owned by or furnished for the regular use of either the named insured or any relative, other than a temporary substitute automobile;

**"private passenger automobile"** means a four wheel private passenger, station wagon or jeep type automobile;

**"farm automobile"** means an automobile of the truck type with a load capacity of fifteen hundred pounds or less not used for business or commercial purposes other than farming;

**"utility automobile"** means an automobile, other than a farm automobile, with a load capacity of fifteen hundred pounds or less of the pick-up body, sedan delivery or panel truck type not used for business or commercial purposes;

**"trailer"** means a trailer designed for use with a private passenger automobile, if not being used for business or commercial purposes with other than a private passenger, farm or utility automobile, or a farm wagon or farm implement while used with a farm automobile;

**"automobile business"** means the business or occupation of selling, repairing, servicing, storing or parking automobiles;

**"use"** of an automobile includes the loading and unloading thereof;

**"war"** means war, whether or not declared, civil war, insurrection, rebellion or revolution, or any act or condition incident to any of the foregoing.

**Exclusions.** This policy does not apply under Part I:

(a) to any automobile while used as a public or livery conveyance, but this exclusion does not apply to the named insured with respect to bodily injury or property damage which results from the named insured's occupancy of a non-owned automobile other than as the operator thereof;

(b) to bodily injury or property damage caused intentionally by or at the direction of the insured;

(c) to injury, sickness, disease, death or destruction with respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability;

(d) to bodily injury or property damage arising out of the operation of farm machinery;

(e) to bodily injury to any employee of the insured arising out of and in the course of (1) domestic employment by the insured, if benefits therefor are in whole or in part either payable or required to be provided under any workmen's compensation law, or (2) other employment by the insured;

(f) to bodily injury to any fellow employee of the insured injured in the course of his employment if such injury arises out of the use of an automobile in the business of his employer, but this exclusion does not apply to the named insured with respect to injury sustained by any such fellow employee;

(g) to an owned automobile while used by any person while such person is employed or otherwise engaged in the automobile business, but this exclusion does not apply to the named insured, a resident of the same household as the named insured, a partnership in which the named insured or such resident is a partner, or any partner, agent or employee of the named insured, such resident or partnership;

(h) to a non-owned automobile while maintained or used by any person while such person is employed or otherwise engaged in

(1) the automobile business of the insured or of any other person or organization,

(2) any other business or occupation of the insured, but this exclusion (h) (2) does not apply to a private passenger automobile operated or occupied by the

named insured or by his private chauffeur or domestic servant or a trailer used therewith or with an owned automobile;

(i) to injury to or destruction of (1) property owned or transported by the insured or (2) property rented to or in charge of the insured other than a residence or private garage;

(j) to the ownership, maintenance, operation, use, loading or unloading of an automobile ownership of which is acquired by the named insured during the policy period or any temporary substitute automobile therefor, if the named insured has purchased other automobile liability insurance applicable to such automobile for which a specific premium charge has been made.

**Financial Responsibility Laws.** When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, such insurance as is afforded by this policy for bodily injury liability or for property damage liability shall comply with the provisions of such law to the extent of the coverage and limits of liability required by such law, but in no event in excess of the limits of liability stated in this policy. The insured agrees to reimburse the company for any payment made by the company which it would not have been obligated to make under the terms of this policy except for the agreement contained in this paragraph.

**Limits of Liability.** The limit of bodily injury liability stated in the declarations as applicable to "each person" is the limit of the company's liability for all damages, including damages for care and loss of services, arising out of bodily injury sustained by one person as the result of any one occurrence; the limit of such liability stated in the declarations as applicable to "each occurrence" is, subject to the above provision respecting each person, the total limit of the company's liability for all such damages arising out of bodily injury sustained by two or more persons as the result of any one occurrence.

The limit of property damage liability stated in the declarations as applicable to "each occurrence" is the total limit of the company's liability for all damages arising out of injury to or destruction of all property of one or more persons or organizations, including the loss of use thereof, as the result of any one occurrence.

**Other Insurance.** If the insured has other insurance against a loss covered by Part I of this policy the company shall not be liable under this policy for a greater proportion of such loss than the applicable limit of liability stated in the declarations bears to the total applicable limit of liability of all valid and collectible insurance against such loss; provided, however, the insurance with respect to a temporary substitute automobile or non-owned automobile shall be excess insurance over any other and collectible insurance.

## PART II — EXPENSES FOR MEDICAL SERVICES

**Coverage C — Medical Payments.** To pay all reasonable expenses incurred within one year from the date of accident for necessary medical, surgical, X-ray and dental services, including prosthetic devices, and necessary ambulance, hospital, professional nursing and funeral services;

**Division 1.** To or for the named insured and each relative who sustains bodily injury, sickness or disease, including death resulting therefrom, hereinafter called "bodily injury", caused by accident,

(a) while occupying the owned automobile,

(b) while occupying a non-owned automobile, but only if such person has, or reasonably believe he has, the permission of the owner to use the automobile and the use is within the scope of such permission, or

(c) through being struck by an automobile or by a trailer of any type;

**Division 2.** To or for any other person who sustains bodily injury, caused by accident, while occupying

(a) the owned automobile, while being used by the named insured, by any resident of the same household or by any other person with the permission of the named insured; or

(b) a non-owned automobile, if the bodily injury results from

(1) its operation or occupancy by the named insured or its operation on his behalf by his private chauffeur or domestic servant, or

(2) its operation or occupancy by a relative, provided it is a private passenger automobile or trailer,

but only if such operator or occupant has, or reasonably believes he has, the permission of the owner to use the automobile and the use is within the scope of such permission.

**Definitions.** The definitions under Part I apply to Part II, and under Part II:

**"occupying"** means in or upon or entering into or alighting from.

**Exclusions.** This policy does not apply under Part II to bodily injury:

(a) sustained while occupying (1) an owned automobile while used as a public or livery conveyance, or (2) any vehicle while located for use as a residence or premises;

(b) sustained by the named insured or a relative while occupying or through being struck by (1) a farm type tractor or other equipment designed for use principally off public roads, while not upon public roads, or (2) a vehicle operated on rails or crawler-treads;

(c) sustained by any person other than the named insured or a relative,

(1) while such person is occupying a non-owned automobile while used as a public or livery conveyance, or

(2) resulting from the maintenance or use of a non-owned automobile by such person while employed or otherwise engaged in the automobile business, or

(3) resulting from the maintenance or use of a non-owned automobile by such person while employed or otherwise engaged in any other business or occupation, unless the bodily injury results from the operation or occupancy of a private passenger automobile by the named insured or by his private

chauffeur or domestic servant, or of a trailer used therewith or with an owned automobile;

(d) sustained by any person who is employed in the automobile business, if the accident arises out of the operation thereof and if benefits therefor are in whole or in part either payable or required to be provided under any workmen's compensation law;

(e) due to war.

**Limit of Liability.** The limit of liability for medical payments stated in the declarations as applicable to "each person" is the limit of the company's liability for all expenses incurred by or on behalf of each person who sustains bodily injury as the result of any one accident.

**Other Insurance.** If there is other automobile medical payments insurance against a loss covered by Part II of this policy the company shall not be liable under this policy for a greater proportion of such loss than the applicable limit of liability stated in the declarations bears to the total applicable limit of liability of all valid and collectible automobile medical payments insurance; provided, however, the insurance with respect to a temporary substitute automobile or non-owned automobile shall be excess insurance over any other valid and collectible automobile medical payments insurance.

### PART III — PHYSICAL DAMAGE

**COVERAGE D — (1) Comprehensive — Excluding Collision, (2) Personal Effects.**

(1) To pay for loss caused other than by collision to the owned automobile or to a non-owned automobile. For the purpose of this coverage, breakage of glass and loss caused by missiles, falling objects, fire, theft or larceny, explosion, earthquake, windstorm, hail, water, flood, malicious mischief or vandalism, riot or civil commotion, or colliding with a bird or animal, shall not be deemed to be loss caused by collision.

(2) To pay for loss caused by fire or lightning to robes, wearing apparel and other personal effects which are the property of the named insured or a relative, while such effects are in or upon the owned automobile.

**COVERAGE D-50 — Deductible Comprehensive.** To pay any loss payable under coverage D but it is agreed that \$50 shall be deducted from the amount of each loss as to each automobile, other than loss by (a) fire or lightning, (b) smoke or smudge due to a sudden, unusual and faulty operation of any fixed heating equipment serving the premises in which the automobile is located, or (c) the stranding, sinking, burning, collision or

derailment of any conveyance in or upon which the automobile is being transported.

If the policy affords insurance with respect to the collision coverage, breakage of glass caused by collision may, if the insured so elects, be treated as covered thereunder, subject to the terms thereof, instead of under the comprehensive coverage.

**COVERAGE G — Collision.** To pay for loss caused by collision to the owned automobile or to a non-owned automobile but only for the amount of each such loss in excess of the deductible amount stated in the declarations as applicable hereto.

**COVERAGE H — Towing and Labor Costs.** To pay for towing and labor costs necessitated by the disablement of the owned automobile or of any non-owned automobile, provided the labor is performed at the place of disablement.

**Supplementary Payments.** In addition to the applicable limit of liability:

(a) to reimburse the insured for transportation expenses incurred during the period commencing 48 hours after a

theft covered by this policy of the entire automobile has been reported to the company and the police, and terminating when the automobile is returned to use or the company pays for the loss; provided that the company shall not be obligated to pay aggregate expenses in excess of \$10 per day or totaling more than \$300;

(b) to pay general average and salvage charges for which the insured becomes legally liable, as to the automobile being transported.

**Definitions.** The definitions of "named insured", "relative", "temporary substitute automobile", "private passenger automobile", "farm automobile", "utility automobile", "automobile business", "war", and "owned automobile" in Part I apply to Part III, but "owned automobile" does not include, under Part III, (1) a trailer owned by the named insured on the effective date of this policy and not described herein, or (2) a trailer ownership of which is acquired during the policy period unless the company insures all private passenger, farm and utility automobiles and trailers owned by the named insured on the date of such acquisition and the named insured notifies the company during the policy period or within 30 days after the date of such acquisition of his election to make this and no other policy issued by the company applicable to such trailer.

**"insured" means**

(a) with respect to an owned automobile,

(1) the named insured, and

(2) any person or organization (other than a person or organization employed or otherwise engaged in the automobile business or as a carrier or other bailee for hire) maintaining, using or having custody of said automobile with the permission of the named insured and within the scope of such permission;

(b) with respect to a non-owned automobile, the named insured and any relative while using such automobile, provided his actual operation or (if he is not operating) the other actual use thereof is with the permission, or reasonably believed to be with the permission, of the owner and is within the scope of such permission;

**"non-owned automobile"** means a private passenger automobile or trailer not owned by or furnished for the regular use of either the named insured or any relative, other than a temporary substitute automobile, while said automobile or trailer is in the possession or custody of the insured or is being operated by him;

**"loss"** means direct and accidental loss of or damage to (a) the automobile, including its equipment, or (b) other insured property;

**"collision"** means collision of an automobile covered by this policy with another object or with a vehicle to which it is attached or by upset of such automobile;

**"trailer"** means a trailer designed for use with a private passenger automobile, if not being used for business or commercial purposes with other than a private passenger, farm or utility automobile, and if not a home, office, store, display or passenger trailer.

**Exclusions.** This policy does not apply under Part III:

(a) to any automobile while used as a public or livery conveyance;

(b) to loss due to war;

(c) to loss to a non-owned automobile arising out of its use by the insured while he is employed or otherwise engaged in the automobile business;

(d) to loss to a private passenger, farm or utility automobile or trailer owned by the named insured and not described in this policy or to any temporary substitute automobile therefor, if the insured has other valid and collectible insurance against such loss;

(e) to damage which is due and confined to wear and tear, freezing, mechanical or electrical breakdown or failure, unless such damage results from a theft covered by this policy;

(f) to tires, unless damaged by fire, malicious mischief or vandalism, or stolen or unless the loss be coincident with and from the same cause as other loss covered by this policy;

(g) to loss due to radioactive contamination;

(h) under coverage G, to breakage of glass if insurance with respect to such breakage is otherwise afforded;

(i) to loss of or damage to any device or instrument designed for the recording, reproduction, or recording and reproduction of sound unless such device or instrument is permanently installed in the automobile;

(j) to loss of or damage to any tape, wire, record disc or other medium for use with any device or instrument designed for the recording, reproduction, or recording and reproduction of sound.

**Limit of Liability.** The limit of the company's liability for loss shall not exceed the actual cash value of the property, or if the loss is of a part thereof the actual cash value of such part, at time of loss, nor what it would then cost to repair or replace the property or such part thereof with other of like kind and quality, nor, with respect to an owned automobile described in this policy, the applicable limit of liability stated in the



declarations; provided, however, the limit of the company's liability (a) for loss to personal effects arising out of any one occurrence is \$100, and (b) for loss to any trailer not owned by the named insured is \$500.

**Other Insurance.** If the insured has other insurance against a loss covered by Part III of this policy, the

company shall not be liable under this policy for a greater proportion of such loss than the applicable limit of liability of this policy bears to the total applicable limit of liability of all valid and collectible insurance against such loss; provided, however, the insurance with respect to a temporary substitute automobile or non-owned automobile shall be excess insurance over any other valid and collectible insurance.

#### PART IV — AUTOMOBILE DEATH INDEMNITY, TOTAL DISABILITY COVERAGE AND SPECIFIC DISABILITY BENEFITS

##### INSURING AGREEMENTS

##### 1. COVERAGES

##### Division 1 — Death Indemnity

To pay the principal sum stated in the exceptions in the event of the death of the insured which shall result directly and independently of all other causes from bodily injury caused by accident and sustained by the insured while in or upon, or while entering into or alighting from, or through being struck by, an automobile, provided the death shall occur (1) within ninety days after the date of the accident, or (2) within fifty-two weeks after the date of the accident and during a period of continuous total disability of the insured for which weekly indemnity is payable under the total disability coverage.

##### Division 2 — (a) Dismemberment and Loss of Sight Benefits

##### (b) Fractures and Dislocations Benefits

To pay the highest applicable amount stated in the following Tables for loss as enumerated therein, in the event of bodily injury, caused by accident and sustained by the insured while in or upon, or while entering into or alighting from, or through being struck by, an automobile, provided loss under Table I be sustained by the insured within ninety days from such accident.

As respects any insured, (1) any amount for which the company is obligated or has made payment under Division 2 shall apply in reduction of any amount for which the company is obligated under Division 1;

(2) payment of the principal sum shall terminate all obligation of the company under coverage S.

TABLE I

	If applicable principal sum is	If applicable principal sum is
For Loss of	\$5,000.00	\$10,000.00
Both Hands or Both Feet or Sight of Both Eyes	\$5,000.00	\$10,000.00

One Hand and One Foot	5,000.00	10,000.00
Either Hand or Foot and Sight of One Eye	5,000.00	10,000.00
Either Hand or Foot	2,500.00	5,000.00
Sight of One Eye	1,750.00	3,500.00
Thumb and Index Finger of Either Hand	1,250.00	2,500.00

"Loss" shall mean with regard to hands and feet, actual severance through or above wrist or ankle joints; with regard to eyes, entire and irrecoverable loss of sight; with regard to thumb and index finger, actual severance through or above metacarpophalangeal joints.

TABLE II

	If applicable principal sum is	If applicable principal sum is
For Fracture of Bones:	\$5,000.00	\$10,000.00
Skull (except bones of face or nose)	\$175.00	\$350.00
Thigh	150.00	300.00
Arm, between elbow and shoulder	150.00	300.00
Pelvis (except coccyx)	125.00	250.00
Vertebra or Vertebrae (except coccyx and vertebral processes)	125.00	250.00
Shoulder Blade	100.00	200.00
Leg	100.00	200.00
Kneecap	100.00	200.00
Collar Bone	75.00	150.00
Forearm, between wrist and elbow	75.00	150.00
Foot (except toes)	62.50	125.00
Hand (except fingers)	62.50	125.00
Sternum	50.00	100.00

Lower Jaw (except alveolar process)	37.50	75.00
One or more ribs, fingers or toes	25.00	50.00
Bones of face or nose	25.00	50.00
Coccyx or Vertebral Processes	25.00	50.00
For Complete Dislocations:		
Hip Joint	\$150.00	\$300.00
Knee Joint (except patella)	75.00	150.00
Bone or Bones of Foot (except toes)	75.00	150.00
Ankle Joint	75.00	150.00
Wrist Joint	62.50	125.00
Elbow Joint	50.00	100.00
Shoulder Joint	37.50	75.00
Bone or Bones of Hand (except fingers)	25.00	50.00
Collar Bone	25.00	50.00
One or more fingers or toes	12.50	25.00
For Loss by Removal:		
Of one or more entire toes	\$100.00	\$200.00
Of one or more fingers (at least one entire phalanx)	75.00	150.00
For a Hospital-confining Injury, except as an Outpatient:		
	\$25.00	\$50.00

**COVERAGE T — Total Disability — Maximum 200 Weeks.** To pay weekly indemnity at the rate stated in the exceptions for the period of continuous total disability of the insured which shall result directly and independently of all other causes from bodily injury caused by accident and sustained by the insured while in or upon or while entering into or alighting from, or through being struck by, an automobile, provided (1) such disability shall commence within twenty days after the date of the accident, and (2) any disability during the period of fifty-two weeks from its commencement shall be deemed total disability only if it shall continuously prevent the insured from performing every duty pertaining to his occupation, and (3) any disability after said fifty-two weeks shall be deemed total disability only if it shall continuously prevent the insured from engaging in any occupation or employment for wage or profit and (4) the weekly indemnity for total disability as provided hereinabove shall in no event extend beyond a period of 200 consecutive weeks from the date of commencement of disability as provided above.

**2. Definition of Insured.** With respect to coverages S and T, the unqualified word "insured" means the person or

persons so designated for each such coverage in the exceptions.

**3. Automobile defined.** With respect to this insurance the word "automobile" means a land motor vehicle or trailer not operated on rails or crawler treads, but does not mean: (1) a farm type tractor or other equipment designed for use principally off public roads, except while actually upon public roads, or (2) a land motor vehicle or trailer while located for use as a residence or premises and not as a vehicle.

**4. Policy Period, Territory.** This insurance applies only to accidents which occur during the policy period within the United States of America, its territories or possessions, or Canada.

**EXCLUSIONS.** This insurance does not apply:

(a) to bodily injury or death sustained in the course of his occupation by any person while engaged (1) in duties incident to the operation, loading or unloading of, or as an assistant on, a public or livery conveyance or commercial automobile, or (2) in duties incident to the repair or servicing of automobiles;

(b) to loss caused by or resulting from disease except pus forming infection which shall occur through bodily injury to which this insurance applies;

(c) to suicide, sane or insane, or to any attempt thereof;

(d) to injury or death due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing.

**CONDITIONS.**

**1. Policy Provisions.** None of the insuring agreements, exclusions or other provisions of Parts I, II and III of the policy or conditions of the policy shall apply to the insurance afforded by this Part IV except the conditions "Notice", "Action Against Company (Medical Payments)", "Changes", "Assignment", "Cancellation" and "Declarations".

**2. Notice of Claim.** When loss covered hereunder occurs, written notice thereof shall be given by or on behalf of the insured or the beneficiary to the company or any of its authorized agents as soon as practicable.

**3. Proof of Claim; Medical Reports.** As soon as practicable, the injured person, or the beneficiary in the event of death, or someone on his behalf, shall give to the company written proof of claim, under oath if required; and shall after each request from the company execute authorization to enable the company to obtain medical reports and copies of records.

Proof of claim shall be made upon forms furnished by the company unless the company shall have failed to

furnish such forms within fifteen days after receiving notice of claim.

The injured person shall submit to physical examination by physicians selected by the company when and as often as the company may reasonably require.

**4. Payment of Death Indemnity; Autopsy — Division 1 of Coverage S.** If the decedent insured be survived by a spouse who was a resident of the same household at the time of the accident, indemnity for death is payable to such spouse; otherwise, if the decedent insured was a minor, indemnity for death is payable to any parent thereof who was a resident of the same household at the time of the accident; otherwise indemnity for death is payable to the decedent insured's estate.

The company shall have the right and opportunity to make an autopsy where it is not forbidden by law.

**5. Payment of Indemnity — Coverage T.** Weekly Indemnity for total disability is payable to the insured who is disabled. Subject to proof of claim, accrued

weekly indemnity is payable every four weeks and any balance at termination of the disability period for which the company is liable.

**6. Beneficiary — Division 1 of Coverage S.** Consent of beneficiary is not requisite to cancelation, assignment, change of beneficiary, or any other change in the policy.

**7. Death of Named Insured.** If the named insured dies, any insurance afforded under this Part IV with respect to any surviving insured shall be continued while the policy is in effect.

**8. Other Insurance.** If any insured under this Part IV also is an insured under other coverage of the same kind, issued by the company, any payment for loss under such other coverage shall serve to reduce, to the extent of such payment, the company's obligation under this Part IV as respects any loss to such insured, and the company will return the premium paid for such duplication of the insurance hereunder.

## CONDITIONS

Conditions 3, 13 and 15 through 19 apply to all Parts.

Conditions 1, 2, 14 and 4 through 12, apply only to the Parts noted thereunder.

**1. Policy Period, Territory (Parts I, II and III).** This policy applies only to accidents, occurrences and loss during the policy period while the automobile is within the United States of America, its territories or possessions, or Canada, or is being transported between ports thereof.

**2. Premium (Parts I, II and III).** If the named insured disposes of, acquires ownership of, or replaces a private passenger, farm or utility automobile or, with respect to Part III, a trailer, any premium adjustment necessary shall be made as of the date of such change in accordance with the manuals in use by the company. The named insured shall, upon request, furnish reasonable proof of the number of such automobiles or trailers and a description thereof.

**3. Notice.** In the event of an accident, occurrence or loss, written notice containing particulars sufficient to identify the insured and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the injured and of available witnesses, shall be given by or for the insured to the company or any of its authorized agents as soon as practicable. In the event of theft the insured shall also promptly notify the police. If claim is made or suit is brought against the insured, he

shall immediately forward to the company every demand, notice, summons or other process received by him or his representative.

**4. Two or More Automobiles (Parts I, II and III).** When two or more automobiles are insured hereunder, the terms of this policy shall apply separately to each, but an automobile and a trailer attached thereto shall be held to be one automobile as respects limits of liability under Part I of this policy, and separate automobiles under Part III of this policy, including any deductible provisions applicable thereto.

**5. Assistance and Cooperation of the Insured (Parts I and III).** The insured shall cooperate with the company and, upon the company's request, assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the insured because of bodily injury, property damage or loss with respect to which insurance is afforded under this policy; and the insured shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The failure or refusal of the insured to cooperate with or assist the company which prejudices the company's defense of an action for damages arising out of the operation or use of an

automobile shall constitute non-compliance with the requirements of the policy that the insured shall cooperate with and assist the company. The insured shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expense other than for such immediate medical and surgical relief to others as shall be imperative at the time of accident.

**6. Action Against Company (Part I).** No action shall lie against the company unless, as a condition precedent thereto, the insured shall have fully complied with all the terms of this policy, nor until the amount of the insured's obligation to pay shall have been finally determined either by judgment against the insured after actual trial or by written agreement of the insured, the claimant and the company.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the company as a party to any action against the insured to determine the insured's liability, nor shall the company be impleaded by the insured or his legal representative. Bankruptcy or insolvency of the insured or of the insured's estate shall not relieve the company of any of its obligations hereunder.

**(Parts II, III and IV).** No action shall lie against the company unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this policy nor, under Part III, until thirty days after proof of loss is filed and the amount of loss is determined as provided in this policy.

**7. Medical Reports; Proof and Payment of Claim (Part II).** As soon as practicable the injured person or someone on his behalf shall give to the company written proof of claim, under oath if required, and shall, after each request from the company, execute authorization to enable the company to obtain medical reports and copies of records. The injured person shall submit to physical examination by physicians selected by the company when and as often as the company may reasonably require.

The company may pay the injured person or any person or organization rendering the services and such payment shall reduce the amount payable hereunder for such injury. Payment hereunder shall not constitute an admission of liability of any person or, except hereunder, of the company.

**8. Insured's Duties in Event of Loss (Part III).** In the event of loss the insured shall:

(a) protect the automobile, whether or not the loss is covered by this policy, and any further loss due to the insured's failure to protect shall not be recoverable under this policy; reasonable expenses incurred in affording such protection shall be deemed incurred at the company's request;

(b) file with the company, within 91 days after loss, his sworn proof of loss in such form and including such information as the company may reasonably require and shall, upon the company's request, exhibit the damaged property and submit to examination under oath.

**9. Appraisal (Part III).** If the insured and the company fail to agree as to the amount of loss, either may, within 60 days after proof of loss is filed, demand an appraisal of the loss. In such event the insured and the company shall each select a competent appraiser, and the appraisers shall select a competent and disinterested umpire. The appraisers shall state separately the actual cash value and the amount of loss and failing to agree shall submit their differences to the umpire. An award in writing of any two shall determine the amount of loss. The insured and the company shall each pay his chosen appraiser and shall bear equally the other expenses of the appraisal and umpire.

The company shall not be held to have waived any of its rights by any act relating to appraisal.

**10. Payment of Loss (Part III).** The company may pay for the loss in money; or may repair or replace the damaged or stolen property; or may, at any time before the loss is paid or the property is so replaced, at its expense return any stolen property to the named insured, or at its option to the address shown in the declarations, with payment for any resultant damage thereto; or may take all or such part of the property at the agreed or appraised value but there shall be no abandonment to the company. The company may settle any claim for loss either with the insured or the owner of the property.

**11. No Benefit to Bailee (Part III).** The insurance afforded by this policy shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire liable for loss to the automobile.

**12. Subrogation (Parts I and III).** In the event of any payment under this policy, the company shall be subrogated to all the insured's rights of recovery therefor against any person or organization and the insured shall execute and deliver instruments and

papers and do whatever else is necessary to secure such rights. The insured shall do nothing after loss to prejudice such rights.

**13. Changes.** Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or estop the company from asserting any right under the terms of this policy; nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy, signed by an executive officer of the company.

**14. Limit of Liability — Coverage H.** The company's liability shall not exceed \$50.00 for each disablement.

**15. Assignment.** Assignment of interest under this policy shall not bind the company until its consent is endorsed hereon; if, however, the insured named as named insured in the declarations, or his spouse if a resident of the same household, shall die, this policy shall cover (1) the survivor as named insured, (2) his legal representative as named insured but only while acting within the scope of his duties as such, (3) any person having proper temporary custody of an owned automobile, as an insured, until the appointment and qualification of such legal representative, and (4) under division I of Part II any person who was a relative at the time of such death.

**16. Cancellation.** This policy may be cancelled by the insured named as named insured in the declarations, or his duly constituted attorney-in-fact by mailing to the company written notice stating when thereafter the cancellation shall be effective.

This policy may be cancelled by the company by mailing to the insured named as named insured in the declarations at the address shown in this policy, written notice stating when not less than forty-five days thereafter such cancellation shall be effective; except that this policy may be cancelled by the company by mailing to the insured named as named insured in the declarations at the address shown in this policy written notice stating:

1. when not less than ten days thereafter such cancellation shall be effective, if this policy has been in effect less than sixty days and is not a renewal policy; or
2. when not less than fifteen days thereafter such cancellation shall be effective, if the named insured fails to discharge when due any of his obligations in connection with the payment of premium for this policy or any installment thereof, whether payable to the company or its agent either directly or indirectly under any premium finance plan or extension of credit.

Notice to the Insured named as named insured in the declarations shall be mailed either by certificate of mailing, provided the company has retained a duplicate certified copy of said notice, or by registered or certified mail, pursuant to section 38.1-381.1 of the code of Virginia. The effective date of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by such insured, or by his duly constituted attorney-in-fact, or by the company shall be equivalent to mailing.

If such insured cancels, earned premium shall be computed in accordance with the customary short rate table and procedure. If the company cancels, earned premium shall be computed pro rata. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

**17. Cancellation by Company Limited.** If this policy has been in effect for sixty days at the time notice of cancellation is mailed or delivered or, if this policy is a renewal, effective immediately, the company shall not exercise its right to cancel unless:

1. the named insured fails to discharge when due any of his obligations in connection with the payment of premium for this policy or any installment thereof, whether payable to the company or its agent either directly or indirectly under any premium finance plan or extension of credit; or
2. the named insured or any other operator who either resides in the same household or customarily operates an automobile insured under this policy has had his driver's license suspended or revoked during the policy period or, if the policy is a renewal, during its policy period or the ninety days immediately preceding the last anniversary of the effective date; provided, however, the company shall have the right to modify any physical damage coverage afforded by this policy (except coverage for loss caused by collision) by inclusion of a deductible not exceeding \$100.

This Condition shall apply to each successive policy period for which the company consents to renew or continue this policy but nothing in this Condition shall obligate the company to renew or continue this policy.

#### **18. Renewal**

The company agrees that it will not exercise its right to refuse to renew or continue the policy, except as of the end of any six month interval of the original effective date.

The company agrees that it will not refuse to renew or continue this policy unless a written notice of its refusal to renew or continue is mailed to the insured named as named insured in the declarations, at the address shown

Such notice shall not be required:

1. if the named insured fails to pay the premium as required by the company for renewal or continuance of this policy.
2. If the company or its agent acting on behalf of the company has manifested its willingness to renew by issuing or offering to issue a renewal policy, certificate or other evidence of renewal, or has manifested such intention in writing to the insured, or
3. If the named insured, or his duly constituted attorney-in-fact, has notified in writing to the

company or its agent that he wishes the policy to be cancelled or that he does not wish the policy to be renewed or if prior to the date of expiration he fails to accept the offer of the company.

**19. Declarations.** By acceptance of this policy, the insured named as named insured in the declarations agrees that the statements in the declarations are his agreements and representations, that this policy is issued in reliance upon the truth of such representations and that this policy embodies all agreements existing between himself and the company or any of its agents relating to this insurance.

In Witness Whereof, the State Farm Fire and Casualty Company has caused this policy to be signed by its President and Secretary at Bloomington, Illinois.

*Philip G. Buffington*

SECRETARY

*Edward B. Rust, Jr.*

PRESIDENT

Note: The following endorsement applies when the endorsement number appears on the declarations page.

#### 6328U AMENDATORY ENDORSEMENT

It is agreed the following condition is added:

**Participating Policy** — The named insured shall be entitled to participate in a distribution of the earnings of the company as determined by its Board of Directors in accordance with the company's Articles of Incorporation, as amended.

Note: The following endorsement applies when the endorsement number appears on the declarations page.

### **6778 OUT-OF-STATE INSURANCE ENDORSEMENT**

It is agreed that, subject to all the provisions of the policy except where modified herein, the following provision is added:

If, under the provisions of the motor vehicle financial responsibility law or the motor vehicle compulsory insurance law or any similar law of any state or province, a non-resident is required to maintain insurance with respect to the operation or use of a motor vehicle in such state or province and such insurance requirements are greater than the insurance provided by the policy, the limits of the company's liability and the kinds of coverage afforded by the policy shall be as set forth in such law, in lieu of the insurance otherwise provided by the policy, but only to the extent required by such law and only with respect to the operation or use of a motor vehicle in such state or province; provided that the insurance under this provision shall be reduced to the extent that there is other valid and collectible insurance under this or any other motor vehicle insurance policy. In no event shall any person be entitled to receive duplicate payments for the same elements of loss.

Note: The following endorsement applies when the endorsement number appears on the declarations page.

### **6273H.2 SUPPLEMENTARY UNINSURED MOTORISTS INSURANCE (Bodily Injury — Property Damage — Limits — Underinsured Motorists) (Virginia)**

It is agreed that, with respect to such insurance as is afforded by the policy for damages because of bodily injury and property damage caused by accident and arising out of the ownership, maintenance or use of an uninsured motor vehicle, subdivision (1) of the definition of "uninsured" motor vehicle is amended to include "underinsured" motor vehicle, subject to the following provisions:

1. If limits of liability for such insurance are stated in the schedule of this endorsement, and subject to 2., below:
  - (a) the split limits so stated as applicable to bodily injury for "each person"/"each accident" and property damage for "each accident" shall apply in lieu of any limits therefor stated elsewhere in the policy and, subject to all the terms of the policy having reference thereto, shall be the total limit of the company's liability for all damages because of bodily injury and property damage as the result of any one accident arising out of the ownership, maintenance or use of uninsured motor vehicles; or
  - (b) the single limit so stated as applicable to bodily injury and property damage for "each accident" shall apply in lieu of any limit therefor stated elsewhere in the policy, and subject to all the terms of the policy having reference thereto, shall be the total limit of the company's liability for all damages as the result of any one accident arising out of the ownership, maintenance or use of uninsured motor vehicles; provided such limit of liability shall first provide the separate limits required by the Virginia Motor Vehicle Safety Responsibility Act as stated in the schedule of this endorsement or in the declarations.
2. When used in reference to this insurance (including this and other endorsements forming a part of the policy):

A motor vehicle is "underinsured" when, and to the extent that the total amount of bodily injury and property damage coverage applicable to the operation or use of such vehicle, including all bonds or deposits of money or securities made pursuant to Article 6 of Chapter 6 of the Code of Virginia (Section 46.1 - 467 et seq.), is less than the total amount of uninsured motorist coverage afforded any person insured as a result of the operation or use of such vehicle under this insurance.
3. The company shall not be obligated to make any payment because of bodily injury or property damage to which this insurance applies and which arises out of the ownership, maintenance or use of an underinsured motor vehicle until after the limits of liability under all bodily injury and property damage liability bonds or insurance policies respectively applicable at the time of the accident to damages because of bodily injury or because of property damage have been exhausted by payment of judgments or settlements.

#### **SCHEDULE — LIMITS OF LIABILITY**

Split Limits      see amounts in declarations

Single Limit      Bodily Injury and Property Damage \$see amount in declarations each accident, provided such limit shall first be:  
Bodily Injury \$25,000 each person, \$50,000 each accident, Property Damage \$10,000 each accident.

Note: The following endorsement applies when the endorsement number appears on the declarations page.

## **6520.5 UNINSURED MOTORISTS INSURANCE** (Virginia)

In consideration of the payment of premium and subject to all of the provisions of this endorsement and to the applicable provisions of the policy, the company agrees with the named insured as follows:

### **I. COVERAGE U — UNINSURED MOTORISTS** (Damages for Bodily Injury and Property Damage)

The company will pay in accordance with Section 38.1-381 of the Code of Virginia and all Acts amendatory thereof or supplementary thereto, all sums which the insured or his legal representative shall be legally entitled to recover as damages from the owner or operator of an uninsured motor vehicle because of bodily injury sustained by the insured or property damage, caused by accident and arising out of the ownership, maintenance or use of such uninsured motor vehicle.

#### **Exclusions**

This insurance does not apply:

(a) to bodily injury or property damage with respect to which the insured or his legal representative shall, without written consent of the company, make any settlement with any person or organization who may be legally liable therefor;

(b) to the first two hundred dollars of the total amount of all property damage as the result of any one accident. This exclusion does not apply if the owner or operator of the uninsured motor vehicle causing the damage can be identified;

(c) so as to inure directly or indirectly to the benefit of any insurer of property.

### **II. PERSONS INSURED**

Each of the following is an insured under this insurance to the extent set forth below:

(a) the named insured and, while residents of the same household, the spouse and relatives of either;

(b) any other person while occupying an insured motor vehicle; and

(c) any person, with respect to damages he is entitled to recover because of bodily injury to which this insurance applies sustained by an insured under (a) or (b) above.

The insurance applies separately with respect to each insured, except with respect to the limits of the company's liability.

### **III. LIMITS OF LIABILITY**

Regardless of the number of (1) persons or organizations who are insureds under this insurance, (2) persons or organizations who sustain bodily injury or property damage, (3) claims made or suits brought on account of bodily injury or property damage, or (4) motor vehicles to which this insurance applies,

(a) If the schedule or declarations indicate split limits of liability, the limit of liability for bodily injury stated as applicable to "each person" is the limit of the company's liability for all damages because of bodily injury sustained by one person as the result of any one accident and, subject to the above provision respecting "each person", the limit of liability for bodily injury stated as applicable to "each accident" is the total limit of the company's liability for all damages because of bodily injury sustained by two or more persons as the result of any one accident. The limit of liability for property damage stated as applicable to each accident is the total limit of the company's liability for all damages because of property damage to all property of one or more insureds as the result of any one accident.

(b) If the schedule or declarations indicate a single limit of liability, the limit of liability stated as applicable to "each accident" is the total limit of the company's liability for all damages as the result of any one accident; provided such limit of liability shall first provide the separate limits required by the Virginia Motor Vehicle Safety Responsibility Act as stated in the schedule or declarations.

(c) If claim is made under this insurance and claim is also made against any person or organization who is an insured under the bodily injury liability or property damage liability coverage of the policy because of bodily injury or property damage sustained in an accident by a person who is an insured under this insurance, any payment made under this insurance to or for any such person shall be applied in reduction of any amount which he may be entitled to recover from any person or organization who is an insured under the bodily injury or property damage liability coverages.

(d) Any amount payable under this insurance because of bodily injury or property damage sustained in an accident by a person who is an



insured under this insurance shall be reduced by all sums paid because of such bodily injury or property damage by or on behalf of the owner or operator of an uninsured motor vehicle.

(c) Any amount recoverable as damages because of bodily injury or property damage sustained in an accident by a person who is an insured under this insurance shall be reduced by all sums paid because of such bodily injury or property damage by or on behalf of any person or organization jointly or severally liable together with the owner or operator of an uninsured motor vehicle for such bodily injury or property damage including all sums paid under the bodily injury or property damage coverage of the policy.

#### IV. POLICY PERIOD: TERRITORY

This insurance applies only to accidents which occur during the policy period and within the United States of America, its territories or possessions, or Canada.

#### V. DEFINITIONS

When used in reference to this insurance (including endorsements forming a part of the policy):

**bodily injury** — means bodily injury, sickness or disease, including death, sustained by a person who is an insured under (a) or (b) of the Persons Insured provision;

**motor vehicle** — means a land motor vehicle or trailer other than

(a) a farm type tractor or other equipment designed for use principally off public roads, while not upon public roads,

(b) a vehicle operated on rails or crawler-treads, or

(c) a vehicle while located for use as a residence or premises;

**named insured** — means the person named in the declarations of this policy and includes the spouse if a resident of the same household;

**relative** — means a person related to the named insured by blood, marriage or adoption who is a resident of the same household;

**hit-and-run vehicle** — means a motor vehicle which causes an accident resulting in bodily injury to an insured or property damage, provided;

(a) there cannot be ascertained the identity of either the operator or the owner of such motor vehicle; and

(b) the insured or someone on his behalf shall have reported the accident promptly to either the company, the Division of Motor Vehicles or the police.

**insured motor vehicle** — means a motor vehicle registered in Virginia with respect to which the bodily injury and property damage liability coverage of the

policy applies but shall not include a vehicle while being used without the permission of the owner;

**occupying** — means in or upon or entering into or alighting from;

**property damage** — means injury to or destruction of (1) an insured motor vehicle owned by the named insured or his spouse, if a resident of the same household and the contents of such motor vehicle, and (2) any other property (except a motor vehicle) owned by an insured and located in Virginia;

**uninsured motor vehicle** — means:

(a) a motor vehicle with respect to the ownership, maintenance or use of which there is, in at least the amounts specified in the Virginia Motor Vehicle Safety Responsibility Act, neither (i) cash or securities on file with the Virginia Commissioner of Motor Vehicles nor (ii) a bodily injury and property damage liability bond or insurance policy applicable at the time of the accident with respect to any person or organization legally responsible for the use of such vehicle, or with respect to which there is such a bond or insurance policy applicable at the time of the accident but the company writing the same is or becomes insolvent or denies coverage thereunder; or

(b) a hit-and-run vehicle as defined.

#### VI. CONDITIONS

**A. Policy Provisions.** None of the Insuring Agreements, Exclusions, Conditions or other provisions of the policy shall apply to the insurance afforded by this endorsement except the Conditions "Notice", "Insured's Duties in the Event of Loss", "Subrogation", "Changes", "Assignment", "Cancellation" and "Declarations".

**B. Premium.** If during the policy period the number of insured motor vehicles owned by the named insured or spouse and registered in Virginia changes, the named insured shall notify the company during the policy period of any change and the premium shall be adjusted in accordance with the manuals in use by the company. If the earned premium thus computed exceeds the advance premium paid, the named insured shall pay the excess to the company; if less, the company shall return to the named insured the unearned portion paid by such insured.

**C. Proof of Claim; Medical Reports; Proof of Loss.** As soon as practicable, the insured or other person making claim shall give to the company written proof of claim, under oath if required, including full particulars of the nature and extent of the injuries, treatment, and other details entering into the determination of the amount payable hereunder. Proof of claim shall be made upon forms furnished by the company unless the company shall have failed to furnish such forms within 15 days after receiving notice of claim.

The injured person shall submit to physical examinations by physicians selected by the company when and as the company may reasonably require and he, or in the event of his incapacity his legal representative, or in the event of his death his legal representative or the persons or persons entitled to sue therefor, shall upon each request from the company execute authorization to enable the company to obtain medical reports and copies of records.

The insured or other person making claim for damage to property shall file proof of loss with the company within sixty days after the occurrence of loss, unless such time is extended in writing by the company, in the form of a sworn statement setting forth the interest of the insured and of all others in the property affected, any encumbrances thereon, the actual cash value thereof at time of loss, the amount, place, time and cause of such loss, and the description and amounts of all other insurance covering such property. Upon the company's request, the insured shall exhibit the damaged property to the company.

With respect to claims alleged to have arisen out of the ownership, maintenance or use of a hit-and-run vehicle if the insured has not obtained a judgment against John Doe, the liability of the uninsured motorist may be established, as between the insured and the company, by filing with the company within a reasonable time after the accident a statement under oath that the insured or his legal representative has a cause or causes of action arising out of such accident for damages against a person or persons whose identity is unascertainable, setting forth the facts in support thereof, and shall present clear and convincing evidence that there was a hit-and-run vehicle involved in the accident.

**D. Notice of Legal Action.** If, before the company makes payment of loss hereunder, the insured or his legal representative shall institute any legal action for bodily injury or property damage against any person or organization legally responsible for the use of a motor vehicle involved in the accident, a copy of the summons and complaint or other process served in connection with such legal action shall be forwarded immediately

to the company by the insured or his legal representative.

**E. Other Insurance.** With respect to bodily injury to an insured while occupying a motor vehicle not owned by the named insured, this insurance shall apply only as excess insurance over any other similar insurance available to such insured and applicable to such vehicle as primary insurance.

Except as provided in the foregoing paragraph, if the insured has other similar bodily injury insurance available to him and applicable to the accident, the company shall not be liable for a greater proportion of any loss to which this coverage applies than the limit of liability hereunder bears to the sum of the applicable limits of liability of this insurance and such other insurance.

With respect to property damage, this insurance shall apply only as excess insurance over any other valid and collectible insurance of any kind applicable to such property damage.

**F. Payment of Loss by the Company.** Any amount due hereunder is payable

- (a) to the insured, or
- (b) if the insured be a minor to his parent or guardian, or
- (c) if the insured be deceased to his surviving spouse, otherwise
- (d) to a person authorized by law to receive such payment or to a person legally entitled to recover the damages which the payment represents;

provided, the company may at its option pay any amount due hereunder in accordance with division (d) hereof.

**G.** This endorsement replaces any other provisions of the policy, including any endorsement forming a part thereof, affording similar insurance with respect to any damages arising out of the ownership, maintenance or use of an uninsured motor vehicle or a hit-and-run vehicle.

## SCHEDULE

### LIMIT OF LIABILITY

#### Split Limits

Limits of Liability stated in declarations

#### Single Limit

Limit of Liability stated in declarations provided such limit shall first be:

Bodily Injury	\$25,000 each person
	\$50,000 each accident
Property Damage	\$10,000 each accident

Note: The following endorsement applies when the endorsement number appears on the declarations page.

**FAMILY  
6571.4 VIRGINIA AMENDATORY ENDORSEMENT**

It is agreed that Part II — Expenses for Medical Services of the policy is amended as follows:

1. The insuring agreement of Coverage C — Medical Payments is amended to include reasonable expenses for necessary chiropractic services incurred within one year from the date of accident.
2. Division 1 of Coverage C — Medical Payments is amended to read:

Division 1. To or for the named insured and each relative who sustains bodily injury, sickness or disease, including death resulting therefrom, hereinafter called "bodily injury", caused by accident.

- (a) while occupying the owned automobile,
- (b) while occupying a non-owned automobile, but only if such person has, or reasonably believes he has, the permission of the owner to use the automobile and the use is within the scope of such permission, or
- (c) while not occupying a motor vehicle, through being struck by an automobile or trailer of any type.

3. The following definition is added.  
"medical expense insurance" means any automobile insurance providing benefits for medical expenses payable without regard to fault.

4. Exclusion (b) is amended to read:

This policy does not apply under Part II to bodily injury:

- (b) sustained by the named insured or a relative while occupying or, while not occupying a motor vehicle, through being struck by (1) a farm type tractor or other equipment designed for use principally off public roads, while not upon public roads, or (2) a vehicle operated on rails or crawler-treads;

5. The "Limit of Liability" provision is deleted and replaced by the following:

Regardless of the number of:

1. persons or organizations who are insureds under this policy;
2. persons who sustain bodily injury;
3. claims made or suits brought on account of bodily injury;

the limit of the company's liability for all expenses incurred by or on behalf of each person who sustains bodily injury as the result of any one accident shall not exceed:

- (a) the limit of liability stated in the declarations as applicable to "each person" when there is only one "owned automobile", or

- (b) the sum of the highest limits of liability stated in the declarations as applicable to "each person" for each "owned automobile" up to a maximum of 4, when the medical expense costs incurred by the insured person exceed the limit of liability for any one vehicle so insured.

6. The "Other Insurance" provision is deleted and replaced by the following:

If other valid and collectible medical expense insurance is applicable to the bodily injury of an insured person as defined in Division 1. and 2., the benefits shall be paid according to the following order of priority:

- (1) the medical expense insurance of the owner of the automobile the insured person was occupying at the time of the accident;
- (2) the medical expense insurance of the operator of the automobile the insured person was occupying at the time of the accident;
- (3) the medical expense insurance of the insured person.

However, in no event shall any insured person collect more than his actual medical expense incurred as a result of any accident from this or any other automobile insurance policy or combination of such policies providing medical expense insurance applicable to such accident.

7. The following provision is added to the Notice Condition:

The failure or refusal of the injured person to give such notice shall not relieve the company of its obligation to pay unless such failure or refusal prejudices the company in establishing the validity of any claim under this Coverage.

Note: The following endorsement applies when the endorsement number appears on the declarations page.

### **6557 FEDERAL EMPLOYEES USING AUTOMOBILES IN GOVERNMENT BUSINESS**

It is agreed that the policy does not apply under the Liability Coverages to the following as insureds:

1. The United States of America or any of its agencies;
2. Any person, including the named insured, with respect to bodily injury or property damage resulting from the operation of an automobile by such person as an employee of the United States Government while acting within the scope of his office or employment, if the provisions of Section 2679 of Title 28, United States Code (Federal Tort Claims Act), as amended, require the Attorney General of the United States to defend such person in any civil action or proceeding which may be brought for such bodily injury or property damage, whether or not the incident out of which such bodily injury or property damage arose has been reported by or on behalf of such person to the United States or the Attorney General.

Note: The following endorsement applies when the endorsement number appears on the declarations page.

### **6191C DISTRICT OF COLUMBIA EMPLOYEES USING AUTOMOBILES IN GOVERNMENT BUSINESS**

It is agreed that the policy does not apply under the Liability Coverages to the following insureds:

1. The District of Columbia or any of its Agencies.
2. Any person, including the named insured, with respect to bodily injury or property damage resulting from the operation of an automobile by such person as an employee of the District of Columbia while acting within the scope of his office or employment, if such person is relieved from liability because of the provisions of Public Law 86-654 (District of Columbia Employee Non-Liability Act), as amended.

Note: The following endorsement applies when the endorsement number appears on the declarations page.

### **6256W.1 SOUND RECEIVING AND TRANSMITTING EQUIPMENT EXCLUDED**

It is agreed that any Physical Damage Insurance afforded by the policy is subject to the following additional exclusion:

This insurance does not apply to loss of, or damage to any sound receiving or sound receiving and transmitting equipment designed for use as a citizen's band radio, two-way mobile radio or telephone, or scanning monitor receiver, including any accessories and antennas unless permanently installed in the opening of the dash or console of the automobile normally used by the motor vehicle manufacturer for the installation of a radio.

Note: The following endorsement applies when the endorsement number appears on the declarations page.

### **6589 ASSISTANCE AND COOPERATION OF THE INSURED (AUTOMOBILE LIABILITY INSURANCE) (VIRGINIA)**

The failure or refusal of the insured to cooperate with or assist the company which prejudices the company's defense of an action for damages arising out of the operation or use of an automobile shall constitute non-compliance with the requirements of the policy that the insured shall cooperate with and assist the company.

**6845A APPRAISAL**  
**VIRGINIA AMENDATORY ENDORSEMENT**

This endorsement is a part of *your* policy. Except for the changes it makes, all other terms of the policy remain the same and apply to this endorsement. It is effective at the same time as *your* policy if issued with it. If issued at a later date the name, policy number and effective date must be shown.

Issued by the **STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY** of Bloomington, Illinois, or the **STATE FARM FIRE AND CASUALTY COMPANY** of Bloomington, Illinois, as shown by the company's name on the policy of which this endorsement is a part.

Named Insured \_\_\_\_\_  
Policy Number \_\_\_\_\_ Countersigned \_\_\_\_\_, 19 \_\_\_\_  
Effective Date \_\_\_\_\_ By \_\_\_\_\_  
12:01 A.M. Standard Time Authorized Representative

Condition 9. Appraisal is amended by addition of the following:

The appraisal award is not binding on either the insured or the company.

  
President

6845A  
APVA-1

## 6893B AMENDMENT OF COVERAGE D

Nothing herein contained shall be held to alter, vary, waive or extend any of the terms, conditions, agreements or limitations of the undermentioned policy other than as stated below.

Effective \_\_\_\_\_ 12:01 A.M. Standard Time. Attached to and forming a part of policy number \_\_\_\_\_

issued to \_\_\_\_\_

by the STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, of Bloomington, Illinois, or the STATE FARM FIRE AND CASUALTY COMPANY of Bloomington, Illinois, as indicated by the company name on the policy of which this endorsement is a part.

(The information above is required only when this endorsement is issued subsequent to the preparation of the policy.)

Countersigned \_\_\_\_\_, 19 \_\_\_\_

By \_\_\_\_\_  
Authorized Representative

In consideration of the premium charged, it is agreed that the following change is made in Part III — Physical Damage:

Supplementary Payments.

Item (a) is replaced by the following:

“(a) to reimburse the insured for transportation expenses incurred during the period commencing 48 hours after a theft covered by this policy of the entire automobile has been reported to the company and the police, and terminating when the automobile is returned to use or the company pays for the loss; provided that the company shall not be obligated to pay aggregate expenses in excess of \$16 per day or totaling more than \$400.”

*Edward D. Rust, Jr.*  
President

6893B

# PRIVATE PASSENGER AUTOMOBILE CLASSIFICATION



STATE FARM INSURANCE COMPANIES  
Eastern Office  
1500 State Farm Boulevard  
Charlottesville, VA 22909-0001

7/86

G53611.12 VA

The premium you pay for car insurance is determined by your classification. The five digit code beside/below the word CLASS on your policy or premium notice indicates your classification. We have used the classification 2A301 as an example and explained the classification codes below.

## 2A301

The first digit from the left (the 2 in example 2A301) indicates the DRIVER CLASSIFICATION:

1. Regular drivers 25 thru 64. No male owner or operator under 25, no unmarried male principal operator 25 thru 29, and no unmarried female owner or operator under 25, except an unmarried female, occasional operator attending college more than 150 miles from home.
2. Principal driver 65 or over. No male owner or operator under 25, and no unmarried female owner or operator under 25 except an unmarried female occasional operator attending college more than 150 miles from home.
3. Principal operator unmarried male 25 thru 29. All male owners or operators are at least 25 years of age.
4. Unmarried female under 25 occasional operator. No male owner or operator under 25 years of age.
5. Unmarried female under 25 owner or principal operator. No male owner or operator under 25 years of age.
7. Married male under 25 owner or operator. No unmarried male owner or operator under 25, except an unmarried male occasional operator attending college more than 150 miles from home.
8. Unmarried male under 25 occasional operator. No unmarried male owner or principal operator under 25.
9. Unmarried male under 25 owner or principal operator.

Utility vehicle classification . . .

1. No unmarried male driver under 25.
8. Unmarried male driver under 25.

Note: When more than one of the above driver classifications could be assigned, the highest rated classification is used.

## 2A301

The following use classifications as indicated by the second position from the left (such as A in the example 2A301) are applicable to driver classification 1, 2 or 3:

- \*A — Pleasure use/7500 miles or less annually.
- \*B — Pleasure use/Over 7500 miles annually.
- C — Driven to and from work, an average distance of more than 30 miles (not more than 100 miles) per week/7500 miles or less annually.
- D — Driven to and from work, an average distance of more than 30 miles (not more than 100 miles) per week/Over 7500 miles annually.
- E — Driven to and from work, an average distance of more than 100 miles per week/7500 miles or less annually.
- F — Driven to and from work, an average distance of more than 100 miles per week/Over 7500 miles annually.
- G — Business use/12,000 miles or less annually.
- H — Business use/over 12,000 miles annually.
- J — Farmer—not used in any other occupation/7500 miles or less annually.
- K — Farmer—not used in any other occupation/Over 7500 miles annually.

The following use classifications are applicable to driver classification 1:

- L — Non-farm utility vehicle used for business purposes.
- M — Farm utility vehicle.

### Classification Codes Applicable to Motorcycles

- 1BOS— All owners or principal operators at least 25 or married females.
- 1BOT— An owner or principal operator, other than a married female, is under 25 and is rated on another policy in the household. (Has a qualifying auto policy.)
- 1BOU— An owner or principal operator other than a married female, is under 25 and is not rated on another auto in the household. (No qualifying auto policy.)

## 2A301

The 5th digit from the left (the 1 in the example 2A301) identifies whether discounts for accident-free driving are applicable or if surcharges have been applied for chargeable accidents; and, if so, the percentage being applied. Please refer to the code below:

### CODE FOR DISCOUNTS OR SURCHARGE PERCENTAGES

- 0 — Accident Record Rating Plan does not apply.
- 1 — No chargeable accident and does not qualify for Accident-Free Discount at this time.
- 2 — 5% Accident-Free Discount.
- 3 — 10% Accident-Free Discount.
- 9 — Chargeable accident but no surcharge . . . 10% Accident-Free Discount removed.
- Z — 5% surcharge
- A — 10% surcharge
- B — 20% surcharge
- C — 30% surcharge
- D — 40% surcharge
- E — 50% surcharge
- F — 60% surcharge
- G — 70% surcharge
- H — 80% surcharge
- I — 90% surcharge
- J — 100% surcharge
- K — 110% surcharge
- L — 120% surcharge
- M — 130% surcharge
- N — 140% surcharge
- O — 150% surcharge
- P — 160% surcharge
- Q — 170% surcharge
- R — 180% surcharge
- S — 190% surcharge
- T — 200% surcharge
- U — 210% surcharge
- V — 220% surcharge
- W — 230% surcharge
- X — 240% surcharge
- Y — 250% or more surcharge

Your accident record is a determining factor in the amount you pay for insurance on your private passenger car. Policyholders without accidents benefit from the low State Farm rates, while those with recent accidents pay more for car insurance. Surcharges for chargeable accidents are determined in accordance with the following:

**New Business Rating\*\***—An accident is chargeable if it resulted in death or bodily injury or in damage to any property in the amount of \$200 or more. The surcharge applicable during the initial period is based on the combined accident record of all operators of the automobile being insured and is determined by the number of chargeable accidents which occurred in the three-year period ending on the date of application. Note: a surcharge may not be applied if the end of the policy period is more than four years after the date of the accident.

**Subsequent Rating (renewals)**—An accident is chargeable if State Farm paid at least \$200 or more under the property damage liability coverage or in the event of a one-car accident under the Collision Coverage.

**Married**—An individual is considered married if he or she is living together with his or her spouse, or if a widow or widower. Single persons shall be considered as married if they have custody of a minor child residing in their household. A married couple temporarily living apart for reasons of health, occupation, military service or similar circumstances shall be considered as living together.

**Military Service**—An individual under 25 years of age in military service shall not be considered an operator of the automobile if he or she is home only for short leaves.

**Principal Operator**—Includes the following:

1. An individual whose use of the automobile constitutes 50% or more of its time or mileage use.
2. An individual whose use of two or more automobiles adds up to more than 50% of the use of one automobile is considered the principal operator of one automobile.
3. If the total use of the car by two youthful drivers is 50% or more, the automobile will be considered as having a youthful principal operator.

**Youthful Operator**—If you insure more than one automobile with State Farm and:

1. A youthful driver operates more than one of the automobiles, the youthful classification applies only to the auto that the youthful driver most frequently operates.
2. There is more than one youthful operator, a youthful operator classification is assigned to an automobile for each youthful operator.

**Good Student Discount**—The Good Student Discount rating factor applies to risks with a driver classification of 4, 5, 8 or 9 when:

1. all unmarried operators under 25 years of age whose use of the automobile determined the applicable classification are at least 16 years old and
  - a) have attained at least the rank of junior (11th grade) as full-time students, or

- b) are enrolled as full-time students in a college or university
2. the scholastic records for the immediately preceding semester or quarter show that each was a full time student and
    - a) ranked in the top 20% of his class,
    - b) had a grade average of at least "B" or equivalent grade average or 3 point average or equivalent, where 4, 3, 2 or 1 method is used, or
    - c) was included in a "Dean's List", "Honor Roll" or their equivalent.Evidence indicating attainment of at least one of the above, certified by the school, must be furnished to us once every 12 months.

The Good Student Discount can be continued after completion of the operator's undergraduate work provided the operator:

- a) graduated from a four year college or attended college on a full time basis for at least two consecutive years and met the above scholastic requirements during the last two of these years; and
- b) continues to be the controlling factor in determining the classification of the automobile.

The Good Student Discount terminates when the operator marries or reaches age 25.

**Defensive Driving Course Discount**—A 5% premium discount on Liability, Medical Payments, Medical Expenses and Income Loss Benefits, and Collision coverages applies when:

1. the principal operator is age 55 or over and,
2. successfully completes a state approved Motor Vehicle Accident Prevention Course every three years and,
3. the vehicle to which the discount applies is classified and rated as a private passenger vehicle.

If the driver is the principal operator of more than one car, the discount applies to the most frequently operated car.

**POLICYHOLDER INFORMATION SERVICE**



# ***The State of Virginia requires that policyholders be informed of the following coverages:***

## **MEDICAL EXPENSE AND INCOME LOSS BENEFITS**

### **IMPORTANT NOTICE**

IN ADDITION TO THE MINIMUM INSURANCE REQUIRED BY LAW, YOU MAY PURCHASE ADDITIONAL INSURANCE COVERAGE FOR THE NAMED INSURED AND FOR HIS RELATIVES WHO ARE MEMBERS OF HIS HOUSEHOLD WHILE OCCUPYING, OR WHILE NOT OCCUPYING THROUGH BEING STRUCK BY, ANY MOTOR VEHICLE AND FOR OCCUPANTS OF THE INSURED MOTOR VEHICLE. THE FOLLOWING HEALTH CARE AND DISABILITY BENEFITS ARE AVAILABLE FOR EACH ACCIDENT:

(A) PAYMENT OF UP TO \$2,000 PER PERSON FOR ALL REASONABLE AND NECESSARY EXPENSES FOR MEDICAL, CHIROPRACTIC, HOSPITAL, DENTAL, SURGICAL, AMBULANCE, PROSTHETIC AND REHABILITATION SERVICES, AND FUNERAL EXPENSES RESULTING FROM THE ACCIDENT AND INCURRED WITHIN ONE YEAR AFTER THE DATE OF THE ACCIDENT; AND

(B) AN AMOUNT EQUAL TO THE LOSS OF INCOME UP TO \$100 PER WEEK IF THE INJURED PERSON IS ENGAGED IN AN OCCUPATION FOR WHICH HE RECEIVES COMPENSATION, FROM THE FIRST WORKDAY LOST AS A RESULT OF THE ACCIDENT UP TO THE DATE THE PERSON IS ABLE TO RETURN TO HIS USUAL OCCUPATION. SUCH PAYMENTS ARE LIMITED TO A PERIOD EXTENDING ONE YEAR FROM THE DATE OF THE ACCIDENT.

IF YOU DESIRE TO PURCHASE *EITHER OR BOTH OF THESE COVERAGES* AT AN ADDITIONAL PREMIUM, YOU MAY DO SO BY CONTACTING THE AGENT OR COMPANY THAT ISSUED YOUR POLICY.

Following are the minimum and maximum rates to give you an idea of the cost of coverage for Medical Expenses and Income Loss Benefits (Coverage P1), Medical Expense only (Coverage P2) and Income Loss Benefits only (Coverage P3):

	COVERAGE	STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY		STATE FARM FIRE AND CASUALTY COMPANY	
		MINIMUM	MAXIMUM	MINIMUM	MAXIMUM
Private Passenger* (semi-annual)	P1	\$7.92	\$69.56	\$12.60	\$97.50
	P2	4.92	51.06	7.80	71.50
	P3	3.00	18.50	4.80	26.00
Commercial (semi-annual)	P1	5.87	31.31	8.63	49.13
	P2	4.37	29.81	7.13	47.63
	P3	1.50	1.50	1.50	1.50
Motorcycles (annual)	P1	120.00 per vehicle		192.00 per vehicle	
	P2	90.00 per vehicle		144.00 per vehicle	
	P3	30.00 per vehicle		48.00 per vehicle	

Below are two typical examples of private passenger semi-annual rates:

Territory 3 - Richmond: Adult, pleasure use; 7,500 miles or less annually

COVERAGE	STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY	STATE FARM FIRE AND CASUALTY COMPANY
P1	\$18.80	\$30.00
P2	13.80	22.00
P3	5.00	8.00

IN ADDITION TO THE MINIMUM INSURANCE REQUIRED BY LAW, YOU MAY PURCHASE ADDITIONAL INSURANCE COVERAGE FOR THE NAMED INSURED AND FOR ALL RELATIVES WHO ARE MEMBERS OF HIS HOUSEHOLD WHILE OCCUPYING, OR WHILE NOT OCCUPYING THROUGH BEING STRUCK BY, ANY MOTOR VEHICLE AND FOR OCCUPANTS OF THE INSURED MOTOR VEHICLE. THE FOLLOWING HEALTH CARE AND DISABILITY BENEFITS ARE AVAILABLE FOR EACH ACCIDENT:

(A) PAYMENT OF UP TO \$2,000 PER PERSON FOR ALL REASONABLE AND NECESSARY EXPENSES FOR MEDICAL, CHIROPRACTIC, HOSPITAL, DENTAL, SURGICAL, AMBULANCE, PROSTHETIC AND REHABILITATION SERVICES, AND FUNERAL EXPENSES RESULTING FROM THE ACCIDENT AND INCURRED WITHIN ONE YEAR AFTER THE DATE OF THE ACCIDENT; AND

(B) AN AMOUNT EQUAL TO THE LOSS OF INCOME UP TO \$100 PER WEEK IF THE INJURED PERSON IS ENGAGED IN AN OCCUPATION FOR WHICH HE RECEIVES COMPENSATION, FROM THE FIRST WORKDAY LOST AS A RESULT OF THE ACCIDENT UP TO THE DATE THE PERSON IS ABLE TO RETURN TO HIS USUAL OCCUPATION. SUCH PAYMENTS ARE LIMITED TO A PERIOD EXTENDING ONE YEAR FROM THE DATE OF THE ACCIDENT.

IF YOU DESIRE TO PURCHASE *EITHER OR BOTH OF THESE COVERAGES* AT AN ADDITIONAL PREMIUM, YOU MAY DO SO BY CONTACTING THE AGENT OR COMPANY THAT ISSUED YOUR POLICY.

Following are the minimum and maximum rates to give you an idea of the cost of coverage for Medical Expenses and Income Loss Benefits (Coverage P1), Medical Expense only (Coverage P2) and Income Loss Benefits only (Coverage P3):

	COVERAGE	STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY		STATE FARM FIRE AND CASUALTY COMPANY	
		MINIMUM	MAXIMUM	MINIMUM	MAXIMUM
Private Passenger* (semi-annual)	P1	\$7.92	\$69.56	\$12.60	\$97.50
	P2	4.92	51.06	7.80	71.50
	P3	3.00	18.50	4.80	26.00
Commercial (semi-annual)	P1	5.87	31.31	8.63	49.13
	P2	4.37	29.81	7.13	47.63
	P3	1.50	1.50	1.50	1.50
Motorcycles (annual)	P1	120.00 per vehicle		192.00 per vehicle	
	P2	90.00 per vehicle		144.00 per vehicle	
	P3	30.00 per vehicle		48.00 per vehicle	

Below are two typical examples of private passenger semi-annual rates:

Territory 3 - Richmond: Adult, pleasure use; 7,500 miles or less annually

COVERAGE	STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY	STATE FARM FIRE AND CASUALTY COMPANY
P1	\$18.80	\$30.00
P2	13.80	22.00
P3	5.00	8.00

Territory 3 - Richmond: Unmarried male 21 thru 24; occasional operator; pleasure use

COVERAGE	STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY	STATE FARM FIRE AND CASUALTY COMPANY
P1	\$32.90	\$48.00
P2	24.15	35.20
P3	8.75	12.80

\*Rates may vary slightly as a result of discounts or applicable surcharges.

## **UNINSURED MOTORIST COVERAGE**

### **IMPORTANT NOTICE**

**IN ADDITION TO THE INSURANCE COVERAGE REQUIRED BY LAW TO PROTECT YOU AGAINST A LOSS CAUSED BY AN UNINSURED MOTORIST, IF YOU HAVE PURCHASED LIABILITY INSURANCE COVERAGE THAT IS HIGHER THAN THAT REQUIRED BY LAW TO PROTECT YOU AGAINST LIABILITY ARISING OUT OF THE OWNERSHIP, MAINTENANCE, OR USE OF THE MOTOR VEHICLES COVERED BY THIS POLICY, AND YOU HAVE NOT ALREADY PURCHASED UNINSURED MOTORIST INSURANCE COVERAGE EQUAL TO YOUR LIABILITY INSURANCE COVERAGE:**

- 1. YOUR UNINSURED AND UNDERINSURED MOTORIST INSURANCE COVERAGE HAS INCREASED TO THE LIMITS OF YOUR LIABILITY COVERAGE AND THIS INCREASE WILL COST YOU AN EXTRA PREMIUM CHARGE; AND**
- 2. YOUR TOTAL PREMIUM CHARGE FOR YOUR MOTOR VEHICLE INSURANCE COVERAGE WILL INCREASE IF YOU DO NOT NOTIFY YOUR AGENT OR INSURER OF YOUR DESIRE TO REDUCE COVERAGE WITHIN 20 DAYS OF THE MAILING OF THE POLICY OR THE PREMIUM NOTICE, AS THE CASE MAY BE.**
- 3. IF THIS IS A NEW POLICY AND YOU HAVE ALREADY SIGNED A WRITTEN REJECTION OF SUCH HIGHER LIMITS IN CONNECTION WITH IT, PARAGRAPHS 1 AND 2 OF THIS NOTICE DO NOT APPLY.**

**PLEASE NOTE: IF THIS IS A RENEWAL NOTICE AND YOU HAVE ALREADY SIGNED A WRITTEN REJECTION OF SUCH HIGHER LIMITS, PARAGRAPHS 1 AND 2 OF THE ABOVE IMPORTANT NOTICE**

\*Pleasure use includes driving to and from work 30 miles or less weekly.

The following use classifications are applicable to driver classification 4, 5, 8 or 9:

- A—Pleasure, to and from work, or business use/Operator is 21 thru 24.
- B—Pleasure, to and from work, or business use/Operator is under 21.
- J—Farmer—not used in any other occupation/Operator is 21 thru 24.
- K—Farmer—not used in any other occupation/Operator is under 21.

The following use classifications are applicable to driver classification 7:

- B—Pleasure, to and from work, or business use/Operator is under 21.
- E—Pleasure, to and from work, or business use/Operator is 21 or 22.
- F—Pleasure, to and from work, or business use/Operator is 23 or 24.
- K—Farmer—not used in any other occupation/Operator is under 21.
- R—Farmer—not used in any other occupation/Operator is 21 or 22.
- X—Farmer—not used in any other occupation/Operator is 23 or 24.

The following use classifications are applicable to driver classification 8:

- L—Non-farm utility vehicle used for business purposes.
- M—Farm utility vehicle.

The following use classifications are applicable to driver classification 1, 2, 3, 4, 5, 7, 8, or 9:

- N—Classic auto—limited use.
- S—Antique auto—limited use.

## 2A301

The 3rd digit from the left (the 3 in the example 2A301) indicates the applicable discount or inexperienced operator classification:

- 0—Single car—no discount.
- 1—Good student.
- 2—Good student and multi-cars insured by State Farm.
- 3—Multi-cars insured by State Farm.
- 8—Student over 150 miles from home.
- 9—Student over 150 miles from home and multi-cars insured by State Farm.
- E—Inexperienced operator (SFF&C only).
- F—Snowmobile.
- H—Defensive Driving.
- J—Defensive Driving and multi-cars insured by State Farm.
- S—Student 150 miles from home, multi-cars insured by State Farm and Defensive Driving.
- T—Student 150 miles from home and Defensive Driving.
- W—Inexperienced Operator and Defensive Driving (SFF&C only).
- X—Inexperienced Operator and multi-cars insured by State Farm (SFF&C only).
- Y—Inexperienced Operator, multi-cars insured by State Farm and Defensive Driving (SFF&C only).

## 2A301

The 4th digit from the left (the 0 in the example 2A301) identifies specified risks for proper rating and statistical purposes:

- 0—No special designation.
- 2—Financial responsibility surcharge 50%.
- 3—Financial responsibility surcharge 25%.
- 4—Financial responsibility surcharge 10%.
- 5—Travel trailer or house trailer used with a private passenger car, or auto leased to U.S. Gov't. agencies.
- 7—Utility trailer used with private passenger car, or camping trailer.
- 8—Funeral car.
- 9—Government employees.
- A—Rented auto homes, campers or trailers.
- C—Loaned or rented auto.
- D—Rental to others of auto home, detachable living quarters or trailers.
- F—Panel/van-type vehicles including sportswagons of this type, with or without customization (1972 and later models).
- G—Autos with a value of more than \$2,200 excluding limited use antique/classic vehicles (1971 and prior models).
- H—Pickups and sportswagons not of the van or panel type; also panel/van-type vehicles including sportswagons of this type with a value of \$2,200 or less, including customization (1971 and prior models).
- W—Kit cars or replica vehicles.

Note: If there is an \* between the vehicle year and the make of car on your premium notice or on the declarations page of the attached policy, a high performance automobile surcharge of 50% has been applied. See the following Code for Surcharge Percentages.

The surcharge for each chargeable accident is 10%, 20% or 50%, depending on the number and timing of the accidents. The surcharge is 10% for the first chargeable accident if there are none other during the preceding three years; an additional 20% if there is one other chargeable accident during the preceding three years and the charge for it is 10%; and an additional 50% for each subsequent accident within a three-year period. The surcharge applicable during a policy period is the total of the separate charges for the individual accidents which become chargeable during the three-year period ending two months prior to the beginning of that policy period. The amount (%) of surcharge moves up or down on the basis of additional chargeable accidents or periods of accident-free driving. Each surcharge remains in effect for three years from the renewal date on which it first takes effect, after which time it is dropped. However, no surcharge will apply beyond four years from the date of the accident. Surcharges will also be removed if satisfactory evidence is furnished that the driver involved is no longer a member of your household or will not be driving your car in the future. If that driver is insured on another State Farm policy, the accident will be considered in the rating of that policy. If you have any questions, please contact your State Farm agent.

Note: An accident shall not be considered chargeable if the insured demonstrates that the operator involved in the accident was not wholly or partially at fault.

\*\*New Business Rating is applicable only to State Farm Fire and Casualty Company policyholders.

### Accident-Free Discount (State Farm Mutual only)

If a car (or the car which it may have replaced) has been insured with State Farm for at least three years without a chargeable accident during this period, you will receive a 5% Accident-Free Discount on the premiums for Liability; Medical Payments; Medical Expense and Income Loss Benefits; and Collision coverages.

If a car (or the car which it may have replaced) has been insured with State Farm for at least six years without a chargeable accident during this period, you will receive a 10% Accident-Free Discount on the premiums for Liability; Medical Payments; Medical Expenses and Income Loss Benefits; and Collision coverages.

If more than one car is insured under the same policy, each car is treated separately. A car eligible for a 10% "Accident-Free Discount" will lose that discount on the next renewal following a chargeable accident. A car eligible for a 5% discount will be surcharged 5% if there is a subsequent chargeable accident. If there is a second chargeable accident during the three-year experience period, a 30% surcharge will be applied on the following renewal. Surcharges for subsequent accidents will follow the normal schedule provided by the Accident Record Rating Plan.

### Definitions and Interpretations

**Business Use**—When 50% or more of the time or mileage use of the automobile is involved in the duties of any person who ordinarily operates the automobile in their occupation, profession or business, the business use classification shall apply.

**Driving to and from school**—When the automobile is used for driving to and from school, it will be considered as used for "driving to and from work".

**Children away at school**—A son or daughter who resides away from home during both the school year and summer vacation, shall be disregarded in classifying the automobile. If the school is over 150 miles from home and the son or daughter is home only during vacations, the son or daughter will be considered as though married in determining the classification. In all other situations, a classification will be applied as if he or she lives at home.

**Farm Automobile**—Farm automobile means an automobile principally garaged on a farm or ranch and which is not ordinarily used in going to and from work, other than farming or ranching, and is not used in any occupation other than farming or ranching.

An automobile owned by a farm or ranch employee, not in a supervisory position, and used primarily for pleasure shall not be considered a farm automobile.

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

HAROLD GANDY,

Plaintiff

v.

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,

Defendant

FINAL ORDER GRANTING SUMMARY JUDGMENT

THIS DAY came the parties, by counsel, upon the various pleadings and authorities submitted by the parties, and upon the parties' stipulation that the Certificate of Coverage, Declarations Page, Insurance Policy, and Defendant's Answers to Interrogatories and Response to Request for Admissions shall stand as evidence in this case. The Court is of the opinion that this matter is <sup>mature</sup> ~~ripe~~ for summary judgment.

For the reasons set forth in the Court's letter of October 7, 1987, the Court is of the opinion that summary judgment should be awarded to the Plaintiff. The exception of the Defendant is noted. And it appearing consistent with the Court's views as expressed in its letter of October 7, 1987, be it ORDERED that the Plaintiff be, and he hereby is, awarded summary judgment against the Defendant in the amount of Eight Hundred Thirty-Six and 36/100 Dollars (\$836.36). And there being nothing further to determine, this case is ORDERED stricken from the active docket to be placed among the ended causes.

ENTER:

Judge

DATE:

55

a copy (100)2

WELBY J. MARSHALL, CLERK

*Debra M. Strickland* Dep. Clerk

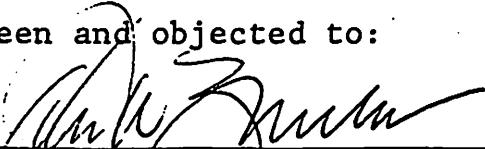
I ask for this:



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F. Guthrie Gordon, III  
Gordon & Wyatt  
416 Park Street  
Charlottesville, Virginia 22901  
(804) 296-4130  
Counsel for Plaintiff

Seen and objected to:



---

John W. Zunka  
Taylor & Zunka, Ltd.  
414 Park Street  
Charlottesville, Virginia 22901  
(804) 977-0191  
Counsel for Defendant

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

HAROLD GANDY,

Plaintiff

v.

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,

Defendant

WRITTEN STATEMENT OF FACTS, TESTIMONY,  
AND OTHER INCIDENTS OF THE CASE

Pursuant to Rule 5:11(c) of the Rules of the Supreme Court of Virginia, the parties hereto submit the following written statement of facts, testimony and other incidents of the case, in lieu of a transcript.

In September of 1986, Plaintiff Gandy's foot was run over by a forklift while Plaintiff was standing on the ground and not occupying any motor vehicle.

The forklift which Plaintiff states ran over his foot was a 1985 Clark model forklift. The forklift has one seat for the operator only. It was not registered with the Virginia Division of Motor Vehicles. It was not licensed with a vehicle tag and it was used only in the private yard of the company which owned it. The forklift was self-propelled and could operate in forward and reverse. While it was possible for the forklift to reach a speed of approximately 20 miles per hour, to do so would take a long time and would be very unusual.

As a result of the incident, the Plaintiff Gandy incurred medical bills of \$836.36.

At the time of the incident, Plaintiff Gandy was insured by a State Farm Automobile Liability Policy. The Certificate of Coverage, Declarations Page, and State Farm Family Automobile Policy Combination Form (Policy Form GF9946F.4, pages 1 through 19, and Virginia Amendatory Endorsement, 6845A Appraisal and 6893B Amendment of Coverage D) were stipulated by the parties as evidence in this case and part of the record.

Defendant's Answers to Interrogatories and Response to Request for Admissions were likewise stipulated by the parties as evidence in the case and part of the record.

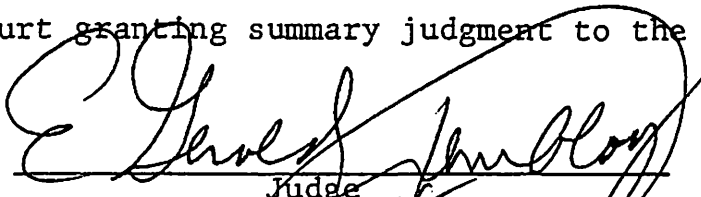
A Pre-Trial Memorandum was filed with the Court on behalf of Plaintiff Gandy. A Pre-Trial Memorandum was filed with the Court on behalf of Defendant State Farm Mutual Automobile Insurance Company.

Following the initial pre-trial conference, the Court entered a Pre-Trial Order and Order Granting Partial Summary Judgment, ruling that, as a matter of law, a forklift is a "motor vehicle" within the Virginia statutory definition. This ruling was objected to by State Farm Mutual Automobile Insurance Company.

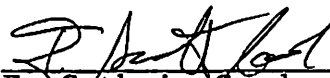
The Court later entered a Final Order Granting Summary Judgment as outlined in the Court's letter to counsel dated October 7, 1987, also objected to by State Farm Mutual Automobile Insurance Company.

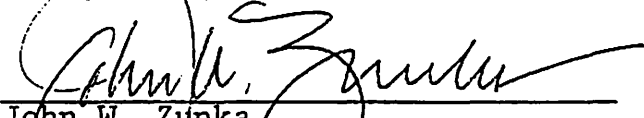


Defendant State Farm Mutual Automobile Insurance Company  
appeals the Orders of this Court granting summary judgment to the  
Plaintiff.

  
Judge  
3/1/88  
Date

We ask for this:

  
F. Guthrie Gordon, III  
Gordon & Wyatt  
416 Park Street  
Charlottesville, Virginia 22901  
(804) 296-4130  
Counsel for Plaintiff

  
John W. Zunka  
Taylor & Zunka, Ltd.  
414 Park Street  
Charlottesville, Virginia 22901  
(804) 977-0191  
Counsel for Defendant

a copy TESTE:

SHELBY J. MARSHALL, CLERK

by: , Dep. Clerk

ASSIGNMENTS OF ERROR

I. THE TRIAL COURT ERRED IN APPLYING VA. CODE SECTION 38.2-2201 WHEN APPELLEE DID NOT PURCHASE MEDICAL EXPENSE COVERAGE OFFERED BY STATE FARM UNDER THAT SECTION.

II. THE TRIAL COURT ERRED IN FINDING THAT A FORK LIFT IS A "MOTOR VEHICLE" TO WHICH MEDICAL EXPENSE COVERAGE MUST EXTEND.