

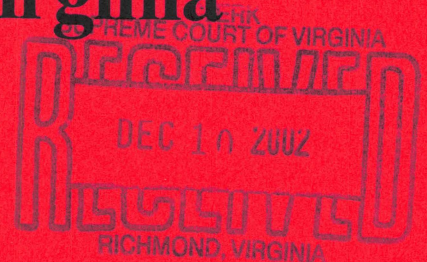
965Va450

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IN THE  
**Supreme Court of Virginia**

RECORD NO. 021659



**USAA CASUALTY INSURANCE COMPANY,**

*Appellant,*

**v.**

**THE HERTZ CORPORATION,**

*Appellee.*

JOINT APPENDIX

**Richard A. Yeagley  
SICILIANO, ELLIS, DYER  
& BOCCAROSSE  
10521 Judicial Drive, Suite 300  
Fairfax, Virginia 22030  
(703) 385-6692**

*Counsel for Appellant*

**Robert L. Garnier  
GARNIER & GARNIER, P.C.  
109 Rowell Court  
Falls Church, Virginia 22046  
(703) 237-2010**

*Counsel for Appellee*



## Table of Contents

### Page Number

Motion for Declaratory Judgment, filed 12/19/00 . . . . .	1
Stipulation, with attachments, filed 2/14/02 . . . . .	6
Attachment 1 - USAA Liability Policy . . . . .	12
Attachment 2 - Rental Contract . . . . .	47
Attachment 3 - Rental Agreement Terms and Conditions . . . . .	48
Attachment 4 - Certificate of Self-Insurance . . . . .	53
Letter Opinion of Judge Keith, dated 4/8/02 . . . . .	54
Final Order, entered 4/18/02 . . . . .	58
Assignments of Error . . . . .	59

FILED  
CIVIL INTAKE

VIRGINIA:

00 DEC 29 PM 3:18

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

USAA CASUALTY INSURANCE COMPANY  
FAIRFAX, VA

Petitioner,

v.

THE HERTZ CORPORATION,

Chancery No. 170255

SERVE:

Registered Agent  
Commonwealth Legal  
Services Corporation  
4701 Cox Road, Suite 301  
Glen Allen, VA 23060

DANIEL E. HESS  
1111 N Dearborn Street  
Apt. 301  
Chicago, IL 60610

ALBERT K. NG  
1103 Colvin Mill Court  
Falls Church, VA 22066

Respondents.

MOTION FOR DECLARATORY JUDGMENT

COMES NOW the Petitioner, USAA Casualty Insurance Company (USAA) by counsel and pursuant to the appropriate statutes and rules of this court files this Declaratory Judgment Action seeking a declaration of this court as to the rights and obligations of the parties hereto for reasons set forth as follows:

1. USAA is authorized to do business in the Commonwealth of Virginia and conducting business including the issuance of automobile liability and collision policies.

SICILIANO, ELLIS, DYER & BOCCAROSSE

2. Albert K. Ng is and was at all times relevant hereto a citizen of the Commonwealth of Virginia, a resident of Fairfax County and residing at the address shown above in the caption clause.

3. Daniel E. Hess is a citizen and resident of the state of Illinois, residing at the address shown in the caption portion of this Motion for Declaratory Judgment.

4. USAA issued a family automobile insurance policy to its insured, Daniel E. Hess, policy number 8477654, which was in effect on March 9, 2000.

5. USAA issued a family automobile policy to its insured Albert K. Ng, member number 531-55-18, which provided among other coverage, collision coverage for property damage, which was in effect on March 9, 2000.

6. On or about March 6, 2000, Mr. Hess, while traveling to Virginia rented a motor vehicle, then owned, registered, principally garaged by and under the control of The Hertz Corporation.

7. The Hertz Corporation is a Delaware corporation, authorized to and doing business in the Commonwealth of Virginia and is in the business of owning and renting motor vehicles, without drivers to individuals such as Daniel E. Hess.

8. On information and belief, The Hertz Corporation was an authorized self-insurer holding a self-insurance certificate, effective March 6, 1961 and in effect as of the date of the rental of March 9, 2000.

9. The motor vehicle owned by The Hertz Corporation and

rented to Daniel E. Hess was being operated and used in the Commonwealth of Virginia on March 9, 2000. The said vehicle was involved in a motor vehicle accident with a vehicle owned and operated by Albert K. Ng.

10. The motor vehicle accident referred to above occurred in or about the town of Herndon in Fairfax County, Virginia on March 9, 2000.

11. As a result of the motor vehicle accident in questions, Albert K. Ng claimed motor vehicle property damage in the amount of approximately \$6, 200.00 and has a claim for bodily injury damages.

12. As a result of the motor vehicle accident, Albert K. Ng made a claim for collision and USAA did pay in satisfaction of that claim under its collision coverage in its policy to Albert K. Ng, the sum of approximately \$6,200.00 in payment for the property damage that resulted from the motor vehicle accident with Daniel E. Hess.

13. The Hertz Corporation has been called upon to provide liability coverage for Daniel e. Hess, the operator of its vehicle to satisfy the property damage claim of Albert K. Ng but has unjustifiably denied to provide the primary liability coverage to is renter Daniel E. Hess.

14. There is a justiciable controversy, which gives rise to the jurisdiction of this court in the Declaratory Judgment Action.

15. As of March 9, 2000, the Code of Virginia provided in Section 46.2-108 (d) is pertinent part of that "no person engaged

in the business of renting automobiles and trucks without drivers shall rent any vehicle without a driver unless the vehicle is an insured motor vehicle as defined in Section 46.2-705."

16. Section 46.2-705 of the Code of Virginia defines an insured motor vehicle to mean "A motor vehicle as to which bodily injury and property damage liability insurance, both in amounts specified in Section 46.2-472 issued by an insurance carrier authorized to do business in the commonwealth or as to which the owner has qualified as a self-insurer in accordance with the provisions of Section 46.2-368."

17. The issues raised in this Declaratory Judgment Action have been raised and litigated in favor of USAA in the case of The Hertz Corporation v. United Services Automobile Association (USAA), at law number 174571, filed in the Circuit Court of Fairfax County, Virginia. As a result of that litigation, the Honorable Henry Hudson entered a final judgment in favor of USAA and against The Hertz Corporation granting USAA its Motion for Summary Judgment and denying The Hertz Corporation's Motion for Summary Judgment based on the memorandum opinion of January 4, 2000, a copy of which is attached and hereto and made a part hereof.

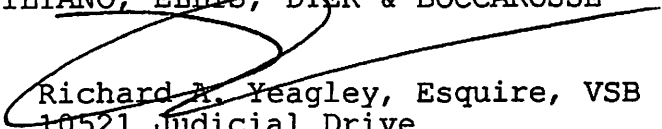
Wherefore, the Petitioner, USAA Casualty Insurance Company prays that this court enter a Declaratory Judgment declaring The Hertz Corporation has primary liability coverage through its self insurance in favor of Daniel E. Hess and that it be obligated to reimburse USAA for any amounts paid in satisfaction of the collision coverage afforded the claimant Ng

and for such further relief as this court may deem appropriate.  
Hertz is collaterally estopped from denying in this case that it  
has primarily self-insurance liability coverage in favor of  
Daniel E. Hess in connection with the property damage and  
personal, bodily injury claims of Mr. Ng.

USAA  
By Counsel

SICILIANO, ELLIS, DYER & BOCCAROSSE

BY:

  
Richard A. Yeagley, Esquire, VSB #20342  
10521 Judicial Drive  
Suite 300  
Fairfax, Virginia 22030  
(703) 385-6692/FAX (703) 273-5632  
Counsel for USAA

VIRGINIA

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

USAA CASUALTY INSURANCE COMPANY, )  
Petitioner, )

v. )

THE HERTZ CORPORATION, et al., )  
Respondents. )

Chancery No. C170255

FILED  
COUNTY CLERK'S OFFICE  
02 FEB 14 PM 3:45  
JOHN T. FREY  
CLERK, CIRCUIT COURT  
FAIRFAX, VA

STIPULATION

Petitioner USAA Casualty Insurance Company ("USAA") and Respondent The Hertz Corporation ("Hertz"), both by counsel, stipulate and agree to the following facts for the purposes of this litigation, and for this litigation alone:

1. At all times relevant hereto, USAA provided automobile liability insurance coverage to Daniel Hess ("Hess"). A genuine and authentic copy of the USAA policy, policy number 8477654, is attached hereto as Exhibit 1.

2. Hess was at all times relevant hereto a citizen and resident of, and domiciled in, the State of Illinois, and USAA's policy was issued and delivered to Hess in Illinois.

3. The USAA policy issued to Hess provides liability coverage limits in the amount of \$100,000 per person for bodily injury and \$50,000 for property damage for each accident.

4. The USAA policy issued to Hess provides in pertinent part:

**OTHER INSURANCE:** If there is other applicable liability insurance we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits. However, any insurance we provide with respect to a vehicle you do not own shall be excess over any other collectible insurance.

5. That at all times relevant hereto, the vehicle referred to in Hess' policy issued by USAA was in good working order, but remained in Illinois. On or about March 6, 2000 through March 9, 2000, Hess was traveling in Virginia on a business trip.

6. On or about March 6, 2000, Hess signed and entered into a contract (the "rental



agreement”) with Hertz for the rental of an automobile, which he rented from Hertz at their rental facility at Dulles International Airport in Loudoun County, Virginia. A genuine and authentic copy of the rental agreement is attached hereto as Exhibit 2.

7. At the time of his rental of the Hertz automobile, Hess declined and did not purchase an optional liability insurance supplement [“LIS”]. The rental contract provided, in pertinent part, that by declining LIS, “Hertz liability protection is secondary.”

8. The rental agreement between Hess and Hertz further provided, in pertinent part:

By Your declining the optional Liability Insurance Supplement (LIS), Par. 10(b) of the Rental Terms will apply to this rental. By signing below, You agree that any insurance that provides coverage to You or to an Authorized Operator shall be primary. In the event of any claims arising from the operation of the Car, such insurance shall be responsible for the payment of all personal injury and/or property damage claims up to the limits of such insurance.

9. Paragraph 10 of the "Rental Agreement Terms & Conditions" furnished with and incorporated into the rental agreement signed by Hess, a copy of which is attached hereto as Exhibit 3, contained the following material provision:

**10. LIABILITY PROTECTION**

THE FOLLOWING SUBPARAGRAPH (a) APPLIES IF THE PROVISIONS OF YOUR CDP NUMBER SHOWN ON THE RENTAL RECORD, IF ANY, OR, IN THE CASE OF A REPLACEMENT RENTAL, THE APPLICABLE CONTRACT, IF ANY, BETWEEN HERTZ AND THE AUTOMOBILE INSURER WHICH IS RESPONSIBLE FOR DAMAGE TO OR LOSS OF YOUR VEHICLE (A “RESPONSIBLE INSURER”), INCLUDE THE EXTENSION BY HERTZ OF LIABILITY PROTECTION.

a. WITHIN THE LIMITS STATED IN THIS SUBPARAGRAPH, HERTZ WILL INDEMNIFY, HOLD HARMLESS, AND DEFEND YOU AND ANY OTHER AUTHORIZED OPERATORS FROM AND AGAINST LIABILITY TO THIRD PARTIES, WHICH BY DEFINITION EXCLUDES ANY OF YOUR OR ANY AUTHORIZED OPERATOR’S FAMILY MEMBERS RELATED BY BLOOD, MARRIAGE OR ADOPTION RESIDING WITH YOU OR THEM, FOR BODILY INJURY (INCLUDING DEATH) AND PROPERTY DAMAGE, IF THE ACCIDENT RESULTS FROM THE USE OF THE CAR AS PERMITTED BY

THIS AGREEMENT. THE LIMITS OF THIS PROTECTION, INCLUDING OWNER'S LIABILITY, ARE THE SAME AS THE MINIMUM LIMITS REQUIRED BY THE AUTOMOBILE FINANCIAL RESPONSIBILITY LAW OF THE JURISDICTION IN WHICH THE ACCIDENT OCCURS, UNLESS HIGHER LIMITS APPLY FOR THE CDP NUMBER OR RATE PLAN SHOWN ON THE RENTAL RECORD, IF ANY, OR IN THE CASE OF A REPLACEMENT RENTAL, THE APPLICABLE CONTRACT BETWEEN HERTZ AND THE RESPONSIBLE INSURER, IF ANY. THESE LIMITS MAY NOT BE ADEQUATE TO FULLY COVER YOUR LIABILITY IN THE EVENT THAT YOU ARE INVOLVED IN AN ACCIDENT. THIS PROTECTION WILL CONFORM TO THE BASIC REQUIREMENTS OF ANY APPLICABLE MANDATORY "NO FAULT" LAW BUT DOES NOT INCLUDE "UNINSURED MOTORIST", "UNDERINSURED MOTORIST", "SUPPLEMENTARY NO FAULT" OR ANY OTHER OPTIONAL COVERAGE. TO THE EXTENT PERMITTED BY LAW, HERTZ AND YOU HEREBY WAIVE AND REJECT THE INCLUSION OF ANY SUCH PROTECTION. If such protection is imposed by operation of law, then the limits of such protection will be the minimum required for primary liability protection by the law of the jurisdiction in which the accident occurs. Hertz warrants that the protection described in this subparagraph is primary with respect to any insurance coverage which You or an Authorized Operator may have.

THE FOLLOWING SUBPARAGRAPH (b) APPLIES FOR ALL RENTALS EXCEPT OTHER THAN THOSE NOTED IN SUBPARAGRAPH (a).

b. IF YOU DO NOT PURCHASE LIABILITY INSURANCE SUPPLEMENT (LIS) (A SUMMARY OF LIS COVERAGE APPEARS BELOW) AT THE COMMENCEMENT OF THE RENTAL AND AN ACCIDENT RESULTS FROM THE USE OF THE CAR, YOUR INSURANCE AND THE INSURANCE OF THE OPERATOR OF THE CAR WILL BE PRIMARY. THIS MEANS THAT HERTZ WILL NOT GRANT ANY DEFENSE OR INDEMNITY PROTECTION UNDER THIS PARAGRAPH IF EITHER YOU OR THE OPERATOR OF THE CAR ARE COVERED BY ANY VALID AND COLLECTIBLE AUTOMOBILE LIABILITY INSURANCE, WHETHER PRIMARY, EXCESS OR CONTINGENT, WITH LIMITS AT LEAST EQUAL TO THE MINIMUM REQUIRED BY THE APPLICABLE STATE FINANCIAL RESPONSIBILITY LAW. IF NEITHER YOU NOR THE OPERATOR OF THE CAR HAVE SUCH INSURANCE, HERTZ WILL GRANT YOU AND ANY AUTHORIZED OPERATOR OF THE CAR LIMITED PROTECTION UNDER THE TERMS AND CONDITIONS STATED IN SUBPARAGRAPHS 10(a) AND 10(c).

...  
c. YOU AND ALL OPERATORS WILL INDEMNIFY AND HOLD HERTZ, ITS AGENTS, EMPLOYEES AND AFFILIATES HARMLESS FROM AND AGAINST ANY ALL LOSS, LIABILITY, CLAIM, DEMAND, CAUSE OF ACTION, ATTORNEY'S FEES AND EXPENSE OF ANY KIND (A "LOSS") IN EXCESS OF THE LIMITS STATED HEREIN OR BEYOND THE SCOPE OF THE PROTECTION PROVIDED FOR HEREIN, IF ANY, ARISING FROM THE USE

OR POSSESSION OF THE CAR BY YOU OR ANY OTHER OPERATOR(S) WITH YOUR, HIS OR HER PERMISSION, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES INCURRED BY HERTZ TO ENFORCE ANY OF ITS RIGHTS HEREUNDER, UNLESS SUCH LOSS ARISES OUT OF HERTZ'S SOLE NEGLIGENCE.

10. At all times relevant hereto, Hertz has been a qualified self-insurer in Virginia under the Virginia Motor Vehicle Safety Responsibility Act pursuant to a certificate of self-insurance issued by Virginia's Division of Motor Vehicle, effective March 6, 1961. A genuine and authentic copy of the certificate of self-insurance is attached hereto as Exhibit 4.

11. The automobile rented by Hess from Hertz was a 2000 Mazda four-door sedan bearing Virginia license plate number YPJ-8415, owned by Hertz and registered in Virginia.

12. A summary entitled "Hertz Rental Car History" to be submitted as Exhibit 5 accurately identifies the rental history of the Hertz automobile rented to Hess prior to and including March 9, 2000, including the locations from which the automobile was rented and to which it was returned.

13. Within a section identified as "Liability Insurance Supplement (LIS) Summary of Coverage," which was identified as a summary only, the "Rental Agreement Terms & Conditions" stated, in pertinent part, the following:

**COVERAGE**

If You elect to purchase LIS, coverage will be provided to You and any Authorized Operators under an excess automobile liability insurance policy issued to Hertz.

**LIMITS**

LIS provides protection from third-party automobile liability claims for the difference between the liability protection limits provided under Paragraph 10 and a maximum combined single limit of One Million (\$1,000,000) Dollars for bodily injury, including death and property damage. . . .

...

**HOW TO OBTAIN/DECLINE COVERAGE**

If You accept LIS on the Rental Record, coverage will be provided during the rental period. The daily charge for LIS, which appears on the Rental Record, is due for each full or partial rental day.

14. At all times relevant hereto, Hertz was the named insured of a liability insurance policy issued by Reliance Insurance Company, an insurer licensed in the Commonwealth of Virginia and doing business as an insurer in the Commonwealth of Virginia, which policy is the "excess automobile liability insurance policy issued to Hertz" referred to in the "Rental Agreement Terms & Conditions" and referenced in paragraph no. 13 above. A genuine and authentic copy of the policy issued by Reliance Insurance Company will be submitted as Exhibit 6.

15. On or about March 9, 2000, while driving the Hertz rental car, Hess was involved in a collision with an automobile driven by Albert Ng ("Ng") in the Town of Herndon, in Fairfax County, Virginia.

16. At the time of the aforementioned motor vehicle accident, Ng was insured by USAA, policy no. 531-55-18, by which he was afforded, among other coverages, collision coverage for property damage.

17. As a result of the aforesaid motor vehicle accident, Ng claimed motor vehicle property damage in the amount of approximately \$6,200.00. Also as a result of the aforesaid accident, Ng may have and/or may make a claim for bodily injury damages.

18. Ng made a claim to USAA for collision coverage for property damages sustained in the aforementioned accident under his automobile policy issued by USAA. In satisfaction of that claim, USAA paid \$6,200.00 to Ng under its collision coverage in its policy issued to Ng.

19. The aforesaid payment made by USAA constituted a fair and reasonable settlement payment for the property loss claimed by Ng as a result of Hess' alleged negligence.

20. By subrogation to the rights of Ng, USAA has made demand on Hertz to provide primary liability coverage to Hess to and to reimburse USAA for its aforesaid collision coverage payment to Ng.

21. Hertz denies that it is legally obligated to provide liability coverage, primary or otherwise,



to Hess under the terms of the aforesaid rental contract between Hess and Hertz, and contends that USAA is obliged to provide primary liability coverage to Hess under its aforementioned policy issued to Hess.

22. USAA denies that it is legally obligated to provide primary liability coverage to Hess under its aforementioned policy issued to Hess, and contends that Hertz is obliged to provide primary liability coverage to Hess through Hertz' self insurance.

SEEN AND AGREED TO FOR THE PURPOSES OF THIS LITIGATION ONLY:

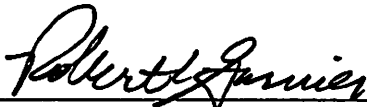
SICILIANO, ELLIS, DYER & BOCCAROSSE

GARNIER & GARNIER, P.C.

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Richard A. Yeagley, Esquire  
10521 Judicial Drive, Suite 300  
Fairfax, Virginia 22030  
(703) 385-6692  
Fax: (703) 273-5632  
Counsel for USAA Casualty Insurance Company

---

  
Robert L. Garnier, Esquire  
109 Rowell Court  
Falls Church, Virginia 22046  
(703) 237-2010  
Fax: (703) 237-9738  
Counsel for The Hertz Corporation



5800 Northampton Boulevard  
Norfolk, Virginia 23502-5514

**COMMONWEALTH OF VIRGINIA**

Before me, the undersigned Notary Public in and for the Commonwealth of Virginia, on this day personally appeared Vincent L. Napoli, Executive Director, Underwriting, Mid-Atlantic Region, and custodian of the records of the United Services Automobile Association, USAA Casualty Insurance Company, USAA County Mutual Insurance Company, and USAA General Indemnity Company, and after being by me duly sworn and upon his oath says that an exact duplicate of USAA Casualty Insurance Company policy number 00847 76 54C 7102 1, effective from January 25, 2000 to July 25, 2000, issued to Daniel E. Hess, residing in the state of Illinois, has been prepared under his direction and is attached hereto.

Vincent L. Napoli  
Executive Director, Underwriting  
USAA Casualty Insurance Company  
Mid-Atlantic Region

Subscribed and sworn to before me by said Vincent L. Napoli, Executive Director, Underwriting, Mid-Atlantic Region, this Sixth day of November, A.D., 2000, at Norfolk, Virginia, to certify which witness my hand and seal of office.

Audrey Young  
Notary Public in and for the  
Commonwealth of Virginia

My commission expires  
December 31, 2001

VLN/ay/ay

PAGE 1  
MAIL MCH-M-I

DECEMBER 20, 1999

**AUTOMOBILE POLICY PACKET**

CIC 00847 76 54 7102 1

EFFECTIVE JAN 25 2000 TO JUL 25 2000

DANIEL E HESS  
1111 N DEARBORN ST APT 3105  
CHICAGO IL 60610-7157

Read enclosures carefully and keep them with your policy records.

Contract, Declarations, Endorsements Form #	Title
5000	- DECLARATIONS
SUPDECCW	- SUPPLEMENTAL INFORMATION

Information/Explanation Forms Form #	Title
AACER	- REGIONAL V.P. LETTER
260 (01)	- TOWING AND LABOR ORDER
703IL(02)	- ANTI-THEFT DEVICE DISCOUNT
999IL CIC	- ILLINOIS AUTO INSURANCE

**FOR CALLS WITHIN THE U.S. : Policy Service 1-800-531-8111  
Claims 1-800-531-8222****1 IMPORTANT MESSAGES**

THIS IS NOT A BILL. Any premium charge or change for this policy will be reflected on your next regular monthly statement. Please do not disregard your current billing statement.

ID CARDS ENCLOSED - IF STOPPED BY THE POLICE, YOU MUST HAVE THIS CARD WITH YOU. YOUR ID CARDS ARE ATTACHED AS THE LAST ITEM IN THE PACKET.

SEE SUPPLEMENTAL INFORMATION PAGE, IMMEDIATELY FOLLOWING THE DECLARATIONS PAGE, FOR ANY PREMIUM DISCOUNTS THAT ARE BEING APPLIED TO YOUR POLICY.

MCS01

Thank you for letting us serve you. We appreciate your business.

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SI





USAA CASUALTY INSURANCE COMPANY

(A Stock Insurance Company)

9800 Fredericksburg Road - San Antonio, Texas 78288

ILLINOIS AUTO POLICY

RENEWAL DECLARATIONS

(ATTACH TO PREVIOUS POLICY)

ADDL INFO

PAGE 3 MAIL MCH-M-I

NEW OF

State	02	Year		POLICY NUMBER
IL	403	Year		00847 76 54C 7102 1
POLICY PERIOD:		(12:01 A.M. standard time)		
EFFECTIVE JAN 25 2000 TO JUL 25 2000		OPERATORS		
01 DANIEL E HESS				

Named Insured and Address

DANIEL E HESS  
1111 N DEARBORN ST APT 3105  
CHICAGO IL 60610-7157

Description of Vehicle(s)							VEH USE		WORK/SCHOOL	
VEH	YEAR	TRADE NAME	MODEL	BODY TYPE	ANNUAL MILEAGE	IDENTIFICATION NUMBER	SYM		Miles per Mo	Days per Week
02	95	HONDA	PASPRT LX/EX	UTIL 4X4	10000	4S6CY58V8S4402012	16	W	05	5

The Vehicle(s) described herein is principally garaged at the above address unless otherwise stated. W-C=Work/School; B-Business; F-Farm; P-Pleasure

VEH 02 CHICAGO IL 60610-7157

This policy provides ONLY those coverages for which a premium is shown below.				VEH 02 6-MONTH		VEH		VEH		VEH	
COVERAGES				D=DED	PREMIUM	D=DED	PREMIUM	D=DED	PREMIUM	D=DED	PREMIUM
LIMITS OF LIABILITY				AMOUNT	\$	AMOUNT	\$	AMOUNT	\$	AMOUNT	\$
("ACV" MEANS ACTUAL CASH VALUE)											
PART A - LIABILITY											
BODILY INJURY	EA PER \$	100,000			85.85						
	EA ACC \$	300,000									
PROPERTY DAMAGE	EA ACC \$	50,000			70.12						
PART B - MEDICAL PAYMENTS											
	EA PER \$	5,000			14.49						
PART C - UNINSURED MOTORISTS											
BODILY INJURY	EA PER \$	100,000									
	EA ACC \$	300,000			16.84						
PART C - UNDERINSURED MOTORISTS											
BODILY INJURY	EA PER \$	100,000									
	EA ACC \$	300,000			3.38						
PART D - PHYSICAL DAMAGE COVERAGE											
COMPREHENSIVE LOSS	ACV LESS	D 100			92.90						
COLLISION LOSS	ACV LESS	D 500			143.60						
RENTAL REIMBURSEMENT					5.69						
TOWING AND LABOR					4.00						

VEHICLE TOTAL PREMIUM

7.

436.87

TOTAL PREMIUM - SEE FOLLOWING PAGE(S)

VI

ENDORSEMENTS: ADDED 01-25-00 - NONE

REMAIN IN EFFECT (REFER TO PREVIOUS POLICY) - A100IL(02) A111(01) 5000IL(01)

5660IL(01) \*\*\* 200(02) 1123(02)

INFORMATION FORMS (NOT PART OF POLICY) - AACER 260(01) 703IL(02) 999ILCIC(17)

0000000

P2205219D00D0 N N

In WITNESS WHEREOF, we have caused this policy to be signed by our President and Secretary at San Antonio, Texas,

on this date DECEMBER 20, 1999

Bradford W. Rich  
SecretaryHarry Vecellio Jr.  
President

5000 C



## USAA CASUALTY &amp; LIABILITY INSURANCE COMPANY

(A Stock Insurance Company)

USAA 9800 Fredericksburg Road - San Antonio, Texas 78268

ILLINOIS AUTO POLICY

RENEWAL DECLARATIONS

(ATTACH TO PREVIOUS POLICY)

State	IL	Year	00847 76 54C 7102 1
POLICY PERIOD:		(12:01 A.M. standard time)	
EFFECTIVE JAN 25 2000 TO JUL 25 2000			

Named Insured and Address

DANIEL E HESS  
1111 N DEARBORN ST APT 3105  
CHICAGO IL 60610-7157

Description of Vehicle(s)						VEH USE		WORK/SCHOOL	
VEH	YEAR	TRADE NAME	MODEL	BODY TYPE	ANNUAL MILEAGE	IDENTIFICATION NUMBER	SYM	Miles Per Week	Days Per Week

The Vehicle(s) described herein is principally garaged at the above address unless otherwise stated. W/C=Work/School; B=Business; F=Farm; P=Pleasure

31 JAN 2000

This policy provides ONLY those coverages for which a premium is shown below.

COVERAGES LIMITS OF LIABILITY  
("ACV" MEANS ACTUAL CASH VALUE)

VEH		VEH		VEH		VEH	
D-DED	PREMIUM	D-DED	PREMIUM	D-DED	PREMIUM	D-DED	PREMIUM
AMOUNT	\$	AMOUNT	\$	AMOUNT	\$	AMOUNT	\$

6 MONTH PREMIUM \$ 436.87

THE FOLLOWING COVERAGE(S) DEFINED IN THIS POLICY ARE NOT PROVIDED FOR:  
VEH 02 - EXTENDED BENEFITS COVERAGE

In WITNESS WHEREOF, we have caused this policy to be signed by our President and Secretary at San Antonio, Texas,  
on this date DECEMBER 20, 1999

*Bradford W. Rich*  
Bradford W. Rich  
Secretary

*Henry V. Vercillo Jr.*  
Henry Vercillo Jr.  
President

5000 C

## SUPPLEMENTAL INFORMATION

EFFECTIVE JAN 25 2000 TO JUL 25 2000

The following approximate premium discounts or credits have already been applied to reduce your policy premium costs.

NOTE: Age or senior citizen status, if allowed by your state/location, was taken into consideration when your rates were set and your premiums have already been adjusted.

## VEHICLE 02

ANTI-THEFT DISCOUNT

-\$ 15.71

31

00847 76 54

6

00847 76 54

6

00847 76 54

DECEMBER 20, 1999

SUPDECCW Rev. 7-95

## AMENDMENT OF POLICY PROVISIONS ILLINOIS

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### PART C - UNINSURED MOTORISTS COVERAGE (referred to as UM) and UNDERINSURED MOTORISTS COVERAGE (referred to as UIM)

---

Part C is amended as follows:

#### EXCLUSIONS

Exclusion B. 6. is added.

- B. 6. We do not provide UM or UIM coverage for BI sustained by any covered person while using any motor vehicle owned by you or any family member which is not insured for this coverage under this policy.

---

### PART D - PHYSICAL DAMAGE COVERAGE

---

#### EXCLUSIONS

Exclusion 5 is deleted.

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**RENTAL REIMBURSEMENT/TRANSPORTATION EXPENSE**

The provisions and exclusions that apply to Part D also apply to this endorsement except as changed by this endorsement.

**A. Section A. under the Insuring Agreement of Part D is replaced by the following:**

- A. Comprehensive Coverage** (excluding collision). We will pay for the direct accidental loss caused by other than collision to your covered auto, including its equipment, minus any applicable deductible shown in the Declarations.

In addition, we will pay up to \$15 per day, to a maximum of \$450, for transportation expenses incurred by you. This applies only in the event of a total theft of your covered auto. We will pay only transportation expenses incurred during the period beginning 48 hours after the theft and ending when your covered auto is returned to use or we pay for its loss.

If a specific premium charge indicates that Increased Rental Reimbursement coverage is afforded, coverage for transportation expenses is increased to \$30 per day to a maximum of \$900.

**B. Section C. under the Insuring Agreement of Part D is replaced by the following:**

- C. Rental Reimbursement Coverage** (for loss other than total theft). We will reimburse you for expenses you incur to rent a substitute for your covered auto. This coverage applies only if that vehicle is withdrawn from use for more than 24 hours due to a loss covered under Collision Coverage or Comprehensive Coverage other than a total theft of the vehicle. We will pay up to \$15 per day, to a maximum of \$450, until the vehicle is repaired or replaced. Our payment will be limited to that period of time reasonably required to repair or replace your covered auto.

If a specific premium charge indicates that Increased Rental Reimbursement coverage is afforded, coverage for Rental Reimbursement is increased to \$30 per day to a maximum of \$900.



USAA  
USAA Building • San Antonio, Texas 78288

## ILLINOIS AUTO POLICY

### READ YOUR POLICY, DECLARATIONS AND ENDORSEMENTS CAREFULLY

The automobile insurance contract between you and us consists of this policy plus your Declarations page and any applicable endorsements. The Quick Reference section below outlines essential information contained in the Declarations and the major parts of the policy.

Your policy provides the coverages and amounts of insurance shown in the Declarations with a premium.

### QUICK REFERENCE

		<b>DECLARATIONS PAGE 21</b>
		Your Name and Address Your Vehicles Policy Period Coverages, Amounts of Insurance and Premiums Endorsements
Beginning on Page	2	<b>Agreement and Definitions</b>
Part A	3	<b>Liability Coverage</b>
		Definitions Insuring Agreement Bodily Injury Liability Coverage Property Damage Liability Coverage Limit of Liability Supplementary Payments Exclusions Out of State Coverage Other Insurance
Part B	4	<b>Medical Payments Coverage</b>
		Definitions Insuring Agreement Medical Payments Coverage Extended Benefits Coverage Limit of Liability Air Bag and Seat Belt Benefits Exclusions Other Insurance Special Provisions
Part C	6	<b>Uninsured Motorists Coverage Underinsured Motorists Coverage</b>
		Definitions Insuring Agreement Uninsured Motorists Coverage Underinsured Motorists Coverage Limit of Liability Exclusions Other Insurance Arbitration

Part D	9	<b>Physical Damage Coverage</b>
		Definitions Insuring Agreement Comprehensive Coverage Collision Coverage Rental Reimbursement Coverage Towing and Labor Coverage Limit of Liability Payment of Loss Waiver of Collision Deductible Exclusions No Benefit to Bailee Other Insurance Appraisal
Part E	11	<b>General Provisions</b>
		Bankruptcy Changes Duties After an Accident or Loss Loss Payable Clause Our Right to Recover Payment Policy Period and Territory Termination Transfer of Your Interest in this Policy Two or More Auto Policies Representations

### RECIPROCAL PROVISIONS

apply when United Services Automobile Association, or USAA, is named on the Declarations as the Company.

### A non-assessable policy

- Reciprocal
- Special definitions and provisions
- Plan of operation

In your policy these sets of words have the same meaning: Policy means Contract; You, Your or Insured means Subscriber; We, us, our, USAA or Company means Reciprocal or Interinsurance Exchange; Premium means Deposit; Chairman means Attorney-in-Fact.

Your policy is issued as part of an Interinsurance Exchange by the Chairman of USAA as Attorney-in-Fact under the authority given him by the subscribers.

No Contingent Liability: You are liable only for the amount of your premium since USAA has a free surplus in excess of the amount required by Article 19.03 of the Texas Insurance Code of 1951, as amended.

Participation: By purchasing this policy, you are a member of USAA and subject to its bylaws. You are entitled to dividends as may be declared by us, after approval as required by the Texas Insurance Code of 1951, as amended.

**ILLINOIS AUTO POLICY****AGREEMENT**

In return for payment of the premium and subject to all the terms of this policy, we will provide the coverages and limits of liability for which a premium is shown in the Declarations.

**DEFINITIONS**

- A. Throughout this policy, "you" and "your" refer to the "named insured" shown in the Declarations and spouse if a resident of the same household.
- B. "We", "us" and "our" refer to the Company providing this insurance.
- C. For purposes of this policy, a private passenger type auto shall be deemed to be owned by a person if leased under a written agreement to that person for a continuous period of at least six months.
- Other words and phrases are defined. They are in boldface when used.
- D. **Auto business** means the business of altering, customizing, leasing, parking, repairing, road testing, delivering, selling, servicing, or storing vehicles.
- E. **Bodily Injury** (referred to as BI) means bodily harm, sickness, or disease, including death.
- F. **Family member** means a person related to you by blood, marriage, or adoption who is a resident of your household. This includes a ward or foster child.
- G. **Miscellaneous vehicle** means a motorcycle, moped or similar type vehicle; motor home; golfcart; snowmobile; all-terrain vehicle; or dune buggy.
- H. **Occupying** means in, on, getting into or out of.
- I. **Property damage** (referred to as PD) means physical injury to, destruction of, or loss of use of tangible property.
- J. **Temporary substitute vehicle** means a vehicle or trailer not owned by you or a family member while used as a temporary substitute for your covered auto when withdrawn from normal use because of its breakdown, repair, servicing, loss, or destruction.
- K. **Trailer** means a vehicle designed to be pulled by a private passenger auto, pickup, van, or miscellaneous vehicle. It also means a farm wagon or implement while towed by such vehicles.
- L. **Van** means a four-wheeled land motor vehicle of the van type with a load capacity of not more than 2,000 pounds.
- M. **Your covered auto** means:
1. Any vehicle shown in the Declarations.
  2. Any of the following types of vehicles acquired by you or a family member during the policy period, on the date you or a family member become the owner, but only if no other insurance policy provides coverage for such vehicle:
    - a. a private passenger auto;
    - b. a pickup or van; or
    - c. a miscellaneous vehicle not used in any business or occupation.

For such newly acquired vehicles, we will automatically provide the following coverages, but only for 30 days after ownership of the vehicle is acquired by you or a family member:

    - a. We will extend the broadest coverages now provided for any vehicle shown in the Declarations.
    - b. If your policy does not provide Comprehensive or Collision coverages, we will extend each with a \$250 deductible.

If you wish to continue any coverage beyond the 30 day period, you must request it prior to the end of the 30 day period.
  3. Any trailer you own.
  4. Any temporary substitute vehicle.

## PART A - LIABILITY COVERAGE

### DEFINITIONS

Covered person as used in this Part means:

1. You or any family member for the ownership, maintenance, or use of any auto or trailer.
2. Any person using your covered auto.
3. Any other person or organization, but only with respect to legal liability imposed on them for the acts or omissions of a person for whom coverage is afforded in 1. or 2. above. With respect to an auto or trailer other than your covered auto, this provision only applies if the other person or organization does not own or hire the auto or trailer.

However, covered person does not include:

1. The United States of America or any of its agencies.
2. Any person with damages resulting from the operation of an auto by that person as an employee of the United States Government. This applies only if the provisions of Section 2679 of Title 28, United States Code as amended, require the Attorney General of the United States to defend that person in any civil action which may be brought

property resulting from any one auto accident. These limits are the most we will pay regardless of the number of covered persons, claims made, vehicles or premiums shown in the Declarations, or vehicles involved in the auto accident.

### SUPPLEMENTARY PAYMENTS

In addition to our limit of liability, we will pay on behalf of a covered person:

1. Premiums on appeal bonds and bonds to release attachments in any suit we defend, not in excess of the limit of liability shown in the Declarations.
2. Prejudgment interest awarded against the covered person on that part of the judgment we pay. If we make an offer to pay the applicable limit of liability, we will not pay any prejudgment interest based on that period of time after the offer.
3. Interest accruing after a judgment is entered in any suit we defend. Our duty to pay interest ends when we offer to pay that part of the judgment which does not exceed our limit of liability for this coverage.
4. Up to \$50 a day for loss of wages because of attendance at hearings or trials at our request.
5. The amount a covered person must pay to the United States Government because of damage to a government-owned private passenger auto, pickup, or van which occurs while the vehicle is in the care, custody, or control of a covered person. The most we will pay is an amount equal to one month of the basic salary of the covered person at the time of loss. Only Exclusions A.1. and A.8. apply.
6. Other reasonable expenses incurred at our request.

### INSURING AGREEMENT

We will pay damages for BI or PD for which any covered person becomes legally responsible because of an auto accident. We will settle or defend, as we consider appropriate, any claim or suit asking for these damages.

In addition to our limit of liability, we will pay all defense costs we incur. Our duty to settle or defend ends when our limit of liability for these coverages has been paid or tendered. We have no duty to defend any suit or settle any claim for BI or PD not covered under this policy.

### LIMIT OF LIABILITY

For BI sustained by any one person in any one accident, our maximum limit of liability for all resulting damages, including, but not limited to, all direct, derivative or consequential damages recoverable by any persons, is the limit of liability shown in the Declarations for "each person" for BI Liability. Subject to this limit for "each person", the limit of liability shown in the Declarations for "each accident" for BI Liability is our maximum limit of liability for all damages for BI resulting from any one accident. The limit of liability shown in the Declarations for "each accident" for PD Liability is our maximum limit of liability for all damages to all

### EXCLUSIONS

- A. We do not provide Liability Coverage for any person:
  1. Who intentionally acts, or directs to cause, or with reasonable expectation of causing, BI or PD.
  2. For damage to property owned or being transported by that person.
  3. For damage to property rented to, used by, or in the care of any covered person. This does not apply to damage to a residence or private garage.



**PART A Cont'd.)**

4. For BI to an employee of that person which occurs during the course of employment. This exclusion does not apply to a domestic employee unless workers' compensation benefits are required or available for that domestic employee.
5. For that person's liability arising out of the ownership or operation of a vehicle while it is being used to carry persons or property for a fee. This exclusion does not apply to a share-the-expense car pool.
6. While employed or otherwise engaged in the auto business. This exclusion does not apply to the ownership, maintenance, or use of your covered auto by you, any family member, or any partner, agent, or employee of you or any family member.
7. Maintaining or using any vehicle while that person is employed or otherwise engaged in any business or occupation other than the auto business, farming, or ranching. This exclusion does not apply to the maintenance or use of a private passenger auto; a pickup or van you own; or a trailer used with these vehicles.
8. Using a vehicle without a reasonable belief that person is entitled to do so.
9. For BI or PD for which that person is an insured under any nuclear energy liability policy. This exclusion applies even if that policy is terminated due to exhaustion of its limit of liability.
10. For BI to you or any family member. However, this exclusion does not apply:
  - a. to the maintenance or use of your covered auto by any person other than you or any family member.

- b. when a third party acquires a right of contribution against you or any family member.

11. For BI or PD occurring while your covered auto is rented or leased to others.

**B. We do not provide Liability Coverage for the ownership, maintenance, or use of:**

1. Any motorized vehicle having less than four wheels, unless the vehicle is your covered auto.
2. Any vehicle, other than your covered auto, which is owned by you, or furnished or available for your regular use.
3. Any vehicle, other than your covered auto, which is owned by, or furnished or available for the regular use of, any family member. This exclusion does not apply to your maintenance or use of such vehicle.
4. Any vehicle while being operated in, or in practice for, any speed contest.

**OUT OF STATE COVERAGE**

If an auto accident to which this policy applies occurs in any state or province other than the one in which your covered auto is principally garaged, your policy will provide at least the minimum amounts and types of coverages required by law. However, no one will be entitled to duplicate payments for the same elements of loss.

**OTHER INSURANCE**

If there is other applicable liability insurance we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits. However, any insurance we provide for a vehicle you do not own shall be excess over any other collectible insurance.

**PART B MEDICAL PAYMENTS COVERAGE****DEFINITIONS**

Beneficiary means (in order of priority of payment):

1. The surviving spouse if a resident in the same household as the deceased at the time of the accident; or
2. If the deceased is an unmarried minor, either of the surviving parents who had custody at the time of the accident; or
3. The estate of the deceased.

Covered person as used in this Part means:

1. You or any family member while occupying any auto.
2. Any other person while occupying:
  - a. your covered auto; or
  - b. any other auto operated by:
    - (1) you; or
    - (2) a family member, if the auto is a private passenger auto or trailer.
3. You or any family member as a pedestrian when struck by a motor vehicle designed for use mainly on public roads, or snowmobile, or a trailer.

**(PART B Cont'd)**

4. For Extended Benefits Coverage only, a pedestrian struck by your covered auto.
- C. **Essential services** means those household services an injured person who is at least 18 years old would have performed without pay.
- D. **Income actually lost** means the difference between total salary, fees, commissions, or profits from a business being earned at the time of the accident and that received during the period of total disability, including payments from an income continuation or similar plan.
- E. **Total disability** means disability which continuously prevents the injured person from performing the substantial duties of his usual occupation.

**INSURING AGREEMENT**

- A. **Medical Payments Coverage.** We will pay reasonable expenses incurred for necessary medical and funeral services because of BI caused by an accident and sustained by a covered person. We will pay only those expenses incurred within three years from the date of the accident.
- B. **Extended Benefits Coverage.** We will pay the following benefits for BI caused by an accident and sustained by a covered person:
  1. **Wage Earner Disability Benefit** of 85% of income actually lost by an employed covered person during a period of total disability.
  2. **Essential Services Disability Benefit** for reasonable expenses incurred for essential services during the time the covered person is actually unable to perform the services. This benefit applies only if the covered person is at least 18 years old.
  3. **Death Benefit** of \$5,000 to the beneficiary of a covered person who dies within three years from the date of the accident as a direct result of BI caused by an accident.

**LIMIT OF LIABILITY**

The following provisions represent the most we will pay regardless of the number of covered persons or beneficiaries, claims made, vehicles or premiums shown in the Declarations, or vehicles involved in the accident.

- A. **Medical Payments Coverage**
  1. The limit of liability shown in the Declarations for Medical Payments Coverage is the maximum limit of liability for each person injured in any one accident.

2. Any amounts otherwise payable for expenses under Medical Payments Coverage shall be reduced by any amounts paid or payable for the same expenses under Part A or Part C.
3. If we make a payment to an injured person under Medical Payments Coverage, that payment shall be applied toward any settlement or judgment that person receives under Part A or Part C.

**B. Extended Benefits Coverage**

The limit of liability for Wage Earner Disability Benefit and Essential Services Disability Benefit stated in the Declarations is the maximum limit of liability for each covered person injured in any one accident, subject to the following:

1. Payment to a covered person, other than you or a family member, for Wage Earner Disability Benefit will not exceed \$1,000 per month.
2. Wage Earner and Essential Services Disability Benefits begin the eighth day after the accident. We will pay these benefits for no more than two years to any one person. Benefits will not continue after the death of the injured person.
3. Any amounts otherwise payable as benefits under Wage Earner Disability Benefit shall be reduced by:
  - a. the amount of any similar benefits which are paid or payable under any workers' compensation law or policy, or under any disability or health and accident policy; and
  - b. the amount of any disability benefits provided by any governmental agency.

**AIR BAG AND SEAT BELT BENEFITS**

If Medical Payments Coverage is in effect and a covered person is wearing a seat belt, protected by an air bag or in an appropriate child restraint device at the time of an accident, we will:

1. Increase the limit of liability shown in the Declarations for Medical Payments Coverage by \$10,000 for that covered person for that accident.
2. Pay a death benefit of \$10,000 to the beneficiary of such covered person who dies within three years of the date of the accident as a direct result of BI sustained in that accident.

**(PART B Cont'd)****EXCLUSIONS**

We do not provide benefits under this Part for any person for BI:

1. Sustained while occupying any motorized vehicle having less than four wheels, unless the vehicle is your covered auto.
2. Sustained while occupying your covered auto when it is being used to carry persons or property for a fee. This does not apply to a share-the-expense car pool.
3. Sustained while occupying any vehicle located for use as a residence.
4. Occurring during the course of employment if workers' compensation benefits are required or available. This does not apply to Extended Benefits Coverage.
5. Sustained while occupying, or when struck by, any vehicle other than your covered auto which is owned by you, or furnished or available for your regular use.
6. Sustained while occupying, or when struck by, any vehicle other than your covered auto which is owned by or furnished or available for the regular use of any family member. This does not apply to you.
7. Sustained while occupying a vehicle without a reasonable belief that person is entitled to do so.
8. Sustained while occupying a vehicle when it is being used in the business or occupation of a covered person. This does not apply to BI sustained while occupying a private passenger auto; a pickup or van you own; or a trailer used with these vehicles.
9. Caused by or as a consequence of war, insurrection, revolution, nuclear reaction, or radioactive contamination.
10. Sustained while occupying your covered auto while it is rented or leased to others.
11. Sustained while a participant in, or in practice for, any speed contest.

12. Sustained while occupying any auto not owned by, or furnished or available for the regular use of, you or any family member when it is being used to carry persons or property for a fee. However, this exclusion does not apply to a share-the-expense car pool; or you or any family member.

**OTHER INSURANCE**

If there is other applicable auto medical payments insurance we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits. However, any insurance we provide with respect to a vehicle you do not own shall be excess over any other collectible auto insurance providing payments for medical or funeral expenses.

**SPECIAL PROVISIONS**

- A. To establish disability benefits, any person making a claim for income actually lost must submit all income related documents we may reasonably require.

Income will be computed using the monthly rate being earned on the date of the accident and will be paid monthly as loss accrues. If not a salary or other fixed amount, the monthly rate will be the average monthly income actually earned during the twelve months preceding the accident, or during the period the injured person actually was employed if less than twelve months.

- B. If your covered auto and every other motor vehicle you own are within the policy territory referred to in Part E, General Provisions, then coverage under Part B will apply to you and any family member anywhere in the world.
- C. Payment under this Part is not an admission of liability of any person insured under any other part of this policy.

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**PART C -- UNINSURED MOTORISTS COVERAGE** (referred to as UM) and  
**UNDERINSURED MOTORISTS COVERAGE** (referred to as UIM)

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**DEFINITIONS**

- A. Covered person as used in this Part means:

1. You or any family member.
2. Any other person occupying your covered auto, or any other auto operated by you.

3. Any person who is legally entitled to recover damages because of BI to which this coverage applies sustained by a person described in 1. or 2. above.

However, covered person does not include the Government of the United States of America.

**PART C Cont'd.)**

**Uninsured motor vehicle** means a land motor vehicle or trailer of any type:

1. To which no liability bond or policy applies at the time of the accident.
2. To which a liability bond or policy applies at the time of the accident. In this case its limit for bodily injury liability must be less than the minimum limit for liability specified by the Illinois financial responsibility law.
3. Which is a hit and run vehicle. This means a vehicle whose operator or owner cannot be identified and which hits or causes an object to hit you or any family member; a vehicle which you or any family member are occupying; or your covered auto.

If there is no physical contact with the hit-and-run vehicle, the facts of the accident must be proved.

4. To which a liability bond or policy applies at the time of the accident but the bonding or insuring company denies coverage or is or becomes insolvent.

However, uninsured motor vehicle does not include any vehicle or equipment owned by or furnished or available for the regular use of you or any family member unless it is your covered auto to which Part A of the policy applies and liability coverage is excluded for damages sustained in the accident.

**C. Underinsured motor vehicle** means a land motor vehicle or trailer of any type to which a liability bond or policy applies at the time of the accident but its limit for bodily injury liability is less than the limit of liability for this coverage.

However, underinsured motor vehicle does not include an uninsured motor vehicle or any vehicle or equipment owned by or furnished or available for the regular use of you or any family member.

**D. Uninsured motor vehicle and underinsured motor vehicle** do not include any vehicle or equipment:

1. Owned or operated by a self-insurer under any applicable motor vehicle law.
2. Owned by any governmental unit or agency.
3. Operated on rails or crawler treads, except for a snowmobile.
4. Designed mainly for use off public roads while not on public roads.
5. While located for use as a residence.

**E. Tentative settlement** means an offer from the owner or operator of the underinsured motor vehicle to compensate a covered person for damages incurred because of BI sustained in an accident involving the underinsured motor vehicle.

**F. Settlement agreement** means we and a covered person agree that the covered person is legally entitled to recover, from the owner or operator of the underinsured motor vehicle, damages for BI and, without arbitration, agree also as to the amount of damages. Such agreement shall be final and binding regardless of any subsequent judgment, or settlement reached by the covered person with the owner or operator of the underinsured motor vehicle.

**INSURING AGREEMENT**

**A. Uninsured Motorists Coverage.** We will pay compensatory damages which a covered person is legally entitled to recover from the owner or operator of an uninsured motor vehicle because of BI sustained by a covered person and caused by an accident.

The owner's or operator's liability for these damages must arise out of the ownership, maintenance, or use of the uninsured motor vehicle.

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

**B. Underinsured Motorists Coverage.** We will pay compensatory damages which a covered person is legally entitled to recover from the owner or operator of an underinsured motor vehicle because of BI sustained by a covered person and caused by an accident.

The owner's or operator's liability for these damages must arise out of the ownership, maintenance, or use of the underinsured motor vehicle.

We will pay only after the limits of liability under any applicable bodily injury liability bonds or policies have been exhausted by payment of judgments or settlements unless we have been given written notice of a tentative settlement and decide to advance payment to the covered person in an amount equal to that settlement or we and a covered person have reached a settlement agreement.

## (PART C Cont'd.)

## LIMIT OF LIABILITY

A. For BI sustained by any one person in any one accident, our maximum limit of liability for all resulting damages, including, but not limited to, all direct, derivative or consequential damages recoverable by any person, is the limit of liability shown in the Declarations for "each person" for UM Coverage or for UIM Coverage, respectively. Subject to this limit for "each person," the limits of liability shown in the Declarations for "each accident" for UM Coverage or for UIM Coverage is our maximum limit of liability for all damages for BI resulting from any one accident. These limits are the most we will pay regardless of the number of covered persons, claims made, vehicles or premiums shown in the Declarations, or vehicles involved in the accident.

B. For UIM Coverage, except in the event of a settlement agreement, the limit of liability for UIM coverage shall be reduced by all sums paid because of the BI by or on behalf of persons or organizations who may be legally responsible. This includes all sums paid under Part A of this policy.

In the event of a settlement agreement, the maximum limit of liability for this coverage shall be the amount by which the limit of liability for this coverage exceeds the limits of bodily injury liability bonds or policies applicable to the owner or operator of the underinsured motor vehicle.

C. Any amounts otherwise payable for damages under UM Coverage shall be reduced by all sums paid or payable because of the BI under any of the following or similar law:

1. workers' compensation law; or
2. disability benefits law.

D. Any payment under UM Coverage or UIM Coverage will reduce any amount that person is entitled to recover for the same damages under Part A or Part B.

E. For UIM Coverage, no one will be entitled to receive duplicate payments for the same elements of loss.

## EXCLUSIONS

A. We do not provide UM Coverage for BI sustained by any person if that person or the legal representative settles the BI claim without our consent.

B. We do not provide UM Coverage or UIM Coverage for BI sustained by any person:

1. While occupying your covered auto when it is being used to carry persons or property for a fee. This exclusion does not apply to a share-the-expense car pool.
2. Using a vehicle without a reasonable belief that person is entitled to do so.
3. While your covered auto is rented or leased to others.
4. While occupying any vehicle when it is being operated in, or in practice for, any speed contest.
5. While occupying any auto not owned by, or furnished or available for the regular use of, your or any family member when it is being used to carry persons or property for a fee.

However, this exclusion does not apply to a share-the-expense car pool; or you or any family member.

C. UM Coverage or UIM Coverage shall not apply directly or indirectly to the benefit of any insurer or self-insurer under any of the following or similar law:

1. workers' compensation law; or
2. disability benefits law.

D. We do not provide UM Coverage or UIM Coverage for punitive or exemplary damages.

## OTHER INSURANCE

## A. Uninsured Motorists Coverage

If there is other applicable similar insurance available to a covered person under more than one policy or provision of coverage:

1. Any recovery for damages for BI sustained by a covered person may equal but not exceed the higher of the applicable limit for any one vehicle under this insurance or any other collectible insurance.
2. Any insurance we provide with respect to a vehicle you do not own shall be excess over any other collectible insurance.
3. We will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits.

**(PART C Cont'd.)****B. Underinsured Motorists Coverage**

If there is other applicable similar insurance available to a covered person under more than one policy or provision of coverage:

1. Any recovery for damages for bodily injury sustained by a covered person may equal but not exceed the higher of the applicable limit for any one vehicle under this insurance or any other insurance.
2. We will pay only our share of any loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits. However, any insurance we provide with respect to a vehicle you do not own shall be excess over any other collectible insurance.

**ARBITRATION**

If we and a covered person do not agree whether that person is legally entitled to recover damages under this Part, or as to the amount of damages, either party may make a written demand for arbitration. In this event, each party will select an arbitrator. The two arbitrators will select a third. If such arbitrators are not selected within 45 days, either party may request that the arbitration be submitted to the American Arbitration Association.

We will bear all the expenses of the arbitration except when the covered person's recovery exceeds the minimum limit specified in the Illinois safety responsibility law. If this occurs, the covered person will be responsible up to the amount by which the covered person's recovery exceeds the statutory minimum for payment of the covered person's expenses and an equal share of the third arbitrator's expenses.

Unless both parties agree otherwise, arbitration will take place in the county in which the covered person lives. Local rules of law as to procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding as to:

1. Whether the covered person is legally entitled to recover damages; and
2. The amount of damages. This applies only if the amount does not exceed the minimum limit for bodily injury liability specified by Illinois safety responsibility law. If the amount exceeds that limit, either party may demand the right to a trial. This demand must be made within 60 days of the arbitrators' decision. If this demand is not made, the amount of damages agreed to by the arbitrators will be binding.

**PART D - PHYSICAL DAMAGE COVERAGE****DEFINITIONS**

- A. Actual cash value** as used in this Part means the amount which it would cost to replace the stolen or damaged property with new property of like kind and quality, less allowance for depreciation and physical deterioration.
- B. Collision** means the impact with an object and includes upset of a vehicle. Loss caused by the following is covered under Comprehensive Coverage and is not considered collision: fire; missiles or falling objects; hail, water or flood; malicious mischief or vandalism; theft or larceny; riot or civil commotion; explosion or earthquake; contact with bird or animal; windstorm; or breakage of glass. If breakage of glass is caused by a collision you may elect to have it considered a loss caused by collision.
- C. Non-owned vehicle** means any private passenger auto, trailer, pickup, van, or miscellaneous vehicle not owned by, or furnished or available for the regular use of, you or any family member. This applies only when you or a family member have such vehicle in your custody or are operating it. A

non-owned vehicle does not include a temporary substitute vehicle, or any pickup, van or miscellaneous vehicle used in any business or occupation other than farming or ranching.

- D. Your covered auto** as used in this Part includes a non-owned vehicle. If there is a loss to a non-owned vehicle, we will provide the broadest coverage shown in the Declarations.

**INSURING AGREEMENT**

- A. Comprehensive Coverage (excluding collision).** We will pay for direct and accidental loss caused other than by collision to your covered auto, including its equipment, minus any applicable deductible shown in the Declarations.

In addition, we will pay up to \$15 a day, to a maximum of \$450, for transportation expenses incurred by you. This applies only in the event of a total theft of your covered auto. We will pay only transportation expenses incurred during the period beginning 48 hours after the theft and ending when your covered auto is returned to use or we pay for its loss.

**PART D Cont'd.)**

3. **Collision Coverage.** We will pay for direct and accidental loss caused by collision to your covered auto, including its equipment, minus any applicable deductible shown in the Declarations.
- C. **Rental Reimbursement Coverage** (for loss other than total theft). We will reimburse you for expenses you incur to rent a substitute for your covered auto. This coverage applies only if that vehicle is withdrawn from use for more than 24 hours due to a loss covered under Collision Coverage or Comprehensive Coverage other than a total theft of the vehicle. We will pay up to \$15 a day, to a maximum of \$450, until the vehicle is repaired or replaced. Our payment will be limited to that period of time reasonably required to repair or replace your covered auto.
- D. **Towing and Labor Costs Coverage.** We will pay the reasonable costs you incur for one of the following each time your covered auto is disabled:
  1. Mechanical labor up to one hour at the place of breakdown.
  2. Towing, to the nearest place where necessary repairs can be made during regular business hours, if the vehicle will not run or is stranded on or immediately next to a public road.
  3. Delivery of gas, oil, a battery or a change of tire. However, we do not pay for the cost of these items.

**LIMIT OF LIABILITY**

Our limit of liability for loss will be the lesser of the actual cash value of the property or part damaged or stolen, or the amount necessary to repair or replace the property or part.

**PAYMENT OF LOSS**

We may pay for loss in money or repair or replace damaged or stolen property. We may, at our expense, return any stolen property to you or to the address shown in the Declarations. If we return stolen property we will pay for any damage resulting from the theft. We may keep all or part of the property at an agreed or appraised value.

**WAIVER OF COLLISION DEDUCTIBLE**

We will not apply the deductible to loss caused by collision with another vehicle if all of these conditions are met:

1. the loss to your covered auto is greater than the deductible amount; and

2. the owner and driver of the other vehicle are identified; and
3. the owner or driver of the other vehicle has a liability policy covering the loss; and
4. the driver of your covered auto is not legally responsible, in any way, for causing or contributing to the loss.

**EXCLUSIONS**

We will not pay for:

1. Loss to your covered auto which occurs while it is used to carry persons or property for a fee. This does not apply to a share-the-expense car pool.
2. Damage due and confined to wear and tear, freezing, mechanical or electrical breakdown or failure, or road damage to tires. This does not apply if the damage results from the total theft of your covered auto.
3. Loss due to or as a consequence of war, insurrection, revolution, nuclear reaction, or radioactive contamination.
4. Loss to a camper body or trailer you own which is not shown in the Declarations. This does not apply to one you acquire during the policy period and ask us to insure within 30 days after you become the owner.
5. Loss to any custom furnishings or equipment in or upon any pickup or van. Custom furnishings include: special carpeting and insulation, furniture, bars, television receivers, facilities for cooking and sleeping, height-extending roofs, murals, paintings, or other decals or graphics, or other equipment considered extraordinary in comparison to the standard stock vehicle.
6. Loss to any non-owned vehicle or temporary substitute vehicle when used by any person without a reasonable belief that person is entitled to do so.
7. Loss to equipment designed or used for the detection of radar.
8. Loss to any non-owned vehicle arising out of its use by you or a family member while employed or otherwise engaged in auto business operations.
9. Loss to your covered auto while it is rented or leased to others.
10. Loss to any vehicle while it is being operated in, or in practice for, any speed contest.

**PART D Cont'd)**

11. Loss resulting from: the acquisition of a stolen vehicle; or from legal or governmental action to return a vehicle to its legal owner; or confiscation or seizure by governmental authorities.
12. Loss resulting from use in any illicit or prohibited trade or transportation.

**NO BENEFIT TO BAILEE**

This insurance shall not directly or indirectly benefit any carrier or other bailee for hire.

**OTHER INSURANCE**

If other sources of recovery also cover the loss, we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits. However, any insurance we provide with respect to a non-owned vehicle or temporary substitute vehicle will be excess over any other collectible source of recovery including, but not limited to:

1. Any coverage provided by the owner of the non-owned auto or temporary substitute vehicle.
2. Any other applicable physical damage insurance.
3. Any other source of recovery applicable to the loss.

**APPRAISAL**

If we and you do not agree on the amount of loss, either may demand an appraisal. In this event, each party will select a competent appraiser. The two appraisers will select an umpire. The appraisers will state separately the actual cash value and the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will pay its chosen appraiser and share the expenses of the umpire equally. Neither we nor you waive any of our rights under this policy by agreeing to an appraisal.

**PART E - GENERAL PROVISIONS****AIR BAGS**

If an air bag in your covered auto deploys for any reason, we will pay without deductible to replace or repack it.

**BANKRUPTCY**

Bankruptcy or insolvency of the covered person shall not relieve us of any obligations under this policy.

**CHANGES**

- A. The premium is based on information we have received from you and other sources. You agree to cooperate with us in determining if this information is correct and complete. You agree that if this information changes, or is incorrect or incomplete, we may adjust your premiums accordingly during the policy period.
- B. If, during the policy period, the risk exposure changes with regard to any of the following reasons, the necessary premium adjustments will be made effective the date of change in exposure. You agree to give us notice of such exposure changes as soon as is reasonably possible.
  1. Change in location where any vehicle is garaged.

2. Change, addition, or deletion relating to the description, equipment, purchase date, cost, usage, miles driven annually, or operators of any vehicle.
3. Replacement, deletion, or addition of any vehicle. You must request coverage for a newly acquired vehicle within 30 days from the date the vehicle is acquired if you wish to continue any coverage. See Definitions - your covered auto.
4. Change, addition, or deletion relating to the date of birth, marital status, or driving record of any operator.
5. Addition or deletion of an operator.
6. Change, addition, or deletion of any coverage or limits.
- C. Any calculations or adjustments of your premium will be made using the applicable rules, rates, and forms as of the effective date of change.
- D. We may revise the Auto Policy to provide more coverage without additional premium charge. If we do this and you have the coverage which is changed, your policy will automatically provide the additional coverage as of the date the revision is effective in your location. Otherwise, this policy includes all of the agreements between you and us. Its terms may not be changed or waived except by endorsement issued by us.



**PART E Cont'd)****DUTIES AFTER AN ACCIDENT OR LOSS**

We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

- A. We must be notified promptly of how, when, and where the accident or loss happened. Notice should also include the names and addresses of any injured persons and of any witnesses.
- B. A person seeking any coverage must:
  1. Cooperate with us in the investigation, settlement, or defense of any claim or suit.
  2. Promptly send us copies of any notices or legal papers received in connection with the accident or loss.
  3. Submit, as often as we reasonably require:
    - a. to physical exams by physicians we select. We will pay for these exams.
    - b. to examination under oath. The examination must be signed.
  4. Authorize us to obtain medical reports and other pertinent records.
  5. Submit a proof of loss when required by us.
- C. A person seeking UM Coverage must also promptly notify the police if a hit-and-run driver is involved.
- D. A person seeking UM or UIM Coverage must also promptly send us copies of the legal papers if a suit is brought.
- E. A person seeking UIM Coverage must also:
  1. Give us written notice of a tentative settlement and allow us 30 days to advance payment in an amount equal to that settlement to preserve our rights against the owner or operator of the underinsured motor vehicle.
  2. File suit against the owner or operator of the underinsured motor vehicle prior to the conclusion of a settlement agreement. Such suit cannot be abandoned, or settled without giving us written notice of a tentative settlement and allowing us 30 days to advance payment in an amount equal to that settlement to preserve our rights against the owner or operator of the underinsured motor vehicle.

F. A person seeking coverage under Part D - Physical Damage must also:

1. Take reasonable steps after loss to protect your covered auto or any non-owned vehicle and its equipment from further loss. We will pay reasonable expenses incurred to do this.
2. Promptly notify the police if your covered auto or any non-owned vehicle is stolen.
3. Permit us to inspect and appraise the damaged property before its repair or disposal.

**LEGAL ACTION AGAINST US**

- A. No legal action may be brought against us until there has been full compliance with all the terms of this policy. In addition, under Part A, no legal action may be brought against us until we agree in writing that the covered person has an obligation to pay, or the amount of that obligation has been finally determined by judgment after trial.
- B. No person or organization has any right under this policy to bring us into any action to determine the liability of a covered person.

**LOSS PAYABLE CLAUSE**

Loss or damage under this policy shall be paid, as interest may appear, to the named insured and the loss payee shown in the Declarations. This insurance, with respect to the interest of the loss payee, shall not become invalid because of your fraudulent acts or omissions unless the loss results from your conversion, secret retention, or embezzlement of your covered auto. We may cancel the policy as permitted by policy terms and the cancellation shall terminate this agreement as to the loss payee's interest. We will give the same advance notice of cancellation to the loss payee as we give to the named insured shown in the Declarations. When we pay the loss payee we shall, to the extent of payment, be subrogated to the loss payee's rights of recovery.

**MISREPRESENTATION**

We do not provide coverage for any person who has knowingly concealed or misrepresented any material fact or circumstance relating to this insurance:

1. At the time application was made; or
2. At any time during the policy period; or
3. In connection with the presentation or settlement of a claim.

## (PART E Cont'd.)

**OUR RIGHT TO RECOVER PAYMENT**

A. If we make a payment under this policy and the person to or for whom payment was made has a right to recover damages from another, we shall be subrogated to that right. That person shall do whatever is necessary to enable us to exercise our rights and do nothing after loss to prejudice them.

However, these rights do not apply:

1. Under Part C - UIM Coverage, if we have been given written notice of a tentative settlement, and fail to advance payment to the covered person in an amount equal to the tentative settlement within 30 days after receipt of the notice.

If we advance payment to the covered person in an amount equal to the tentative settlement within 30 days after receipt of notification, that payment will be separate from any amount the covered person is entitled to recover under this coverage.

We also have a right to recover advanced payment.

2. Under Part D - Physical Damage Coverage, against any person using your covered auto with a reasonable belief that that person is entitled to do so.

B. If we make a payment under this policy and the person to or for whom payment is made recovers damages from another, that person shall hold in trust for us the proceeds of the recovery and reimburse us to the extent of our payment.

For UIM Coverage, in the event of a settlement agreement, we shall be entitled to a recovery only for amounts which exceed the limit of bodily injury liability bonds or policies applicable to the owner or operator of the underinsured motor vehicle.

**POLICY PERIOD AND TERRITORY**

A. This policy applies only to accidents and losses which occur during the policy period as shown in the Declarations and within the policy territory. The policy territory is the United States of America, its territories or possessions, Puerto Rico, or Canada. This includes transportation of your covered auto between any ports of these locations.

B. The policy territory also includes Mexico, subject to the following limitations:

1. All coverages afforded by the policy are extended to include coverage during trips

into Mexico. This applies only to loss or accident that occurs within 75 miles of the USA border.

2. Any liability coverage afforded by the policy is extended to include the remainder of Mexico, but only if you have valid and collectible liability coverages from a licensed Mexican insurance company at the time of loss. Also, for this Part to be effective, the original liability suit for BI or PD must be brought in the USA.

3. This coverage does not extend:

a. to any covered person who does not live in the USA.

b. to any covered person occupying an auto which is not principally garaged and used in the USA.

c. to any auto which is not principally garaged and used in the USA.

4. The words "state or province" as used in the Out of State Coverage provision in Part A of the policy do not include a "state or province" of Mexico.

5. Losses payable under Part D of the policy will be paid in the USA. If the auto must be repaired in Mexico, our limit of liability will be determined at the nearest point in the USA where repairs can be made.

6. Any insurance we provide will be excess over any other similar valid and collectible insurance.

**TERMINATION**

A. Cancellation. This policy may be cancelled during the policy period as follows:

1. The named insured shown in the Declarations may cancel by returning this policy to us or giving us advance written notice of the date cancellation is to take effect.

2. We may cancel by mailing to the named insured shown in the Declarations at the address last known by us:

a. at least 10 days notice:

if cancellation is for nonpayment of premium.

b. at least 30 days notice in all other cases.

Our notice of cancellation will include a specific explanation of the reason for cancellation.

## (PART E Cont'd.)

3. After this policy is in effect for 60 days, or if this is a renewal or continuation policy, we will cancel only:

- a. for nonpayment of premium; or
- b. If your driver's license or that of:
  - (1) any driver who lives with you; or
  - (2) any driver who customarily uses your covered auto;

has been suspended or revoked. This must have occurred during the 12 month period; immediately preceding the notice of cancellation.

B. **Nonrenewal.** If we decide not to renew or continue this policy, we will mail notice to the named insured shown in the Declarations at the address last known by us. Notice will be mailed at least 30 days before the end of the policy period and will include a specific explanation of the reasons for the nonrenewal.

If this policy has been in effect for 5 years or more, we will only nonrenew or refuse to continue the policy if we mail you notice of our intent 60 days prior to the expiration date; or are otherwise permitted to by Illinois Law.

C. **Automatic Termination.** If we offer to renew or continue and you or your representative do not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that you have not accepted our offer.

If you obtain other insurance on your covered auto, any similar insurance provided by this policy will terminate as to that auto on the effective date of the other insurance.

## D. Other Termination Provisions.

1. Proof of mailing of any notice shall be sufficient proof of notice.
2. If this policy is cancelled, the named insured may be entitled to a premium refund. If so, we will send you the refund. The premium refund, if any, will be computed according to our manuals. However, making or offering to make the refund is not a condition of cancellation.
3. The effective date of cancellation stated in the notice shall become the end of the policy period.

## TRANSFER OF YOUR INTEREST IN THIS POLICY

Your rights and duties under this policy may not be assigned without our written consent. However, if a named insured shown in the Declarations dies, coverage until the end of the policy period will be provided for:

1. The surviving spouse if resident in the same household at the time of death. Coverage applies to the spouse as if a named insured shown in the Declarations; and
2. The legal representative of the deceased person as if a named insured shown in the Declarations. This applies only with respect to the representative's legal responsibility to maintain or use your covered auto.

## TWO OR MORE AUTO POLICIES

If this policy and any other auto insurance policy issued to you by us apply to the same accident, the maximum limit of our liability under all the policies shall not exceed the highest applicable limit of liability under any one policy.

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Page 14 of 14

**AIR BAG AND SEAT BELT BENEFITS ENDORSEMENT**

This modifies Part B - Medical Payments Coverage. The Air Bag and Seat Belt Benefits provision is replaced in its entirety.

**DEFINITIONS**

**Air Bag** means a supplemental passive restraint system commonly referred to as an air bag which is installed by the vehicle manufacturer and which, at the time of the accident, had not been made inoperable through modification, deactivation, disconnection, switching off or prior deployment.

**Beneficiary** means, in order of priority of payment:

1. The surviving spouse if a resident in the same household as the deceased at the time of the accident, or
2. If the deceased is an unmarried minor, either of the surviving parents who had legal custody at the time of the accident, or
3. The estate of the deceased.

**Covered Person** as used in this endorsement means:

1. You or any family member while occupying any auto;
2. Any other person while occupying your covered auto.

**Seat Belt** means manual or automatic safety belts or seat and shoulder restraints or a child restraint device. Both the lap and shoulder restraints must be worn at the time of the accident for coverage to apply. If the covered person is a child, the child restraint device must meet federal motor vehicle safety standards and must be one recommended by its manufacturer as appropriate for use by children of like age and weight. The child must be properly seated and restrained within the device and the device must be attached to the interior of the vehicle in accordance with the manufacturer's instructions.

**INSURING AGREEMENT**

We will provide the benefits described only if, at the time of the accident, Medical Payments Coverage was provided by the policy and the covered person for whom benefits are sought was:

1. Wearing a seat belt, or
2. Wearing a seat belt and occupying a seat in an automobile in which he was protected by an air bag, and

3. Entitled to collect benefits for medical expenses incurred as a result of the accident under the terms of the policy's Medical Payments Coverage.

We will pay a Death Benefit of \$15,000 to the beneficiary of a covered person who dies as the direct result of BI sustained in an automobile accident while wearing a seat belt. We will pay an Additional Death Benefit of \$10,000 to the beneficiary of a covered person who dies as a direct result of BI sustained in an automobile accident while wearing a seat belt and occupying a seat protected by an air bag. In either case, death must occur within three years of the date of the accident.

**LIMIT OF LIABILITY**

The maximum Death Benefit we will pay is \$15,000 for death of any one covered person. The maximum Additional Death Benefit we will pay for death of any one covered person is \$10,000. These amounts are the most we will pay regardless of the number of vehicles to which this coverage applies, the number of coverages or premiums shown in the Declarations, or any other factor.

**EXCLUSIONS**

All the exclusions contained in the policy's Medical Payments Coverage apply.

**OTHER INSURANCE**

The Death Benefit and Additional Death Benefit will be paid in addition to any death benefit payable under the policy's Medical Payments Coverage.

If there are other applicable air bag or seat belt death benefits, the maximum limit of our liability for the death of any one covered person under all such policies shall not exceed \$15,000 for the Death Benefit and \$10,000 for the Additional Death Benefit.

**CONDITIONS**

The coverage provided is subject to all provisions and conditions of the policy's Medical Payments Coverage and to the policy's general conditions, except as specifically modified herein.

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**AUTO INSURANCE RATING FACTORS**

Auto insurance premiums are determined by rating factors developed through many years of experience. Proper application of these factors results in the "FAIR SHARE" premium EACH insured should pay.

Some of the determining factors of the "FAIR SHARE" cost are:

1. EACH OPERATOR'S AGE AND DRIVING EXPERIENCE.
2. EACH OPERATOR'S DRIVING RECORD.
3. TYPE OF VEHICLE BEING INSURED.
4. EACH VEHICLE'S LOCATION.
5. EACH VEHICLE'S USAGE.
6. COVERAGES, LIMITS AND DEDUCTIBLES CARRIED.

**1. OPERATOR AGE AND EXPERIENCE:**

Auto insurance costs are influenced by the driving experience of the operators on the policy. Mature, experienced drivers usually pay less than younger, inexperienced drivers. **OPERATOR DISCOUNTS** may also be available, depending on the state. An accurate rating (proper consideration of all factors) requires that we are advised of all drivers in your household as well as others who regularly operate your autos.

**2. OPERATOR DRIVING RECORD:**

Accidents and moving traffic violation convictions are a fundamental part of premium determination. This is accomplished through the **MERIT RATING PLAN** which details how accidents and convictions affect the premium in each state.

USAA is committed to providing the most preferred rates to those with a clear driving record (approximately 82% of our policyholders), usually defined as no accidents or traffic convictions within the past three years. Preferred rates for the safe driver are made possible by temporarily assessing additional premium to those with recent accidents and convictions. Otherwise, it would be necessary to increase the rates for all policyholders.

We believe most people agree with the principle that the safest drivers should pay the lowest premiums.

**3. TYPE OF VEHICLE:**

Premiums vary according to the year, make, value and performance of each auto insured. Also, premiums are affected by discounts for safety and security features.

**4. VEHICLE LOCATION:**

Insurance costs for an auto are partially determined by where it is garaged. Premiums may **INCREASE OR DECREASE** depending on the location. Please promptly report changes in location to our Policy Service Department at 1-800-531-8111.

**5. VEHICLE USAGE:**

How an auto is used may affect its premium. Generally speaking, the categories are:

**WORK/SCHOOL:** used to go to work, school or carpool.  
**FARM:** used ONLY on a farm or ranch.  
**BUSINESS:** used in pursuing business activities.  
**PLEASURE:** used for pleasure driving (other than work, school, etc.).

**ANNUAL MILEAGE** may also be a factor, depending on the state.

**6. COVERAGES, LIMITS AND DEDUCTIBLES:**

Premiums vary depending on the coverages, limits and deductibles you carry. The important consideration, however, is that you are getting the protection you need. Only then can you experience "PEACE OF MIND" over your insurance matters.

If you have questions or wish to make changes to your policy, please call us at 1-800-531-8111.

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**PLEASE NOTE:** The intentional failure to provide accurate information in order to obtain insurance or to reduce premiums could constitute insurance fraud. Various states have enacted laws requiring insurers to report incidents of suspected fraud. Therefore, it is very important that you communicate with us completely and accurately.

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**Notice to Policyholders in the State of Illinois**

This notice is to advise you that should any complaints arise regarding this insurance, you may contact USAA by writing to:

USAA Group  
9800 Fredericksburg Road  
San Antonio, TX 78288

or you may call:

Policy Service      1-800-531-8111  
Claims                1-800-531-8222

You may also contact the Public Service Division of the Insurance Department at the following address:

Department of Insurance  
Public Service Division  
320 W. Washington St.  
Springfield, IL 62767

## CENTRAL REGION LETTER

Dear Member:

Thank you for placing your confidence in us and choosing USAA as your insurer.

Attached are your policy documents and other helpful information concerning your insurance coverages and premiums. As our policies are written on a family basis, please let us know if the makeup of your household changes in any way.

Please be sure to review the "Important Messages" box on the cover sheet of this packet. Its purpose is to alert you to critical information pertaining to your policy. Following the cover sheet you will find your Declarations Page. This page will show you specifically which coverages you are carrying, as well as the limits of those coverages. Please take a few minutes to review your packet, and then file it with your policy records.

If you would like to discuss any of your policies, please call 1-800-531-8111. To report a loss, please call 1-800-531-8222.

We appreciate your loyal support and we know that your business is important to our continued success.



RUDOLPH OSTOVICH III  
MG, USA Ret.  
Senior Vice President  
Central Region



## TOWING AND LABOR COVERAGE INFORMATION

USAA presently offers Towing and Labor Coverage, which features USAA Roadside Assist. If you already carry our Towing and Labor Coverage on your automobile policy, you automatically have the USAA Roadside Assist feature. Please read the information below for more about our Towing and Labor Coverage and the USAA Roadside Assist feature.

For a nominal premium of \$2 to \$4 per vehicle semi-annually, you can lessen the stress and expense when your vehicle is disabled. Towing and Labor Coverage pays the reasonable costs that you incur for towing or labor each time the covered auto is disabled. This includes, but is not limited to, emergency situations when your vehicle:

- is disabled and needs to be towed,
- has a flat tire,
- runs out of gas,
- has a dead battery,
- is stuck in snow, sand, mud, or similar conditions, or
- when you lock your keys inside the vehicle.

Towing and Labor Coverage pays for up to 1 hour of necessary labor to get your vehicle started at the place of breakdown. If the vehicle will not run, it pays for towing to the nearest qualified repair facility. This coverage does not pay for the cost of repair parts.

The USAA Roadside Assist feature of our Towing and Labor Coverage is a dispatch service that sends a service professional to the location of your vehicle's disablement. Whenever you are in need of emergency roadside assistance, simply call 1-800-531-8555. A service professional will promptly be dispatched to help you get back on the road or provide a tow to the nearest qualified repair facility. This service is available in most locations 24 hours-a-day, 365 days-a-year.

While USAA Roadside Assist is available to all members, if you have our Towing and Labor Coverage, you simply sign the authorization and USAA is billed directly for the service rendered. At the time of disablement, no payment is required of you. However, if you use USAA Roadside Assist and do not have our Towing and Labor Coverage, you will be responsible for the bill.

To order this coverage, just fill out the form below or call us at 1-800-531-8111.

## ORDER FORM

USAA Number \_\_\_\_\_ Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone: Home ( ) \_\_\_\_\_ Office ( ) \_\_\_\_\_

☐ I want Towing & Labor Coverage on all eligible vehicles.

☐ I want Towing & Labor Coverage only on the vehicles listed below:

1. \_\_\_\_\_  
Vehicle Description Vehicle ID Number

2. \_\_\_\_\_  
Vehicle Description Vehicle ID Number

260(01) 1-98

Page 1 of 2

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## A PREMIUM DISCOUNT IS AVAILABLE IF YOU HAVE AN APPROVED ANTI-THEFT DEVICE INSTALLED IN YOUR CAR

The Illinois Department of Insurance has established an Anti-Theft Device Discount Program in an effort to combat auto theft. A premium discount of 5%, 10% or 15% is now allowed for Comprehensive coverage.

The discount is applicable to all private passenger motor vehicles and to pickup trucks that are rated as private passenger vehicles.

To qualify for the discount, the anti-theft device must meet the minimum requirements listed below. The steering column/steering ignition lock which is standard equipment on many vehicles DOES NOT qualify as an anti-theft device.

To apply for the discount, please check the applicable description of the device you have installed in your vehicle. If you have more than one type of anti-theft device installed, only the single highest discount will apply (unless otherwise specified). Complete, sign and return this form.

NOTE: We do not guarantee the safety or effectiveness of any device, nor do we recommend any specific device(s).

### ALARM SYSTEMS

#### DISCOUNT

- 5% ☐ 1. Alarm system triggered when any door, trunk, or hood is opened. Hood must be equipped with lock and latch mechanism or inside hood latch control. Alarm must be under hood and may be armed/disarmed by switch hidden from driver's view or a visible lock-type switch. Maximum time delay to disarm after re-entry is 20 seconds. If equipped with a motion detector, alarm must sound no more than 10 minutes and then reset itself.
- 10% ☐ 2. Alarm system meeting criteria listed in number 1 which is also equipped with a forced action prompter that activates the horn or flashes headlights five minutes (minimum) when ignition key is removed without first setting the alarm.
- 10% ☐ 3. Alarm system meeting criteria listed in number 1 which must be activated automatically when ignition key is turned off and removed. System must also include a motion detection device that cannot be disarmed independently from the remainder of the system, a hood lock and latching mechanism and a separate hidden switch or lock-type switch which makes the ignition or starter system inoperative.
- 15% ☐ 4. Alarm system meeting criteria listed in number 1 which is activated automatically when ignition key is turned off and removed. System must also include a separate hidden switch or lock-type switch which makes the ignition or starter system inoperative. If equipped with a motion detection device which sounds the alarm upon lifting or shaking the auto, provision must be made for separately disarming the motion detector from the remainder of the system.

### IGNITION OR STARTER CUT-OFF SWITCHES

- 5% ☐ 5. Kill switch inserted into ignition wiring. Manually turned on when leaving or off after entering auto. Switch hidden from driver's view unless it is a separately installed lock-type switch.
- 15% ☐ 6. Ignition cut-off system activated automatically when ignition key is turned off and removed. Disconnect/grounding wiring must blend with factory installed wiring. If designed to disable ignition at preset engine speed, device must activate when engine speed is in the range of 1,000 to 1,700 RPM. Disarm switch must be hidden from view unless operated by a separately installed lock. If parking service attendant switch is provided, it must be hidden from view.

### IGNITION REPLACEMENT LOCK

#### DISCOUNT

- 10% ☐ 7. High Security Ignition Replacement Lock which cannot be removed using a conventional slide hammer or lock puller. Replacement lock qualifies for discount in only those vehicles with a metal lock and steering wheel housing.

### FUEL CUT-OFF DEVICES

- 15% ☐ 8. Device blocks fuel line when ignition key is turned to "off." Switch to open fuel line may be key or keyless and must be accessible from driver's seat, if keyless it must be hidden from view. A parking attendant override switch may be included. If so, it must be hidden from view.

NOTE: An electronic keyless device having at least 10,000 combinations may be substituted for a lock-type switch wherever required.

### WINDOW IDENTIFICATION SYSTEM

- 5% ☐ 9. Manufacturer's vehicle identification number etched by sandblasting tool on all windows of vehicle except small vent windows and on or near the front and rear bumpers. Numbers must at least 1/4" in height.

### ADDITIONAL DISCOUNT

- 5% ☐ An additional 5% discount is applicable under certain conditions. If you checked device number 1, 2, 3, 4, 5, 6, 7 or 8 and your vehicle also has the "Window Identification System" (device number 9), an additional 5% discount will be provided - check the box on the left.

- 5% ☐ Also, an additional 5% will be allowed if your vehicle is equipped with a "hood lock and latching mechanism" and is also equipped with a hidden manually operated or separately installed lock-type switch in addition to the primary ignition switch which makes the ignition or starter system inoperative, or, an alarm system. If your vehicle meets this criteria, check the box on the left.

**Application for Anti-Theft Device Discount**

I hereby certify that the anti-theft device installed in the vehicle described below meets the criteria I have checked in all applicable boxes:

Name (Please print in full)		USAA Number	
Vehicle Description (year, model, vehicle ID number)			
Brand Name of Device		Date Installed	Total Cost
Installer's Signature	Date	Insured/Applicant's Signature	Date

## ILLINOIS AUTO INSURANCE

We are pleased to serve your auto insurance needs, and we want to make sure you, your family and guest passengers are getting the coverage you need. In the explanation below, Extended Benefits, Uninsured Motorists, Underinsured Motorists, and Uninsured Motorist Property Damage coverages are discussed. See order form on back for coverages and limits offered.

**A REMINDER**

The information in this form is a brief, general discussion of some available coverages. Optional and mandatory coverages are subject to all the provisions and exclusions contained in your insurance policy. PLEASE READ YOUR POLICY FOR DETAILS OF COVERAGES.

**EXTENDED BENEFITS COVERAGE (EB)**

- is optional and is in addition to Medical Payments (MP) coverage.
- provides a death benefit of \$5,000 per person.
- provides a wage earner disability benefit of 85% of the actual income lost, up to two years, subject to the limit selected.
- provides essential services disability benefits up to \$45 per week for household services for up to two years.

**UNINSURED/UNDERINSURED MOTORISTS COVERAGES (UM/UIM/UMPD)****UNINSURED MOTORISTS BODILY INJURY COVERAGE (UM)**

- UM is mandatory at policy issuance, in limits equal to your Bodily Injury (BI) Liability limits. You can then select any limit down to minimum Financial Responsibility limits but cannot reject UM entirely.
- UM protects if you are injured by an uninsured motorist who is at fault.
- UM protects against injury caused by a hit-and-run driver.
- Once reduced, future renewals will remain the same.

**UNDERINSURED MOTORISTS BODILY INJURY COVERAGE (UIM)**

- UIM is mandatory at policy issuance in limits equal to your Bodily Injury (BI) Liability limits, whenever UM limits exceed the minimum limits required. UIM must be equal to UM, except that UIM is not available at minimum Financial Responsibility limits.
- UIM pays for injury caused by a motorist with liability limits less than your UIM limits and less than the amount of damages you are entitled to recover. His policy pays its limits first, then yours pays the lesser of (1) the excess, if any, of your UIM limits over his liability limits, or (2) any remaining loss. In any event, the combined payments cannot exceed your UIM limits.
- Once reduced, future renewals will remain the same.

**UNINSURED MOTORISTS PROPERTY DAMAGE (UMPD)**

- UMPD is an optional coverage. It is not required to be written on all vehicles on the policy, and cannot be written on a vehicle that has collision coverage. It protects your insured vehicle up to the \$15,000 limit for damage caused by an uninsured driver you can identify. It has a mandatory \$250 deductible, which you pay.

**DETERMINING THE UM/UIM LIMITS YOU NEED**

Consider sources of protection you already have. UM/UIM applies to auto accidents and should be looked upon as supplemental protection to a full-range income protection and medical expense program.

**\* Consider:**

- income continuation benefits and medical care coverage from employment sources.
- the portion of income derived from investments, pensions, and annuities.

\*NOTE: USAA Life Company now offers Income Replacement and Medical Expense Programs in most states. For information, call 1-800-531-8000.

**WE ARE CONVINCED THAT SEAT BELTS USED IN CONJUNCTION WITH AIR BAGS PROVIDE THE BEST PROTECTION AVAILABLE AGAINST SERIOUS INJURY OR DEATH AS THE RESULT OF AN AUTO ACCIDENT. WE URGE YOU TO WEAR SEAT BELTS AND ALWAYS REMEMBER THE SAFEST PLACE FOR CHILDREN 12 AND UNDER IS IN THE BACK SEAT.**

## ORDER/REJECTION FORM

To order or reject coverage, please complete and sign this form. If a current policy is in effect and no changes are desired, no action is required. (Semi-annual premiums are examples for an adult operator in Chicago driving to work, and are subject to change.)

## EXTENDED BENEFITS (EB) AND/OR MEDICAL PAYMENTS (MP) COVERAGES

If EB is desired, MP must also be ordered.

## MEDICAL PAYMENTS: (Limits are per person)

- ☐ \$1,000 - \$7      ☐ \$5,000 - \$19      ☐ \$25,000 - \$32      ☐ \$75,000 - \$38  
☐ \$2,000 - \$12      ☐ \$10,000 - \$25      ☐ \$50,000 - \$36      ☐ \$100,000 - \$40

## EXTENDED BENEFITS: (Includes a \$5,000 Death Benefit)

EB Coverage without Wage-Earner Disability Benefits\*

EB Wage-Earner Disability Benefits Limit\*

- ☐ \$2.00  
☐ \$500 per month\* \$3.00  
☐ \$1,000 per month\* \$3.50  
☐ \$2,000 per month\* \$4.00

\*Regardless of Wage-Earner Option selected, guest passengers/pedestrians are provided up to \$1,000 monthly limit.

## UNINSURED (UM) AND UNDERINSURED (UIM) MOTORISTS BODILY INJURY COVERAGES

NOTE: It is mandatory that UM/UIM limits equal your Bodily Injury (BI) Liability limits, unless you select, or have previously selected, a lower limit from the options shown below. UM/UIM limits may not exceed your BI Liability limits. Your selection of a lower limit is a rejection of UM/UIM at your BI Liability limits and will apply to all subsequent renewals until you request a change in writing. If you do not select a lower limit, you have accepted UM/UIM at your BI Liability limits. To reject the mandatory limits of UM/UIM, check the box next to your selected lower limits from the options shown below.

UM/UIM BODILY INJURY (Limits are Per Person/Per Accident)		UM Each Car	UIM Each Car
(Minimum)	<input type="checkbox"/> \$ 20,000/\$ 40,000	\$12.00	N/A (No UIM Coverage)
<input type="checkbox"/> \$ 25,000/\$ 50,000		\$13.00	\$1.00
<input type="checkbox"/> \$ 50,000/\$ 100,000		\$14.00	<input type="checkbox"/> \$2.00
<input type="checkbox"/> \$ 100,000/\$ 200,000		\$17.00	<input type="checkbox"/> \$3.00
<input type="checkbox"/> \$ 100,000/\$ 300,000		\$17.50	\$3.50
<input type="checkbox"/> \$ 300,000/\$ 500,000		\$20.50	\$4.00
<input type="checkbox"/> \$ 500,000/\$ 500,000		\$21.00	\$4.50
<input type="checkbox"/> \$ 500,000/\$ 1,000,000		\$22.00	\$5.00
<input type="checkbox"/> \$1,000,000/\$ 1,000,000		\$23.00	\$5.50

## UNINSURED MOTORIST PROPERTY DAMAGE (UMPD)

- ☐ \$ 15,000      \$3.00

☐ I request UMPD on the following vehicles that DO NOT have collision coverage:

Vehicle # _____	Vehicle # _____	Vehicle # _____	Vehicle # _____
Year _____	Year _____	Year _____	Year _____
Make _____	Make _____	Make _____	Make _____

☐ I reject UMPD coverage for all vehicles on this policy and all subsequent renewals until I request a change in writing.

Named Insured (signature) \_\_\_\_\_

Date \_\_\_\_\_

If this form is sent by facsimile machine (fax), the sender adopts the document received by USAA as a duplicate original and adopts the signature produced by the receiving fax machine as the sender's original signature.

Telephone \_\_\_\_\_ Home: ( ) \_\_\_\_\_ USAA NUMBER \_\_\_\_\_

Office: ( ) \_\_\_\_\_

999IL CIC(17) Rev. 4-99

Page 2 of 2

12/20/99

**DON'T HAVE AN "IDENTITY CRISIS"**

You must show evidence of Liability Insurance, upon demand, to any law enforcement official of Illinois.

To assist you with this requirement, we have attached an ID Card for each of your motor vehicles insured for liability coverage. Cut out your ID Card and keep it in your motor vehicle at all times. Should you lose your ID Card, contact us and we will issue you another one.

53 IL1 4-89

<b>ILLINOIS INSURANCE CARD</b>	
<b>25968 USAA CASUALTY INSURANCE COMPANY</b>	
The coverage provided by this policy meets the minimum liability limits prescribed by law.	
NAME OF INSURED DANIEL E HESS	
POLICY NUMBER	00847 76 54C 7102 1
EFFECTIVE DATE	01/25/00
EXPIRATION DATE	01/25/01
VEHICLE DESCRIPTION	
YEAR MAKE/MODEL	VEHICLE IDENTIFICATION NUMBER
1995 HONDA	4S6CY58V8S4402012
ILLINOIS LAW REQUIRES	
ID CARD TO BE CARRIED IN THE VEHICLE AT ALL TIMES.	
9800 Fredericksburg Road San Antonio, Texas 78288	
FOR POLICY SERVICE, CALL	
1-800-531-8111	
FOR AUTO/PROPERTY CLAIMS, CALL	
1-800-531-8222	

Examine policy exclusions carefully. This form does not constitute any part of your insurance policy.

**IF YOU ARE INVOLVED IN AN ACCIDENT**

1. Call an ambulance for anyone seriously injured.
2. Secure names and addresses of all persons in the other car.
3. Be sure to obtain names and addresses of all witnesses.
4. Obtain license number and State registration of adverse vehicle.
5. Measure any skid marks made by either vehicle.
6. **DO NOT ADMIT RESPONSIBILITY** nor sign any statement except for the company's claim representative.
7. Comply with State Laws by filing required Motor Vehicle Accident Report and send a copy to the Home Office.
8. **DO NOT DISCLOSE YOUR POLICY LIMITS TO ANYONE.**
9. Report immediately to nearest claims representative or to the Home Office. In case of emergency, **WIRE US COLLECT.**



RR 5820 16 DANIEL HESS  
RENTED: 06/00 23:17 AT DULLES INT'L AIRPORT

EH 01898/5042916 PG 1 OF 3 #01 RT  
J182026

RENTED BY THE  
HERTZ CORPORATION

YOU ARE REQUIRED TO RETURN ON 03/01/00 AT 15:55 TO DULLES INT'L AIRPORT  
YOUR CHARGES WILL BE 30%,  
IF YOU DO NOT RETURN WHEN AND WHERE REQUIRED, HIGHER RATES AND/OR SERVICE CHARGE WILL APPLY.

AT RATES SHOWN BELOW.

RATE PLAN TMDD (T)  
\$ 62.99 PER DAY  
\$ 21.00 PER EX HR

RATE CLASS C  
WITH ALL MILES FREE

DISCOUNT

20 %

YOU AGREE TO THESE ADDITIONAL CHARGES: (T)

00 628 N LIC VAYP2415 MILES OUT 7 CLS YC FUEL OUT 8/8 TK CAP 16.9 STALL F F 117  
YOU HAVE DECLINED FUEL PURCHASE OPTION (FPO) - FUEL & SERVICE CHARGES APPLY AT \$ .175 PER MILE OR \$ 3.84 PER GALLON.

YOU AGREE TO OPTIONAL SERVICES OF:

LDW DECLINED  
LIS DECLINED - HERTZ LIABILITY PROTECTION IS SECONDARY  
PALPEC DECLINED

OTHER FEES AND ASSESSMENTS:

CONCESSION FEE RECOVERY 10.00% (T)  
TAX RATE - 8.000% APPLIES TO ALL CHARGES MARKED (T)

RR 5820 16 DANIEL HESS  
RENTED: 06/00 23:17 AT DULLES INT'L AIRPORT

EH 01898/5042916 PG 2 OF 3 #01 RT  
J182026

RENTED BY THE  
HERTZ CORPORATION

PAID BY VISA XXXXXXXXXX09142< AUTH\$ 193.00/006248

NO "ADDITIONAL AUTHORIZED OPERATORS" WITHOUT HERTZ PRIOR WRITTEN APPROVAL.

CDP 188887 - COMPUCARD TCA

PASSENGER CAPACITY - THE PASSENGER CAPACITY OF THIS VEHICLE IS DETERMINED BY THE NUMBER OF SEATBELTS AND, BY LAW, MUST NOT BE EXCEEDED. WHILE IN THE VEHICLE, PLEASE FASTEN YOUR SEATBELT. IT SAVES LIVES AND IT'S THE LAW. SHOULD YOU REQUIRE A LARGER VEHICLE, PLEASE CHECK AT THE COUNTER FOR AVAILABILITY.

RES: B02210604E6 RATE PLAN: TMDD RATE CLASS: C PREPARED BY: 2913/DCIAD26

RR 5820 16 DANIEL HESS  
RENTED: 06/00 23:17 AT DULLES INT'L AIRPORT

EH 01898/5042916 PG 3 OF 3 #01 RT  
J182026

RENTED BY THE  
HERTZ CORPORATION

By Your declining the optional Liability Insurance Supplement (LIS), Par. 10(b) of the Rental Terms will apply to this rental. By signing below, You agree that any insurance that provides coverage to You or to an Authorized Operator shall be primary. In the event of any claims arising from the operation of the Car, such insurance shall be responsible for the payment of all personal injury and/or property damage claims up to the limits of such insurance.

If You decline Loss Damage Waiver (LDW), which is optional, You may be responsible for any loss or damage to the Car regardless of fault - see Par. 4 of the Rental Agreement Terms And Conditions, which appear on the folder (GN1900005) delivered to You with this Rental Record (the Rental Terms). Coverage for all or part of Your responsibility may be provided by Your own auto insurance or under your credit card agreement. By signing below, You acknowledge that You have read, understand, accept and agree to the above and the Rental Terms, and You accept or decline the Optional Services as shown on Card 1.

x Daniel Hess

### Rental Agreement Terms & Conditions

the terms and conditions, the rental record signed by you and any other persons which you are required to sign when you rent the car, together with the agreement ("This Agreement") for the rental of the vehicle shown on the rental record, including all of its parts ("Car"). The agreement between you and the Hertz Company which is identified on the rental record ("Hertz").

#### NATURE OF THIS AGREEMENT

You are obtaining today a document that allows You to use the Car as permitted by this Agreement. You acknowledge that the Car is owned by Hertz. No one other than Hertz may transfer the Car or any rights or obligations under this Agreement. Any attempted transfer or sublease of the Car by anyone other than Hertz is void. Neither You nor any Authorized Operators are agents of Hertz. No one may service or repair the Car without Hertz's prior express approval. HERTZ MAKES NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR THAT THE CAR IS FIT FOR ANY PARTICULAR PURPOSE.

#### WHO MAY OPERATE THE CAR

Only You and the following persons, with Your permission ("Authorized Operators"), may operate the Car: (a) For rentals commencing in the states of Iowa and Nevada, Your spouse and Your employee, employees and fellow employees incidental to their business duties; (b) on rentals ("Replacement Rentals") which are designated as replacement rentals on the Rental Record, any person specifically named as an insured on Your automobile policy; and (c) on rentals other than Replacement Rentals, any other person who signs an Additional Authorized Operator form at the time of rental or who is authorized under Your Hertz CDP number, if any, shown on the Rental Record. All Authorized Operators are at least 25 years old and must have a valid driver's license from a jurisdiction acceptable to Hertz, except that persons operating the Car in a state (b) above need only be at least 21 years old. Except where necessary for valet parking or in an emergency as required by law, no other persons are permitted to operate the Car, except to persons who must sign an Additional Authorized Operator form, other qualifications may, at Hertz's discretion, be in effect at the time and place of rental and, where permitted by law, Hertz may impose an additional fee for such persons. By operating the Car or not an Additional Authorized Operator form is completed, the Authorized Operator will be deemed jointly and severally responsible for obligations under this Agreement related to the Car, as well as any obligations that this Agreement directly imposes on an Authorized Operator of the Car (for example, the obligations contained in paragraphs 9 and 10(c)).

#### RETURN

ORDINARY WEAR DUE TO REASONABLE USE EXCEPTED, YOU MUST RETURN THE CAR TO HERTZ IN THE SAME CONDITION IT IS IN WHEN YOU RECEIVE IT. YOU MUST RETURN THE CAR TO HERTZ BY THE DUE DATE SPECIFIED ON THE RENTAL RECORD, OR SOONER IF DEMANDED BY HERTZ. IN NO EVENT MAY YOU KEEP THE CAR FOR MORE THAN THIRTY (30) DAYS (IN NEW JERSEY, 28 DAYS), UNLESS AUTHORIZED IN WRITING BY HERTZ. THE CAR WILL REMAIN SUBJECT TO THESE TERMS AND CONDITIONS UNTIL HERTZ HAS INSPECTED AND ACCEPTED IT. IF YOU RETURN THE CAR AFTER HOURS, YOU ARE RESPONSIBLE FOR ANY DAMAGE TO THE CAR UNTIL HERTZ HAS INSPECTED AND ACCEPTED IT ON THE NEXT DAY. THE RETURN LOCATION IS OPEN FOR BUSINESS. IF YOU DO NOT RETURN THE CAR WHEN REQUIRED BY THIS AGREEMENT, THEN HERTZ SENDS YOU A WRITTEN DEMAND TO RETURN IT. SENT TO YOUR ADDRESS SHOWN ON THE RENTAL RECORD OR OTHERWISE PROVIDED TO HERTZ. HERTZ MAY, AT YOUR EXPENSE, RECOVER THE CAR WHERE AND WHEN IT IS FOUND. IF THE CAR IS FOUND ILLEGALLY PARKED OR APPARENTLY ABANDONED, OR IF THE CAR IS USED OR OBTAINED AS PROHIBITED UNDER PARAGRAPH 5, THEN HERTZ MAY RECOVER THE CAR WITHOUT DEMAND, TO THE EXTENT PERMITTED BY LAW. YOU WAIVE ANY RIGHT TO A HEARING OR TO RECEIVE ANY NOTICE OR LEGAL PROCESS AS A PRE-CONDITION FOR HERTZ RECOVERING THE CAR.

#### YOUR RESPONSIBILITY FOR LOSS OF OR DAMAGE TO THE CAR

IF THE CAR IS USED AS PERMITTED BY THE TERMS AND CONDITIONS OF THIS AGREEMENT, THE FOLLOWING APPLIES:

a. EXCEPT AS STATED BELOW, YOU ARE RESPONSIBLE FOR ANY AND ALL LOSS OF OR DAMAGE TO THE CAR RESULTING FROM ANY CAUSE (FOR EXAMPLE: COLLISION, ROLLOVER, THEFT, VANDALISM OR SEIZURE), REGARDLESS OF FAULT, OTHER THAN ACCIDENTAL FIRE (NOT RESULTING FROM COLLISION) OR ACTS OF NATURE OR GOD BEYOND YOUR CONTROL. ACTS OF NATURE OR GOD SHALL BE DEEMED NOT TO INCLUDE COLLISIONS WITH OR CAUSED BY DEER OR OTHER ANIMALS.

b. EXCEPT AS STATED BELOW, YOUR RESPONSIBILITY WILL NOT EXCEED THE GREATER OF THE RETAIL FAIR MARKET VALUE OF THE CAR AND ITS MANUFACTURER BUYBACK PROGRAM VALUE AT THE TIME THE CAR IS LOST OR DAMAGED, LESS ITS SALVAGE VALUE, PLUS ACTUAL TOWING, STORAGE AND IMPOUND FEES, AN ADMINISTRATIVE CHARGE AND A REASONABLE CHARGE FOR LOSS OF USE.

c. YOUR RESPONSIBILITY FOR DAMAGE DUE TO THEFT OR OTHERWISE IS LIMITED BY LAW IN CERTAIN JURISDICTIONS. AS OF SEPTEMBER 1, 2000, THE FOLLOWING LIMITATIONS EXIST:

1) FOR RENTALS COMMENCING IN ILLINOIS, YOUR RESPONSIBILITY FOR CAUSES OTHER THAN THEFT WILL NOT EXCEED \$9,500 THROUGH MAY 31, 2001, WHICH LIMIT WILL INCREASE BY \$500 PER YEAR STARTING JUNE 1, 2001; AND YOUR RESPONSIBILITY FOR THEFT WILL NOT EXCEED \$2,000 UNLESS IT IS ESTABLISHED THAT YOU OR AN AUTHORIZED OPERATOR FAILED TO EXERCISE ORDINARY CARE WHILE IN POSSESSION OF THE CAR OR COMMITTED OR AIDED IN THE COMMISSION OF THE THEFT.

2) FOR RENTALS COMMENCING IN WISCONSIN, (A) YOU ARE NOT RESPONSIBLE FOR ANY DAMAGE TO THE CAR OTHER THAN DAMAGE RESULTING FROM AN ACCIDENT OR CAUSED BY THE WILLFUL, RECKLESS OR WANTON MISCONDUCT OF YOU OR AN AUTHORIZED OPERATOR; AND (B) YOUR RESPONSIBILITY WILL NOT EXCEED THE FAIR MARKET VALUE OF THE CAR IMMEDIATELY BEFORE THE DAMAGE OCCURS, LESS ITS SALVAGE VALUE, PLUS ACTUAL TOWING FEES AND STORAGE FEES FOR NO MORE THAN 2 DAYS.

YOUR RESPONSIBILITY MAY ALSO BE LIMITED IN OTHER JURISDICTIONS.

d. IF YOU HAVE ACCEPTED THE OPTIONAL LOSS DAMAGE WAIVER ("LDW"), WHICH IS NOT INSURANCE, HERTZ WILL NOT HOLD YOU

RESPONSIBLE FOR LOSS OF OR DAMAGE TO THE CAR EXCEPT AS DESCRIBED IN SUBPARAGRAPH 4(e). IF YOU HAVE ACCEPTED THE OPTIONAL PARTIAL DAMAGE WAIVER ("PDW"), WHICH IS NOT INSURANCE AND WHICH IS ONLY AVAILABLE FOR REPLACEMENT RENTALS, HERTZ WILL NOT HOLD YOU RESPONSIBLE FOR LOSS OF OR DAMAGE TO THE CAR EXCEPT AS DESCRIBED IN SUBPARAGRAPH 4(e), UP TO AN AMOUNT EQUAL TO THE LESSER OF \$1,000 AND ANY DEDUCTIBLE UNDER YOUR OWN AUTOMOBILE INSURANCE THAT APPLIES TO THE DAMAGE SUSTAINED BY THE CAR. IF YOU ACCEPT PDW, YOUR INSURER WILL BE BILLED FOR THE FULL AMOUNT OF THE LOSS; ONLY THE APPLICABLE DEDUCTIBLE UNDER YOUR POLICY (UP TO \$1,000) IS WAIVED AFTER THE LOSS IS PAID. IN THOSE STATES WHERE THE SALE OF DAMAGE WAIVERS IS REGULATED OR PROHIBITED, THAT LAW WILL GOVERN YOUR RESPONSIBILITY FOR LOSS OF OR DAMAGE TO THE CAR.

PURCHASE OF LDW OR PDW, WHICH ENTAILS AN ADDITIONAL CHARGE, IS NOT REQUIRED IN ORDER TO RENT A CAR AND MAY BE DECLINED. YOUR OWN INSURANCE (OR THAT OF AN AUTHORIZED OPERATOR) MAY COVER ALL OR PART OF YOUR FINANCIAL RESPONSIBILITY (OR THAT OF THE AUTHORIZED OPERATOR) FOR LOSS OF OR DAMAGE TO THE CAR. BEFORE DECIDING WHETHER TO PURCHASE LDW OR PDW, YOU ARE ADVISED TO CONSULT WITH YOUR INSURER AND/OR EXAMINE YOUR AUTOMOBILE INSURANCE POLICY AND THAT OF ANY AUTHORIZED OPERATOR TO DETERMINE WHETHER THE POLICY AFFORDS COVERAGE FOR LOSS OF OR DAMAGE TO A RENTED VEHICLE, AND, IF SO, THE TERMS AND SCOPE OF SUCH COVERAGE, INCLUDING THE AMOUNT OF THE DEDUCTIBLE AND ANY OTHER LIMITATIONS AND EXCESSES. YOU ARE ALSO ADVISED TO DETERMINE WHETHER SUCH COVERAGE IS PROVIDED UNDER THE AGREEMENT REGARDING THE CREDIT CARD WHICH IS USED TO PAY FOR THE RENTAL OR FROM ANY OTHER SOURCE AND, IF SO, THE TERMS AND SCOPE OF SUCH COVERAGE.

e. USE OF THE CAR IN A MANNER PROHIBITED IN PARAGRAPH 5 WILL, TO THE EXTENT PERMITTED BY APPLICABLE LAW, VOID LDW AND PDW AND CAUSE YOU TO BE RESPONSIBLE FOR LOSS OF OR DAMAGE TO THE CAR RESULTING FROM THAT PROHIBITED USE.

#### 5. PROHIBITED USE OF THE CAR NEITHER YOU NOR ANY AUTHORIZED OPERATOR MAY:

a. PERMIT THE USE OF THE CAR OTHER THAN YOU OR AN OPERATOR;

b. INTENTIONALLY DESTROY OR AID IN THE THEFT OF THE CAR;

c. TAKE OR ATTEMPT TO TAKE THE CAR INTO MEXICO OR TO ANY OUTSIDE OF THE UNITED STATES, CANADA, EXCEPT AS PERMITTED UNDER "AGRI";

d. ENGAGE IN ANY UNLAWFUL MISCONDUCT, WHICH, AMONG OTHER THINGS, MAY INCLUDE CONDUCT SUCH AS: THE FAILURE TO WEAR SEAT BELTS, THE FAILURE TO SECURE CHILD SEATS OR OTHER CHILD WHERE LEGALLY REQUIRED, OVERLOADED, USE OFF PAVEMENT ON ROADS WHICH ARE NO LONGER MAINTAINED, OR LEAVING IT FAILING TO REMOVE THE CLOSURE AND LOCK ALL WINDOWS OR THE TRUNK AREA VANDALIZED OR STOLEN;

e. USE OR PERMIT THE USE OF THE CAR BY ANYONE:

1) WHILE LEGALLY INTOXICATED UNDER THE INFLUENCE OF DRUGS OR OTHER ELEMENTS WHICH MAY AFFECT A PERSON'S ABILITY TO DRIVE SAFELY;

2) FOR ANY PURPOSES NOT PROPERLY BEING USED, SUCH AS THE ILLEGAL TOWING OF PERSONS, CONTRABAND;

3) TO TOW OR PUSH ANY VEHICLE;

4) IN A SPEED TEST, SPEED RACE, RALLY, SPEED CONTEST OR DEMONSTRATION;

5) IN DRIVER TRAINING ACROSS COUNTRY;

6) TO CARRY PERSONS OR THINGS FOR HIRE (I.E., FOR A CHARTER);

7) IF THE CAR HAS BEEN PRESENTED BY FRAUD OR FOR A PURPOSE OTHER THAN THAT FOR WHICH IT WAS RENTED;

8) TO CARRY EXPLOSIVES OR RADIOACTIVE MATERIAL.

Reproducible

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CHARGE OF LDW OR PDW, WHICH ENTAILS ADDITIONAL CHARGE, IS NOT REQUIRED IN ORDER TO RENT A CAR AND MAY BE ADDED. YOUR OWN INSURANCE (OR THAT OF AN AUTHORIZED OPERATOR) MAY COVER ALL OR PART OF YOUR FINANCIAL RESPONSIBILITY (OR THAT OF THE AUTHORIZED OPERATOR) FOR LOSS OF OR DAMAGE TO THE CAR BEFORE DECIDING WHETHER TO CHOOSE LDW OR PDW, YOU ARE ADVISED TO CONSULT WITH YOUR INSURER AND/OR EXAMINE YOUR AUTOMOBILE INSURANCE POLICY AND THAT OF ANY AUTHORIZED OPERATOR TO DETERMINE WHETHER THE POLICY AFFORDS COVERAGE FOR LOSS OF OR DAMAGE TO A RENTED VEHICLE, AND, IF SO, THE TERMS AND SCOPE OF SUCH COVERAGE, INCLUDING THE AMOUNT OF THE DEDUCTIBLE AND ANY OTHER LIMITATIONS AND EXCESSES. YOU ARE ALSO ADVISED TO DETERMINE WHETHER SUCH COVERAGE IS PROVIDED UNDER THE AGREEMENT REGARDING THE REDUIT CARD WHICH IS USED TO PAY FOR THE RENTAL OR FROM ANY OTHER SOURCE AND, IF SO, THE TERMS AND SCOPE OF SUCH COVERAGE.

USE OF THE CAR IN A MANNER PROHIBITED IN PARAGRAPH 5 WILL, TO THE EXTENT PERMITTED BY APPLICABLE LAW, VOID LDW AND PDW AND CAUSE YOU TO BE RESPONSIBLE FOR LOSS OF OR DAMAGE TO THE CAR RESULTING FROM THAT PROHIBITED USE.

##### 5. PROHIBITED USE OF THE CAR NEITHER YOU NOR ANY AUTHORIZED OPERATOR MAY:

- PERMIT THE USE OF THE CAR BY ANYONE OTHER THAN YOU OR AN AUTHORIZED OPERATOR;
- INTENTIONALLY DESTROY, DAMAGE OR AID IN THE THEFT OF THE CAR;
- TAKE OR ATTEMPT TO TAKE THE CAR INTO MEXICO OR TO ANYWHERE ELSE OUTSIDE OF THE UNITED STATES OR CANADA, EXCEPT AS EXPRESSLY PERMITTED UNDER THIS AGREEMENT;
- ENGAGE IN ANY WILLFUL OR WANTON MISCONDUCT, WHICH, AMONG OTHER THINGS, MAY INCLUDE RECKLESS CONDUCT SUCH AS: THE FAILURE TO USE SEAT BELTS, THE FAILURE TO USE CHILD SEATS OR OTHER CHILD RESTRAINTS WHERE LEGALLY REQUIRED, USE WHEN OVERLOADED, USE OFF PAVED ROADS OR ON ROADS WHICH ARE NOT REGULARLY MAINTAINED, OR LEAVING THE CAR AND FAILING TO REMOVE THE KEYS OR TO CLOSE AND LOCK ALL DOORS, CAR WINDOWS OR THE TRUNK AND THE CAR IS VANDALIZED OR STOLEN;
- USE OR PERMIT THE USE OF THE CAR BY ANYONE:

- WHILE LEGALLY INTOXICATED OR UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR OTHER ABSORBED ELEMENTS WHICH MAY ADVERSELY AFFECT A PERSON'S ABILITY TO DRIVE SAFELY;
- FOR ANY PURPOSE THAT COULD PROPERLY BE CHARGED AS A CRIME, SUCH AS THE ILLEGAL TRANSPORTATION OF PERSONS, DRUGS, OR CONTRABAND;
- TO TOW OR PUSH ANYTHING;
- IN A SPEED TEST, SPEED CONTEST, RACE, RALLY, SPEED ENDURANCE CONTEST OR DEMONSTRATION;
- IN DRIVER TRAINING ACTIVITY;
- TO CARRY PERSONS OR PROPERTY FOR HIRE (I.E., FOR A CHARGE OR FEE);
- IF THE CAR HAS BEEN OBTAINED FROM HERTZ BY FRAUD OR MISREPRESENTATION; OR
- TO CARRY EXPLOSIVES OR TO CARRY RADIOACTIVE MATERIAL INCLUDING,

CHARGES FOR ADDITIONAL SERVICES, such as Portable Phone Services, Hertz's NextLink (In-Car Navigation System), ski racks and infant and toddler car seats, if applicable, will be charged at the applicable rates specified on the Rental Record.

ANY OTHER CHARGES specified on the Rental Record will be charged at the applicable rates specified on the Rental Record.

##### 8. REFUELING OPTIONS

Most Hertz rentals come with a full tank of gas, but that is not always the case. There are three refueling options:

(1) IF YOU DO NOT PURCHASE FUEL FROM HERTZ AT THE BEGINNING OF YOUR RENTAL AND YOU RETURN THE CAR WITH AT LEAST AS MUCH FUEL AS WAS IN IT WHEN YOU RECEIVED IT, YOU WILL NOT PAY HERTZ A Fuel and Service Charge.

(2) IF YOU DO NOT PURCHASE FUEL FROM HERTZ AT THE BEGINNING OF YOUR RENTAL AND YOU RETURN THE CAR WITH LESS FUEL THAN WAS IN IT WHEN YOU RECEIVED IT, Hertz will charge You a Fuel and Service Charge at the applicable per-mile or per-gallon rate specified on the Rental Record.

(a) The per-mile rate is used if You do not buy fuel during the rental. To calculate this amount, Hertz multiplies the number of miles driven, as shown on the car's odometer, times the per-mile rate shown on the Rental Record.

(b) The per-gallon rate is used if You buy fuel during the rental but the tank is not as full when You return the Car as when You received it. To calculate this amount, Hertz multiplies the number of gallons needed to refill the fuel tank to the level it was at when You received the Car, times the per-gallon rate.

ALTHOUGH TWO METHODS ARE USED FOR EASE OF CALCULATION, THE PER-MILE AND PER-GALLON RATES PRODUCE APPROXIMATELY THE SAME RESULT.

(3) IF YOU CHOOSE TO PURCHASE FUEL FROM HERTZ AT THE BEGINNING OF YOUR RENTAL BY SELECTING THE FUEL PURCHASE OPTION, You will be charged as shown on the Rental Record for that purchase. IF YOU CHOOSE THIS OPTION, YOU WILL NOT INCUR AN ADDITIONAL FUEL AND SERVICE CHARGE, BUT YOU WILL NOT RECEIVE ANY CREDIT FOR FUEL LEFT IN THE TANK AT THE TIME OF RETURN. For rentals in Hawaii, if You return the Car with a full tank of fuel, You will receive a credit for the amount previously charged for the purchase of fuel from Hertz. For rentals other than Replacement Rentals (and for all rentals in Hawaii), if You drive the Car 100 miles or less and return it with less than a full tank of fuel, You will receive credit for the purchase of fuel from Hertz and will be charged for the fuel used.

EXCEPT FOR RENTALS AS TO WHICH THE FINAL SENTENCE OF CLAUSE (3) BECOMES APPLICABLE, THE PER GALLON COST OF THE FUEL PURCHASE OPTION WILL ALWAYS BE LOWER THAN THE FUEL AND SERVICE CHARGE. BUT IF YOU SELECT THE FUEL PURCHASE OPTION YOU WILL NOT RECEIVE CREDIT FOR FUEL LEFT IN THE TANK AT THE TIME OF RETURN. THE COST OF REFUELING THE CAR YOURSELF AT A LOCAL SERVICE STATION WILL GENERALLY BE LOWER THAN THE FUEL AND SERVICE CHARGE OR THE FUEL PURCHASE OPTION. HOWEVER, THE FUEL AND SERVICE CHARGE AND THE FUEL PURCHASE OPTION ALLOW FOR THE CONVENIENCE OF NOT HAVING TO STOP AND REFUEL THE CAR PRIOR TO RETURN.

9. RESPONSIBILITY FOR PROPERTY DAMAGE  
YOU AGREE THAT HERTZ IS NOT RESPONSIBLE TO YOU, ANY AUTHORIZED OPERATORS OR ANYONE ELSE FOR ANY LOSS OF OR DAMAGE TO YOUR OR THEIR PERSONAL PROPERTY CAUSED BY YOUR OR THEIR ACTS OR OMISSIONS, THOSE OF ANY THIRD PARTY OR TO THE EXTENT PERMITTED BY LAW, BY HERTZ'S NEGLIGENCE. YOU AND ANY AUTHORIZED OPERATORS HEREBY WAIVE ANY CLAIM AGAINST HERTZ, ITS AGENTS OR EMPLOYEES, FOR LOSS OF OR DAMAGE TO YOUR OR ANYONE ELSE'S PERSONAL PROPERTY, WHICH INCLUDES: WITHOUT LIMITATION, PROPERTY LEFT IN ANY HERTZ VEHICLE OR THOUGHT ON HERTZ'S PREMISES, CAUSED BY YOU OR ANY AUTHORIZED OPERATORS, BY ANY THIRD PARTY OR, TO THE EXTENT PERMITTED BY LAW, BY HERTZ'S NEGLIGENCE. WHETHER IN WHOLE OR IN PART, YOU AND ANY AUTHORIZED OPERATORS AGREE TO INDEMNIFY AND HOLD HERTZ HARMLESS FROM ANY CLAIM AGAINST HERTZ FOR LOSS OF OR DAMAGE TO PERSONAL PROPERTY THAT IS CONNECTED WITH ANY RENTAL UNDER THIS AGREEMENT.

##### 10. LIABILITY PROTECTION

THE FOLLOWING SUBPARAGRAPH (a) APPLIES IF THE PROVISIONS OF YOUR ODP NUMBER SHOWN ON THE RENTAL RECORD, IF ANY, OR IN THE CASE OF A REPLACEMENT

RENTAL, THE APPLICABLE CONTRACT, IF ANY, BETWEEN HERTZ AND THE AUTOMOBILE INSURER WHICH IS RESPONSIBLE FOR DAMAGE TO OR LOSS OF YOUR VEHICLE (A "RESPONSIBLE INSURER"), INCLUDE THE EXTENSION BY HERTZ OF LIABILITY PROTECTION.

a. WITHIN THE LIMITS STATED IN THIS SUBPARAGRAPH, HERTZ WILL INDEMNIFY, HOLD HARMLESS, AND DEFEND YOU AND ANY OTHER AUTHORIZED OPERATORS FROM AND AGAINST LIABILITY TO THIRD PARTIES, WHICH BY DEFINITION EXCLUDES ANY OF YOUR OR ANY AUTHORIZED OPERATORS' FAMILY MEMBERS RELATED BY BLOOD, MARRIAGE OR ADOPTION RESIDING WITH YOU OR THEM, FOR BODILY INJURY (INCLUDING DEATH) AND PROPERTY DAMAGE, IF THE ACCIDENT RESULTS FROM THE USE OF THE CAR AS PERMITTED BY THIS AGREEMENT. THE LIMITS OF THIS PROTECTION, INCLUDING OWNERS' LIABILITY, ARE THE SAME AS THE MINIMUM LIMITS REQUIRED BY THE AUTOMOBILE FINANCIAL RESPONSIBILITY LAW OF THE JURISDICTION IN WHICH THE ACCIDENT OCCURS, UNLESS HIGHER LIMITS APPLY FOR THE COP NUMBER OR RATE PLAN SHOWN ON THE RENTAL RECORD. IF ANY, OR, IN THE CASE OF A REPLACEMENT RENTAL, THE APPLICABLE CONTRACT BETWEEN HERTZ AND THE RESPONSIBLE INSURER, IF ANY. THESE LIMITS MAY NOT BE ADEQUATE TO FULLY COVER YOUR LIABILITY IN THE EVENT THAT YOU ARE INVOLVED IN AN ACCIDENT. THIS PROTECTION WILL CONFORM TO THE BASIC REQUIREMENTS OF ANY APPLICABLE MANDATORY "NO FAULT" LAW BUT DOES NOT INCLUDE "UNINSURED MOTORIST," "UNDERINSURED MOTORIST," "SUPPLEMENTARY NO FAULT" OR ANY OTHER OPTIONAL COVERAGE TO THE EXTENT PERMITTED BY LAW. HERTZ AND YOU HEREBY WAIVE AND REJECT THE INCLUSION OF ANY SUCH PROTECTION. If such protection is imposed by operation of law, then the limits of such protection will be the minimum required for primary liability protection by the law of the jurisdiction in which the accident occurs. Hertz warrants that the protection described in this subparagraph is primary with respect to any insurance coverage which you or an Authorized Operator may have.

THE FOLLOWING SUBPARAGRAPH (b) APPLIES FOR ALL RENTALS OTHER THAN THOSE NOTED IN SUBPARAGRAPH (a). b. IF YOU DO NOT PURCHASE LIABILITY INSURANCE SUPPLEMENT (US) (A SUMMARY OF US COVERAGE APPEARS BELOW) AT THE COMMENCEMENT OF THE RENTAL AND AN ACCIDENT RESULTS FROM THE USE OF THE CAR, YOUR INSURANCE AND THE INSURANCE OF THE OPERATOR OF THE CAR WILL BE PRIMARY. THIS MEANS THAT HERTZ WILL NOT GRANT ANY DEFENSE OR INDEMNITY PROTECTION UNDER THIS PARAGRAPH IF EITHER YOU OR THE OPERATOR OF THE CAR ARE COVERED BY ANY VALID AND COLLECTIBLE AUTOMOBILE LIABILITY INSURANCE, WHETHER PRIMARY, EXCESS OR CONTINGENT, WITH LIMITS AT LEAST EQUAL TO THE MINIMUM REQUIRED BY THE APPLICABLE STATE FINANCIAL RESPONSIBILITY LAW. IF NEITHER YOU NOR THE OPERATOR OF THE CAR HAVE SUCH INSURANCE, HERTZ WILL GRANT YOU AND ANY AUTHORIZED OPERATOR OF THE CAR LIMITED PROTECTION UNDER THE TERMS AND CONDITIONS STATED IN SUBPARAGRAPHS 10(a) AND 10(d).

FOR RENTALS COMMENCING IN FLORIDA: Florida law requires Hertz liability protection and personal injury protection to be primary unless otherwise stated. Therefore, Hertz hereby informs you that the valid and collectible liability insurance and personal injury protection of you or any Authorized Operator is primary for the limits of liability and personal injury protection coverage required by ss.324.021 (7) and 627.730, Florida statutes, unless your COP number or rate plan includes the extension by Hertz of liability protection or you accept the optional US. Primary insurance means that, in the event of a covered loss, your insurance or that of the Authorized Operator would be responsible for the payment of personal injury or property damage claims up to the limits of that insurance.

c. YOU AND ALL OPERATORS WILL INDEMNIFY AND HOLD HERTZ, ITS AGENTS, EMPLOYEES AND AFFILIATES HARMLESS FROM AND AGAINST ANY AND ALL LOSS, LIABILITY, CLAIM, DEMAND, CAUSE OF ACTION, ATTORNEY'S FEES AND EXPENSES OF ANY KIND (A "LOSS") IN EXCESS OF THE LIMITS STATED HEREIN OR BEYOND THE SCOPE OF THE PROTECTION PROVIDED FOR HEREIN, IF ANY, ARISING FROM THE USE OR POSSESSION OF THE CAR BY YOU OR ANY OTHER OPERATOR(S) WITH YOUR, HIS OR HER PERMISSION, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES INCURRED BY HERTZ TO ENFORCE ANY OF ITS RIGHTS HEREUNDER, UNLESS SUCH LOSS ARISES OUT OF HERTZ'S SOLE

#### NEGLIGENCE.

d. The Car may not be driven into Mexico without first obtaining specific written permission from Hertz, which permission may be withheld in Hertz's sole discretion. If permitted, You must first obtain through Hertz Insurance valid in Mexico. Hertz does not provide any liability protection with this Agreement while a Car is in Mexico.

#### 11. ACCIDENTS, THEFT AND VANDALISM

You must promptly and properly report any accident, theft or vandalism involving the Car to Hertz and to the police in the jurisdiction in which such incident takes place. You should obtain details of witnesses and other vehicles involved and their drivers, owners and relevant insurance coverages whenever possible. If you or any Authorized Operator receive any papers relating to such an incident, those papers must be promptly given to Hertz. You and any Authorized Operator must cooperate fully with Hertz's investigation of such incident and defense of any resulting claim. FAILURE TO COOPERATE FULLY - MAY INVOID ALL LIABILITY PROTECTION, PAYPEC, US, LDW AND PDW. You and any Authorized Operator authorize Hertz to obtain any records or information relating to any incident, consent to the jurisdiction of the jurisdiction in which the incident occurs and waive any right to object to such jurisdiction.

#### 12. LIMITS ON LIABILITY

a. Hertz will not be liable to you or any Authorized Operator for any indirect, special or consequential damages (including lost profits) in any way out of any matter covered by this Agreement.

b. You understand and agree that it is improper for you to use a lawsuit concerning this Agreement against any entity other than Hertz.

#### 13. PARKING AND TRAFFIC VIOLATIONS/TOLLS/PRIVACY/LIMITED POWER OF ATTORNEY

a. You will be responsible for and pay all parking or traffic violation fines and penalties, all towing, storage and impoundment fees, and all tolls charged to the Car, arising out of use, possession or operation of the Car by you or with your permission. You agree to pay same and indemnify and hold Hertz harmless if Hertz pays or is required to pay same. You also agree to reimburse Hertz for all its related collection and other expenses, including an administrative fee related to the cost of collection or to the cost of providing information about you to a court or governmental agency in connection with any parking or traffic violations. For rentals in Hawaii, the amount of the administrative fee which you will be charged if Hertz is required to pay such a parking citation is \$10.00 per citation; to avoid this, you are encouraged to pay all parking citations promptly and directly to the court.

b. You and any other Authorized Operator authorize Hertz to release to any court or governmental agency any information relating to any person who uses the Car during the rental.

c. You grant Hertz a limited Power of Attorney to present claims for damage to or loss of the Car to your insurance carrier.

#### 14. WAIVER OR CHANGE OF TERM/GOVERNING LAW

a. No term of this Agreement may be waived or changed except by a writing signed by an expressly authorized representative of Hertz. Rental representatives are not authorized to waive or change any term of this Agreement.

b. This Agreement shall be governed by the substantive law of the jurisdiction in which the rental commences, without giving effect to the choice of law rules thereof.

#### SUMMARY OF OPTIONAL SERVICES

THIS IS A SUMMARY ONLY AND IS SUBJECT TO THE PROVISIONS, LIMITATIONS AND EXCEPTIONS OF THE LIABILITY INSURANCE SUPPLEMENT, PERSONAL ACCIDENT AND PERSONAL EFFECTS INSURANCE POLICIES (WHICH ARE AVAILABLE FOR INSPECTION UPON REQUEST), AND THIS AGREEMENT.

The insurance coverages offered by HERTZ (US and PAYPEC) may provide a duplication of coverage already provided by a renter's personal automobile insurance policy or by another source of coverage. The purchase of these kinds of coverage is not required in order to rent a Car.

#### LIABILITY INSURANCE SUPPLEMENT (US) SUMMARY OF COVERAGE

##### COVERAGE

If you elect to purchase US, coverage will be provided to you and any Authorized Operator under an excess automobile liability insurance policy issued to Hertz.

##### LIMITS

US provides protection from third-party automobile liability claims for the difference between the liability protection limits provided under Paragraph 10 and a maximum combined single limit of One Million (\$1,000,000) Dollars for bodily injury, including death, and property damage. US also provides uninsured and underinsured motorist coverage for bodily injury

## Stress Management

## Stimulus

all exclusions, including claims arising from use of the Car as prohibited by this Agreement and claims by any of You or any Authorized Operator's family members related by blood, marriage or adoption who resides with You or the Authorized Operator, are set forth in the applicable policy, a copy of which is available upon request.

**HOW TO OBTAIN DECLINE COVERAGE**

If You accept LBS on the Rental Record, coverage will be provided during the rental period. The daily charge for LBS, which appears on the Rental Record, is due for each full or partial rental day.

## PERSONAL ACCIDENT INSURANCE (PAI) AND PERSONAL EFFECTS COVERAGE (PEC): SUMMARY OF COVERAGE

**HOW TO OBTAIN PAIPEC COVERAGE**  
If You except PAIPEC on the Rental Record, coverage will be provided during the rental period. The daily charge for PAIPEC, which appears on the Rental Record, is due for each full or partial rental day. Coverage will be provided under a policy issued to Hertz.

### PERSONAL ACCIDENT INSURANCE (PAI):

**Coverage and Benefits**  
The PAF policies provide coverage for death directly caused by an accident independent of all other causes. The benefit will be covered for any such accident during the policy period; passengers will also be covered, but only for accidents occurring while in, entering or exiting the Car. Benefits include PAF death benefits of \$175,000 for the member and \$17,500 per passenger; PAF also provides limited coverage for medical and ambulance expense. Benefits for any one accident are limited to \$250,000. These benefits are payable to the beneficiary of the member's life insurance policy. Coverage is subject to various exclusions, terms and other insurance policy. Coverage is subject to various exclusions, terms and other insurance policy.

**Exclusions**

PAU insurance excludes coverage for injury or death resulting from use of the Car in Violation of this Agreement and also for injury or death which (a) is intentionally self-inflicted; (b) results from alcohol banquet; (c) results from commissioning or attempting to commit an assault or felony; (d) results from intoxication or narcosis unless administered on the orders of a physician; or (e) results from suicide or attempted suicide while a motorist or occupant.

## National Oil Change

In the event of any circumstance likely to result in a claim by PAU Insurance, beneficiaries within nation should be given to Hertz. Hertz will provide You with a claim form and the address of the insurance company which to providing coverage. You will have to submit the claim form to the insurance company together with New Rental Record.

**PERIODIC COVERED BY:**

**Coverage**  
Coverage is provided for loss of or damage to covered personal effects owned by any covered person while such personal effects are in transit or in any hotel or other building or on a motor vehicle or in the car. In any hotel or other building, coverage is limited to \$10,000.

### Converted Parasites

**You and members of Your immediate family traveling with You during a trip using the Car who permanently reside in the same Household with You are covered. If You exceed PAIRED.**

**Autobio**

Maximum coverage during each covered period is \$500 for each covered person, per occurrence. Total benefits in any covered period are limited to \$1,500.

**Enckelmeier**

[illegible]

## Notice Of Claim

In the event of any occurrence likely to result in a claim for PEG benefits, immediate written notice should be given to Hertz. Hertz will provide You with a claim form and the address of insurance company which is providing coverage.

**WARNING: YOU MUST REMOVE KEYS, LOCK ALL DOORS, CLOSE ALL CAR WINDOWS AND THE TRUNK WHEN LEAVING THE CAR OR FEELING UNCOMFORTABLE. IN ANY CASE YOU WILL BE RESPONSIBLE FOR ANY LOSS.**

COMMONWEALTH OF VIRGINIA



Division of Motor Vehicles  
Self-Insurer Certificate

*This is to Certify:*

THE HERTZ CORPORATION

*has been approved as a SELF-INSURER under the Virginia Motor Vehicle Safety Responsibility Act, and assigned number SI 82 by the Commissioner of the Division of Motor Vehicles. This number is to be stamped on all accident reports filed.*

*This approval effective March 6, 1961 and may, upon due notice and hearing, be cancelled at the will of the Commissioner.*

*In Testimony Whereof, I have hereunto subscribed my name at Richmond, this 6th day of March in the year of our Lord, one thousand nine hundred and sixty-one.*

Commissioner

DIVISION OF MOTOR VEHICLES

53

ENGAD-Bayonne, N. J.

EXHIBIT



NINETEENTH JUDICIAL CIRCUIT OF VIRGINIA

Fairfax County Judicial Center  
4110 Chain Bridge Road  
Fairfax, Virginia 22030-4009

(703) 248-2221

Fax: (703) 385-4432

COUNTY OF FAIRFAX

CITY OF FAIRFAX

F. BRUCE BACH  
MICHAEL P. McWEENY  
MARCUS D. WILLIAMS  
STANLEY P. KLEIN  
ROBERT W. WOOLDRIDGE, JR.  
ARTHUR B. VIEREGG  
JANE MARUM ROUSH  
M. LANGHORNE KEITH  
DENNIS J. SMITH  
DAVID T. STITT  
LESLIE M. ALDEN  
KATHLEEN H. MACKAY  
JONATHAN C. THACHER  
HENRY E. HUDSON  
R. TERRENCE NEY  
JUDGES

JAMES KEITH  
LEWIS D. MORRIS  
BURCH MILLSAP  
BARNARD F. JENNINGS  
WILLIAM G. PLUMMER  
THOMAS J. MIDDLETON  
THOMAS A. FORTKORT  
QUINLAN H. HANCOCK  
RICHARD J. JAMBORSKY  
JACK B. STEVENS  
J. HOWE BROWN  
RETIRED JUDGES

April 8, 2002

Richard A. Yeagley, Esquire  
Siciliano, Ellis, Dyer & Boccarosse  
10521 Judicial Drive, Suite 300  
Fairfax, Virginia 22030

Robert L. Garnier, Esquire  
Garnier & Garnier, P.C.  
109 Rowell Court  
Falls Church, Virginia 22046

Re: *USAA Casualty Insurance Company v. The Hertz Corporation, et al.*  
In Chancery No. 170255

Dear Counsel:

On February 21, 2002 this matter came on for a hearing on the parties cross-motions for summary judgment. I have now considered the arguments and memorandums of counsel and for the reasons set forth below, grant The Hertz Corporation's motion for summary judgment.

**Stipulations.** Petitioner USAA Casualty Insurance Company ("USAA") and Respondent The Hertz Corporation ("Hertz") stipulated as to all material facts. That stipulation is incorporated herein by reference, and the following recitation of pertinent facts is taken from those stated in the stipulation.

On March 6, 2000, Daniel Hess ("Hess"), a resident of Illinois, flew to Dulles International Airport, located in Loudoun County, on business. There he rented a car owned by Hertz that was registered in Virginia. Hess declined and did not purchase the optional liability insurance supplement ("LIS") from Hertz. Hess was insured by USAA who issued an automobile policy providing liability insurance that was issued and delivered to Hess in Illinois. Hertz has been qualified as a self-insurer under the Virginia



Motor Vehicle Safety Responsibility Act pursuant to a certificate of self-insurance issued by the Department of Motor Vehicles. Hess's rental contract with Hertz provided that as he had declined to purchase the optional LIS, he agreed that his own insurance would be primary.

On March 9, 2000, while driving the Hertz rental car in Herndon, Virginia, Hess had a collision with a car driven by Albert Ng ("Ng"). As a result of the accident Ng claimed automobile property damage in the amount of approximately \$6,200 under Ng's USAA automobile policy. USAA paid Ng \$6,200 in satisfaction of that claim. In pertinent part Hess's policy with USAA read:

**OTHER INSURANCE:** If there is other applicable liability insurance we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits. However, any insurance we provide with respect to a vehicle you do not own shall be excess over any other *collectible insurance*. (emphasis added).

By subrogation to the rights of Ng, USAA has demanded that Hertz provide primary liability coverage to Hess and reimburse USAA for its collision coverage payment to Ng. Citing the terms of its rental contract, Hertz denied that it is obligated to provide liability coverage to Hess primary or otherwise. USAA denied that it is obligated to provide primary coverage to Hess. USAA then filed its declaratory judgment action that is the subject of the cross motions for summary judgment.

**USAA's Argument.** USAA argues that as Hertz was self insured the Omnibus Clause, Va. Code Ann. § 38.2-2204(a), requires Hertz to provide primary coverage to its customers such as Mr. Hess. This is so USAA asserts because under Va. Code Ann. § 46.2-108(d) Hertz could not rent cars in Virginia unless the car was an "insured motor vehicle." An insured motor vehicle is defined as "[A] motor vehicle as to which there is bodily injury liability insurance and property damage liability insurance, both in the amounts specified in § 46.2-472 issued by an insurance carrier authorized to do business in the Commonwealth, . . . or as to which the owner has qualified as a self insurer . . . ." Va. Code Ann. § 46.2-705. If Hertz purchased insurance to satisfy § 46.2-108(d) then there can be no question that under the Omnibus Clause Hertz's coverage would be primary. The result should be no different in USAA's view just because Hertz elected to self insure. The self insurance statute USAA further argues, requires liability coverage for permissive users. Va. Code Anne. § 46.2-368(C). As Mr. Hess was a permissive user, USAA concludes that Hertz's coverage must be primary under the Omnibus Clause.

**Hertz's Argument.** Hertz argues that a self insurance certificate is not an insurance policy, thus the Omnibus Clause does not require it to provide primary insurance coverage to its customers such as Mr. Hess. Noting that the coverage specifications of § 46.2-472 do not apply to self insurers, Hertz further argues that a self insurer must only demonstrate the ability to respond to a judgment against the person. As Virginia does not recognize vicarious liability of owners and bailors, self insurance does not run to permissive users other than the owner's employees or agents.

**The Cases.** USAA cites *Erie Insurance Exchange v. Rapid Rentals, Inc.*, 46 Va. Cir. 301 (1998)(Charlottesville Circuit Court) and its progeny in support of its argument while Hertz relies on *Government Employees Insurance Co. v. Northern Virginia Rent-a-Car, Inc.*, 2001 Va. Cir. Lexis 139 (2001)(Henrico County Circuit Court). I find the reasoning of *Geico* to be more persuasive.

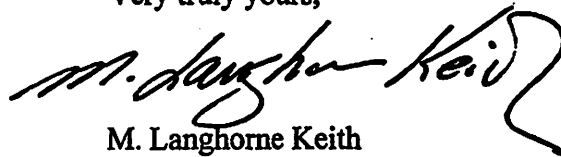
Analysis must start with *Yellow Cab Company of Virginia, Inc. v. Adinolfi*, 204 Va. 815 (1964). There, Adinolfi sued one Carol Rollins, an uninsured motorist who had struck him while he was operating a cab in the City of Richmond. *Id.* at 816. Adinolfi served a copy of his motion for judgment on Yellow Cab asserting that he was entitled to uninsured motorist coverage from his employer. *Id.* As a self insurer, Yellow Cab denied that it was required to provide uninsured motorist coverage to Adinolfi. *Id.* The Supreme Court agreed with Yellow Cab. The requirement to provide uninsured motorist coverage applies only to insurance companies. *See id.* at 819. As a self insurer is not an insurance company and does not issue a policy to itself, the requirement of the Code was inapplicable.

USAA finds comfort from the distinction *Rapid Rentals* draws between *Yellow Cab*, which involved uninsured motorist coverage, and cases that involve rental cars. USAA also cites *Rapid Rentals* reliance on the amendment to § 46.2-363(B) requiring self-insurers to provide uninsured motorists coverage. 46 Va. Cir. at 306. But the Supreme Court's dicta as to the inequity of requiring self-insurers to provide uninsured motorists coverage when they had no right to share in the insurance companies' pooled fund does not limit *Yellow Cab*'s holding. The Supreme Court held that the Omnibus Clause only applies to insurance companies that write insurance policies. *See William v. City of Newport News*, 240 Va. 425, 428 (1990). And when the General Assembly modified the result in *Yellow Cab*, it did so by amending the self insurance statute, not the Omnibus Clause. *Rapid Rentals* and the cases which follow *Rapid Rentals* opine that no amendment to § 46.2-368 was necessary to change the result in *Yellow Cab* because that section of the Code already covered permissive users. A holding to the contrary these cases argue would result in limiting a self insurer's coverage to the owner only. This reading ignores employees of a rental car agency. Under the present statutory scheme there is no question that employees are permissive users and would be covered by the owner's self insurance and the limited uninsured motorist coverage provided by self insurers. Va. Code Ann. § 46.2-368(B). But unlike the Omnibus Clause, nothing in § 46.2-108 or § 46.2-368 prohibits a self insurer from contracting with their customers as to whose insurance will provide primary coverage. According to the stipulation that is what was done here. The contract between Mr. Hess and Hertz satisfies the requirements of § 46.2-108.

The cost and effect of requiring rental car companies to provide primary insurance coverage to their customers should be determined by the General Assembly not this Court. While the result of *Yellow Cab* has been changed by the General Assembly, its reasoning has not. The General assembly has not amended the Omnibus Clause to make it applicable to self insurers. The Court grants Hertz's motion for summary judgment.

Mr. Garnier will kindly prepare a draft decree reflecting the Court's ruling, send it to Mr. Yeagley for his endorsement, and file it with the Clerk of the Court to my attention for entry. If the parties cannot agree on the form of the decree, this matter will be on my Friday, 11:30 AM docket on April 19, 2002 unless counsel let my law clerk, Mr. Mullins, know that this is an inconvenient date.

Very truly yours,

A handwritten signature in black ink, appearing to read "M. Langhorne Keith", with a stylized flourish at the end.

M. Langhorne Keith

30

18B

VIRGINIA

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

USAA CASUALTY INSURANCE COMPANY, )  
Petitioner, )

v. )

Chancery No. C170255

THE HERTZ CORPORATION, et al., )  
Respondents. )

ORDER

This matter came before the Court on February 21, 2002, after proper notice, for a hearing on the parties' cross-motions for summary judgment; and the Court having heard and considered the arguments of counsel and, for the reasons stated in this Court's letter opinion to counsel dated April 8, 2002, being of the opinion that The Hertz Corporation's Motion for Summary Judgment should be granted, and that United Services Automobile Association's Cross Motion for Summary Judgment should be denied; it is hereby

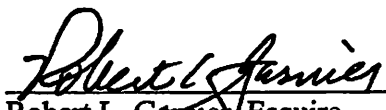
ORDERED that The Hertz Corporation's Motion for Summary Judgment is granted, that United Services Automobile Association's Cross Motion for Summary Judgment is denied, that judgment be and hereby is entered in favor of The Hertz Corporation, and that the Motion for Judgment is dismissed with prejudice, with each party to pay its own costs.

ENTERED 18 APRIL, 2002.


  
JUDGE M. LANGHORNE KEITH

SEEN AND AGREED:

GARNIER & GARNIER, P.C.

  
Robert L. Garnier, Esquire  
109 Rowell Court  
Falls Church, Virginia 22046  
(703) 237-2010  
Fax: (703) 237-9738  
Counsel for The Hertz Corporation

SEEN AND excepted to preserving all  
objections & arguments raised in pleadings,  
SICILIANO, ELLIS, DYER & BOCCAROSSE  
briefs and oral argument.

  
Richard A. Yeagley, Esquire  
10521 Judicial Drive, Suite 300  
Fairfax, Virginia 22030  
(703) 385-6692  
Fax: (703) 273-5632  
Counsel for USAA Casualty Insurance Company

### **ASSIGNMENTS OF ERROR**

- 1.) The trial court erred in granting Hertz's Motion for Summary Judgment and denying the Motion for Summary Judgment of USAA and thereby finding that Hertz's self insurance did not provide primary liability coverage to its permissive user and renter, Mr. Hess.
- 2.) The trial court erred in relying on *Geico v. Budget*, Law 99-1162 Henrico Cir. Ct. (July 11, 2001) and *Yellow Cab v. Adinolfi*, 204 Va. 815 (1964) rather than on *Erie v. Rapid Rentals*, 46 Va. Cir. 301 (1998) and its progeny in reaching its holding.
- 3.) The trial court erred in concluding that the contract between Mr. Hess and Hertz satisfied the requirements of § 46.2-108.
- 4.) The trial court erred in failing to conclude that the omnibus clause 38.2-2204 applies to Hertz's self insurance.
- 5.) The trial court erred in failing to find that Hertz's Rental Agreement was tantamount to a policy of insurance so that the omnibus clause 38.2-2204 would apply.