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IN THE
Supreme Court of Virginia
AT RICHMOND

RECORD NO. 970437

ALFONSO C. RECALDE, T/A
A & R SWEEPING AND CLEANING,
Appellant,

v.

ITT HARTFORD,
Appellee.

JOINT APPENDIX

Alan S. Toppelberg
ALAN S. TOPPELBERG &
ASSOCIATES
1444 N. Street, N.W.
Washington, D.C. 20005
(202) 319-2600

Counsel for Appellant

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4117 Chain Bridge Road
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Fairfax, VA 22030
(703) 385-1000

Counsel for Appellee

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RICHMOND, VIRGINIA

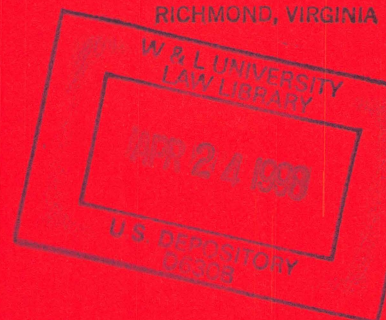


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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

CAL 9

ALFONSO C. RECALDE, t/a A&R)
SWEEPING AND CLEANING)
2383 S. Dove Street)
Alexandria, VA 22314)

Plaintiff,)

v.)

ITT HARTFORD)
5285 Shawnee Road, Ste. 300)
P.O. Box 13168)
Alexandria, VA 22312)

Serve: Robert Willis)
Registered Agent)
614 H Street, N.W.)
Washington, D.C. 20001)

Defendant.)

Civil Action No. _____

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Civil Clerk's Office

MAR 12 1991
Superior Court of the
District of Columbia

COMPLAINT FOR DECLARATORY JUDGMENT

COMES NOW the Plaintiff, Alfonso C. Recalde, t/a A&R Sweeping and Cleaning, by and through its attorneys, Alan S. Toppelberg & Associates, and pursuant to Rule 57 of the Superior Court Rules of Civil Procedures, files this Complaint for Declaratory Judgment and as cause of action states:

1. Jurisdiction is founded upon D.C. Code Section 11-921.
2. That on or about February 13, 1991, suit was filed in the Superior Court of the District of Columbia by Donald E. Reynard against Alfonso C. Recalde and A&R Sweeping and Cleaning for injuries and damages alleged sustained in an occurrence which took place on or about September 22, 1989.

3. That the complaint alleged that at the time of the occurrence, a motor vehicle owned by Alfonso C. Recalde and A&R Sweeping and Cleaning was being operated by Reginald Hinton, who was at all time relevant thereto acting as Plaintiff's agent, servant and employee within the scope of that agency. That the vehicle being operated by Reginald Hinton at the time of the aforesaid occurrence was a vehicle leased by Alfonso C. Recalde from Tysons Ford.

4. In that same complaint, Plaintiff of this action was sued by Judith A. Reynard for a loss of consortium.

5. That the complaint alleges negligence on the part of Reginald Hinton for failing to remove the keys from the vehicle when he left the vehicle unattended.

6. The complaint also states that the Plaintiff hereto, Alfonso C. Recalde, acted negligently and carelessly by failing to properly instruct, train, supervise, control and direct his employees.

7. That at all times herein, Plaintiff was covered by an insurance policy issued by ITT Hartford, Policy Number 42UECKT7961. Plaintiff believes this policy to be in full force and effect at the time of the occurrence.

8. That the policy covered under its terms "Hire Automobiles only," which is, in the definition of the policy, only those automobiles you lease, hire, rent or borrow. Copies of said relevant portion of the policy are attached hereto as Exhibit 1.

9. That this is a general liability policy and, as such, the alleged negligence of the owners should be covered.

10. There exists an actual controversy between the Plaintiff, Alfonso C. Recalde , and the Defendant, ITT Hartford, as to their respective rights and obligations under Hartford Policy Number 42UECKP7961.


WHEREFORE, Plaintiff, Alfonso C. Recalde, prays that this Court by its judgment declare:

1. That at the time and place of the occurrence, Hartford Policy Number 42UECKP7961 was in full force and effect;
2. That Defendant, ITT Hartford, has an obligation to defend the Plaintiff in the civil action pending in the District of Columbia;
3. That Defendant, ITT Hartford, provide coverage in the current civil action pending in the District of Columbia; and
4. For Such other relief as to the Court may seem just and proper.

Respectfully submitted,

ALFONSO C. RECALDE,
t/a A&R SWEEPING AND CLEANING

By:


ALAN S. TOPPELBERG #230185
1444 N Street, N.W.
Washington, D.C. 20005
(202) 319-2600
Attorney for Plaintiff

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

ALFONSO C. RECALDE, t/a
A&R SWEEPING & CLEANING,

Plaintiff,

v.

ITT HARTFORD

Defendant.

Civil Action No.: 92-CA03862
Calendar No. 9
Judge Colleen Kollar-Kotelly
(now Judge A. Franklin Burgess, Jr.)

REQUEST FOR ADMISSIONS

COMES NOW the defendant, ITT Hartford, by counsel, pursuant to Rule 36, Superior Court Rules, and requests the plaintiff to admit or deny the following:

1. Attached as Exhibit "A" is a true and correct copy of the policy of insurance issued by ITT Hartford to A & R Industrial Sweeping & Cleaning.

2. Said policy is the subject matter of this lawsuit.

3. The plaintiff, Alfonso C. Recalde, trades as A & R Sweeping & Cleaning.

4. The plaintiff, Alfonso C. Recalde, has made a claim under the policy attached as Exhibit "A" for coverage arising out of a lawsuit against Mr. Recalde and A & R Sweeping & Cleaning on February 14, 1991, as the result of an occurrence which took place on September 22, 1989, in the Commonwealth of Virginia.

5. Said policy of insurance was issued to A & R Industrial Sweeping & Cleaning in the Commonwealth of Virginia.

6. A & R Industrial Sweeping & Cleaning is located in the Commonwealth of Virginia, with its principle place of business in the

Commonwealth of Virginia.

7. Alfonso C. Recalde is a resident of the Commonwealth of Virginia.

8. Alfonso C. Recalde is a citizen of the Commonwealth of Virginia.

9. The underlying civil action is styled Donald Reynard v. Alfonso C. Recalde and A & R Sweeping & Cleaning, Civil Action No. 91-CA-01932.

10. The underlying lawsuit arises out of the ownership of a 1984 Ford Pick-Up, vehicle identification number 1FTHF2613ENA02977.

11. The underlying lawsuit arises out of the use of said motor vehicle.

12. The underlying lawsuit arises out of the entrustment of said automobile.

13. Said 1984 Ford Pick-Up was owned by Alfonso C. Recalde and Anita G. Mora.

14. Attached as Exhibit "B" is a true and correct copy of the Certificate of Title for said 1984 Ford automobile.

15. The aforementioned 1984 Ford Pick-Up truck is a "auto" within the meaning of the ITT Hartford policy attached as Exhibit "A".

16. Alfonso C. Recalde is the owner of said 1984 Ford Pick-Up truck.

17. Alfonso C. Recalde is the operator of said 1984 Ford Pick-Up truck.

18. Alfonso C. Recalde is an insured within the meaning of the ITT Hartford policy attached as Exhibit "A".

19. Said 1984 Ford automobile is not an automobile subject to any no-fault requirements in the Commonwealth of Virginia.

20. Said 1984 Ford automobile is not a "hired automobile" within the terms of the ITT Hartford policy attached as Exhibit "A".

21. Said automobile is not a "non-owned" automobile within the terms of said policy.

ITT HARTFORD,
By Counsel

LEWIS, TRICHILO, BANCROFT & MCGAVIN, P.C.

BY:

Stephen A. Horvath, DC Bar No. 417137
4117 Chain Bridge Road, Suite 400
P. O. Box 22
Fairfax, Virginia 22030
(703) 385-1000
Counsel for Defendant, ITT Hartford

Certificate of Service

I hereby certify that on this 26th day of September, 1992, a true and correct copy of the foregoing Request For Admissions was mailed, first-class postage prepaid, to Alan S. Toppelberg, Esquire, 1444 N Street, N.W., Washington, D.C., 20005, counsel for plaintiff.

Stephen A. Horvath

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

ALFONSO C. RECALDE T/A
A&R SWEEPING & CLEANING

PLAINTIFF

-VS-

ITT HARTFORD

DEFENDANT

*

*

*

*

*

*

*

CASE NO.: 92-CA03862

Calendar 9

J. Kollar-Kotelly

* * * * *

PLAINTIFF'S RESPONSES TO DEFENDANT'S REQUEST FOR ADMISSIONS

Plaintiff, Alfonso C. Recalde t/a A&R Sweeping & Cleaning, by and through counsel, Alan S. Toppelberg, for purposes of this action only in response to Defendant's request for admissions states as follows:

1. Admitted
2. Admitted
3. Admitted
4. Admitted
5. Admitted
6. Admitted
7. Admitted
8. Admitted
9. Admitted
10. Denied
11. Denied
12. Denied
13. Admitted
14. Admitted

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OCT 26 1992

LEWIS, TRACY, P.C.
& MCGARRELL, P.C.

October 23, 1992

1

15. Admitted

16. Denied

17. Denied

18. Admitted

19. Objection. After reasonable inquiry, the information known or readily obtainable by this respondent is insufficient to enable Plaintiff to admit or deny Request No. 19.

20. Denied

21. Denied

Alan S. Toppelberg (JSG:iv)
Alan S. Toppelberg
1444 N Street N.W.
Washington, D.C. 20005
202-319-2600
Bar # 230185

October 23, 1992

2

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

ALFONSO C. RECALDE T/A
A&R SWEEPING & CLEANING

PLAINTIFF

-VS-

ITT HARTFORD

DEFENDANT

CASE NO.: 92-CA03862
Calendar 9
J. Kollar-Kotelly

CERTIFICATE REGARDING DISCOVERY

I HEREBY CERTIFY that on this 23rd day of October, 1992 I mailed, postage prepaid, a copy of the foregoing Plaintiff's Responses to Defendant's Request for Admissions to the following:

Stephen A. Horvath
Lewis, Trichilo, Bancroft & McGavin, P.C.
4117 Chain Bridge Road, Suite 400
P.O. Box 22
Fairfax, Virginia 22030

Inga A. Watkins
Brown, Brown & Watkins
99 Canal Center Plaza, Suite 210
Alexandria, Virginia 22314

Roger C. Johnson
Koonz, McKenney, Johnson & Regan, P.C.
2020 K Street, N.W. Suite 840
Washington, D.C. 20006

I will keep the original of this document in my possession until this case is concluded, any appeal has been noted, and any appeal so noted has been decided.

Alan S. Toppelberg
Alan S. Toppelberg

October 23, 1992

3

1444 N Street N.W.
Washington, D.C. 20005
202-319-2600
Bar # 230185

October 23, 1992

4

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

ALFONSO C. RECALDE, t/a
A&R SWEEPING & CLEANING,

Plaintiff,

v.

ITT HARTFORD

Defendant.

Civil Action No.: 92-CA03862
Calendar No. 9
Judge A. Franklin Burgess, Jr.

ITT HARTFORD'S STATEMENT OF MATERIAL FACTS
TO WHICH THERE IS NO GENUINE ISSUE

Pursuant to the District of Columbia Superior Court Rule 12-i(k), ITT Hartford hereby sets forth the following facts to which there is no genuine issue:

1. Alfonso C. Recalde, trading as A&R Sweeping & Cleaning, is seeking to have this Court declare that ITT Hartford owes a duty to defend and coverage in connection with a lawsuit filed by Donald E. Reynard. A copy of said lawsuit is attached as Exhibit "A".

2. Attached as Exhibit "B" is a true and correct copy of the policy of insurance issued to ITT Hartford to Alfonso C. Recalde, trading as A&R Sweeping & Cleaning (see Response to Request For Admission). Said policy is the subject matter of this lawsuit (see Response to Request For Admission).

3. The plaintiff, Alfonso C. Recalde trades as A&R Sweeping & Cleaning (see Response to Request For Admission).

4. The plaintiff, Alfonso C. Recalde has made a claim under the policy attached as Exhibit "B" for coverage arising out of a lawsuit against Mr. Recalde and A&R Sweeping & Cleaning as a result of an occurrence which took place on September 22, 1989, in the Commonwealth

of Virginia.

5. Said policy of insurance was issued to the plaintiff in the Commonwealth of Virginia (see Response to Request For Admission). (The plaintiff is located in the Commonwealth of Virginia, with his principal place of business in the Commonwealth of Virginia). Alfonso C. Recalde is a citizen of the Commonwealth of Virginia (see Response to Request For Admission).

6. The underlying lawsuit makes reference to a vehicle owned by Alfonso C. Recalde and operated by his employee, Reginald Hinton. Said vehicle was a 1984 Ford pick-up truck. Attached as Exhibit "C" is a true and correct copy of the Certificate of Title for said 1984 Ford pick-up truck (see Response to Request For Admission and Complaint in Reynard v. Recalde).


7. Alfonso C. Recalde is an insured within the meaning of ITT Hartford's policy attached as Exhibit "B".

8. At the time of the accident, the plaintiff, Alfonso C. Recalde, trading as A&R Sweeping & Cleaning, was insured under an automobile policy of insurance issued by Allstate Insurance Company.

ITT HARTFORD,
By Counsel


LEWIS, TRICHILO, BANCROFT & MCGAVIN, P.C.

BY:


Stephen A. Horvath, DC Bar No. 417137
4117 Chain Bridge Road, Suite 400
P. O. Box 22
Fairfax, Virginia 22030
(703) 385-1000
Counsel for Defendant, ITT Hartford

Certificate of Service

I hereby certify that on this 9th day of December, 1992, a true and correct copy of the foregoing Statement of Material Facts was mailed, first-class postage prepaid, to Alan S. Toppelberg, Esquire, 1444 N Street, N.W., Washington, D.C., 20005, counsel for plaintiff.



Stephen A. Horvath

CA Form 1

CAL 14

Superior Court of the District of Columbia

CIVIL DIVISION
500 Indiana Avenue, N.W.
Telephone: 879-1133

91-CAG1932

DONALD E. REYNARD

Plaintiff

vs.

Civil Action File No. _____

ALPHONSE C. RECALDE and
A&R SWEEPING & CLEANING Defendants

SUMMONS

To the above named Defendant: A&R Sweeping & Cleaning

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty (20) days after service of this summons upon you, exclusive of the day of service. A copy of the Answer must be mailed to the attorney for the party plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this summons.

You are also required to file the Answer with the Court either before service or within five (5) days after you have served it. The Answer must be filed in Room JM 170 at 500 Indiana Avenue, N.W. between 9:00 a.m. and 4:00 p.m., Mondays through Fridays or between 9:00 a.m. and 12:00 Noon on Saturdays, but not on Sundays or holidays.

Clerk of the Court

Roger C. Johnson, Esquire

Name of Plaintiff's Attorney

2020 K Street, N.W., #840Washington, D.C. 20006

Address

(202) 555-5500

Telephone

By

Deputy Clerk

Date:

FEB 13 1991

DEFENDANT'S
EXHIBIT

A

ALL-STATE LEGAL SUPPLY CO.

14
PUEDE OBTENERSE COPIAS DE ESTE FORMULARIO EN ESPAÑOL EN EL TRIBUNAL SUPERIOR DEL
DISTRITO DE COLUMBIA, 500 INDIANA AVENUE, N.W., SALA JM 220

YOU MAY OBTAIN A COPY OF THIS FORM IN SPANISH AT THE SUPERIOR COURT OF D.C., 500 IN-

CAL 14

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Civil Division

DONALD E. REYNARD
 JUDITH A. REYNARD
 411 Glendale Road
 Woodbridge, VA 22193

Plaintiffs

v.

ALPHONSO C. RECALDE
 5108 Ninian Avenue
 Alexandria, VA 22310

and

AIR SWEEPING AND CLEANING
 2383 South Dove Street
 Alexandria, VA 22314

Defendants

91-CA01932

Civil Action No.:

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CIVIL CLERK'S OFFICE

FEB 13 1991

Superior Court of the
District of ColumbiaCOMPLAINT

(Negligence; Negligent Training
 and Supervision; Loss of Consortium)

1. Jurisdiction is founded on D.C. Code §11-121 as the cause of action arose in the District of Columbia.
2. This action is brought by Donald E. Reynard and Judith A. Reynard who are citizens of the State of Virginia.
3. On or about September 22, 1989, at approximately 12:15 a.m., at a 7-11 on 14th and Rhode Island Avenue, S.W., in the District of Columbia, a vehicle owned by defendant Alphonso C. Recalde, and operated by his employee, Reginald Hinton, was left unattended with the keys in it and the motor running.
4. While the driver of the vehicle was inside the

store, a thief, Dwayne Johnson, stole the vehicle. The thief drove the vehicle at a high rate of speed onto I-95 in a southbound direction. The thief lost control of the vehicle, causing the vehicle to strike the male plaintiff's automobile with great force and violence, thereby causing severe and permanent injury to the male plaintiff, Donald E. Reynard.

5. During all times mentioned herein the original vehicle operator, Reginald Hinton, was acting within the scope of his employment as a garage cleaner for defendant A&R Sweeping and Cleaning.

6. During all times mentioned herein the vehicle was operated by an employee of A&R Sweeping and Cleaning and owned by defendant Alphonso C. Recalde. Pursuant to D.C. Code Section 40-401 et seq., the original vehicle operator, Reginald Hinton, acted as an agent of defendant A&R Sweeping & Cleaning.

COUNT I
(Negligence)

7. Plaintiff Donald E. Reynard incorporates by reference paragraphs 1 through 6 of this Complaint, and further alleges that Reginald Hinton, an employee of A&R Sweeping and Cleaning and an agent of Alphonso C. Recalde, negligently and recklessly failed to remove the keys from the ignition when exiting the vehicle, failed to turn the motor off when exiting the vehicle and failed to keep a proper outlook on his motor vehicle.

8. As a direct and proximate result of defendants' negligence, male plaintiff Donald E. Reynard has suffered, and

will continue to suffer, severe and permanent injuries, extreme pain and mental anguish, lost wages and diminished wage-earning capacity, and has incurred, and will continue to incur, substantial medical expenses.

WHEREFORE, plaintiff Donald E. Reynard demands judgment against defendant A&R Sweeping and Cleaning and defendant Alphonso C. Recalde, jointly and severally in the full and just amount of Two Million (\$2,000,000.00) Dollars, plus interest and costs.

COUNT II

(Negligent Training and Supervision)

9. Plaintiff Donald E. Reynard incorporates by reference paragraphs 1 through 8 of this Complaint, and further alleges that defendant Alphonso C. Recalde, the owner of defendant A&R Sweeping and Cleaning acted negligently, carelessly and recklessly by failing to properly instruct, train, supervise, control and direct his employee in his duties which included, but were not limited to, duties: (1) to pay full time and attention to the vehicle entrusted to his care; (2) to operate said vehicle in a reasonable, careful and prudent manner; (3) to maintain complete control over the vehicle at all times; (4) to insure that the vehicle was properly turned off; and (5) to insure that the keys were removed from the ignition before exiting the vehicle.

WHEREFORE, plaintiff Donald E. Reynard demands judgment against the defendants, jointly and severally, in the full and just amount of Two Million (\$2,000,000.00) Dollars,

COUNT III
(Loss of Consortium)

10. Plaintiff, Judith A. Reynard, wife of plaintiff Donald E. Reynard, incorporates by reference the allegations set forth in paragraphs 1 through 9 of this Complaint, and further alleges that as a direct and proximate result of Donald E. Reynard's injuries, the female plaintiff alleges that their marital relationship, family and social activities have been reduced and damaged.

11. Plaintiff Judith A. Reynard further alleges that the marriage has suffered and continues to suffer the loss of wage-earning capacity of Donald E. Reynard and has placed him in a position of requiring continual medical care and treatment because he is unable to completely care for himself.

12. The foregoing and other damages to the marital relationship continue, and because of the permanency of plaintiff Donald E. Reynard's injuries, will continue for the rest of plaintiffs' lives.

WHEREFORE, the plaintiff Judith A. Reynard demands judgment of the defendants, jointly and severally, in the full and just amount of Five Hundred Thousand (\$500,000.00) Dollars,

LEW OFFICE
112 PICKENNEY
104 S. REGAN, P.C.
SUITE 240
112 STREET, N.W.
N.W. D.C. 20005

Special Multi-Flex

POLICY

From The Hartford



DEFENDANT'S
EXHIBIT

B

ALL-STATE LEGAL SUPPLY CO.

**QUICK REFERENCE
COMMON POLICY FORM**

READ YOUR POLICY CAREFULLY

You have purchased one or more insurance coverages. These coverages are provided by Coverage Parts. The Coverage Parts are listed in item 8 of the Common Policy Declarations. Each Coverage Part will have its own declarations that gives information for that Coverage Part.

The forms and provisions referred to below apply to the entire policy.

COMMON POLICY DECLARATIONS

The information included in this form is:

- | | |
|---------------------------------|--|
| 1. Your Name and Address | 7. Insurance Provided |
| 2. Policy Period | 8. Summary of Coverage Parts, Insurance Company and Premium |
| 3. Name of Your Agent or Broker | 9. Form Numbers of Coverage Parts, Forms and Endorsements that apply to the entire policy. |
| 4. Audit Period | |
| 5. Form of Your Business | |
| 6. Description of Your Business | |

COMMON POLICY CONDITIONS

The conditions included in this form are:

- | | |
|--|---|
| A. Cancellation | D. Inspections and Surveys |
| B. Changes | E. Premiums |
| C. Examination of Your Books and Records | F. Transfer of Your Rights and Duties Under this Policy |

COMPANY PROVIDING INSURANCE

This insurance is provided by one or more of the stock insurance companies which are members of the Hartford Insurance Group. A company is designated in the Common Policy Declarations for each Coverage Part. The company or companies providing this insurance may be referred to in this policy as "the Company."

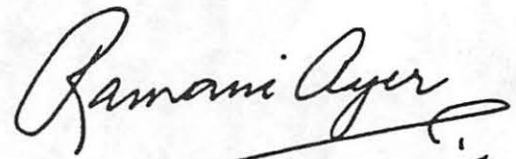
INSURANCE PROVIDED BY COVERAGE PARTS

Insurance provided by the Coverage Parts is subject to:

1. All the terms of such Coverage Parts;
2. All forms and endorsements that are shown as applying to such Coverage Parts; and
3. All Common Policy Conditions unless modified by provisions of:
 - a. Such Coverage Parts; or
 - b. Forms and endorsements that apply.

Our President and Secretary have signed this policy. For this policy to be binding, it must be countersigned on the Common Policy Declarations by a duly authorized agent of the Company.


Michael S. Wilder, Secretary


Ramani Ayer, President & COO

THIS ENDORSEMENT FORMS A PART OF THE POLICY NUMBERED BELOW:

POLICY NUMBER: 42 UEC KP7961

THIS IS A TRUE & CERTIFIED COPY OF
POLICY # 42 UEC KP7961 @NAMED INSURED: A & R INDUSTRIAL SWEEPING &
CLEANINGElizabeth Ford

AGENT OR BROKER: HAMILTON INS AGENCY INC-UNLIMITED

POLICY CHANGE EFFECTIVE DATE: 03/10/09

ADDITIONAL PREMIUM DUE AT POLICY CHANGE EFFECTIVE DATE:

\$84.00

FOR CHANGES MADE TO THE BUSINESS AUTO COVERAGE PART, SEE CHANGE NO. 002A
ATTACHEDAUTOMOBILE
BUSINESS AUTO COVERAGE PART IS ADDEDHARTFORD ACCIDENT AND INDEMNITY COMPANY
HARTFORD PLAZA
HARTFORD, CONNECTICUT 06110
COMPANY CODE: B

SEE FORM(S) ATTACHED

PRO RATA FACTOR:

.746

THIS ENDORSEMENT DOES NOT CHANGE THE POLICY EXCEPT AS SHOWN.
THIS ENDORSEMENT WILL NOT BE BINDING UNLESS COUNTERSIGNED BY A DULY
AUTHORIZED AGENT OF THE COMPANY.

COUNTERSIGNED BY

AUTHORIZED AGENT

MISCELLANEOUS CHANGE ENDORSEMENT.

THIS ENDORSEMENT CHANGES THE POLICY ON THE DATE INDICATED BELOW.

ENDORSEMENT POLICY
EFFECTIVE NUMBER
03/10/89 42 LEC KF7961

NAMED
INSURED
A & R INDUSTRIAL SWEEPING &
CLEANING

PRODUCER'S CODE: 640350
PRODUCER'S NAME: HAMILTON INS AGENCY INC-UNLIMITED

COUNTERSIGNED BY

AUTHORIZED REPRESENTATIVE

PRO RATA FACTOR: .748
EXAMINATION PERIOD: ANNUAL

FOR THIS ENDORSEMENT THE ADDITIONAL PREMIUM OF \$64.00 HAS BEEN INCLUDED
IN THE PREMIUM SHOWN ON ENDT. NO. 002

FORMS ADDED

C-2013-0 CA00010180 C-3006-0 CA01160700 CA99171280 CA99210178 PA02330724

AS THE "INSURER"

DECLARATIONS -
BUSINESS AUTO COVERAGE PART

ITEM ONE -

NAMED INSURED
AND ADDRESS

A & R INDUSTRIAL SWEEPING &
CLEANING
5100 NINIAN AVE.,
ALFANDRIA VA 22010

THIS COVERAGE PART IS NOT BINDING UNLESS COUNTERSIGNED BY A DULY AUTHORIZED AGENT OF OURS; BUT IF IT TAKES EFFECT AS OF THE EFFECTIVE DATE OF THE POLICY OF WHICH THIS COVERAGE PART FORMS A PART THEN COUNTERSIGNATURE ON THE DECLARATIONS PAGE OF THAT POLICY BY A DULY AUTHORIZED AGENT OF OURS IS VALID COUNTERSIGNATURE OF THIS COVERAGE PART.

ALL OF THE PROVISIONS, CONDITIONS AND OTHER TERMS OF THIS BUSINESS AUTO COVERAGE PART SHALL APPLY ONLY AS SPECIFIED HEREIN AND NONE OF THE PROVISIONS, CONDITIONS AND OTHER TERMS OF THE POLICY OF WHICH THIS BUSINESS AUTO COVERAGE PART FORMS A PART SHALL APPLY TO INSURANCE HEREUNDER UNLESS OTHERWISE STATED HEREIN. HEREAFTER, ANY USE OF THE WORD "POLICY" IN THIS BUSINESS AUTO COVERAGE PART (OR ANY ENDORSEMENT FORMING A PART OF, CHANGING OR APPLICABLE TO THIS BUSINESS AUTO COVERAGE PART) SHALL BE DEEMED TO MEAN "BUSINESS AUTO COVERAGE PART".

THIS BUSINESS AUTO COVERAGE PART IS COMPLETED BY:

- A. THIS DECLARATIONS - FORM C-2013,
- FORM C-2014,
- FORM C-2015,
- FORM C-2016;
- B. ITS PROVISIONS AND CONDITIONS PRINTED IN FORM CA00010190;
- C. ANY ENDORSEMENTS ISSUED TO FORM A PART OF IT.

INCLUDES COPYRIGHTED MATERIAL OF INSURANCE SERVICES OFFICE, WITH ITS PERMISSION. COPYRIGHT, INSURANCE SERVICES OFFICE.

ITEM TWO - SCHEDULE OF COVERAGES AND LIMITS

THIS POLICY PROVIDES ONLY THOSE COVERAGES FOR WHICH A CHARGE IS SHOWN IN THE PREMIUM COLUMN BELOW. EACH OF THESE COVERAGES WILL APPLY ONLY TO THOSE AUTOS SHOWN AS COVERED AUTOS. AUTOS ARE SHOWN AS COVERED AUTOS FOR A PARTICULAR COVERAGE BY THE ENTRY IN THE COVERED AUTO COLUMN BELOW, NEXT TO THE NAME OF THE COVERAGE, OF ONE OR MORE OF THE SYMBOLS FROM ITEM THREE.

COVERAGES	COVERED AUTOS	LIMIT - THE MOST WE WILL PAY FOR ANY ONE ACCIDENT OR LOSS	ESTIMATED PREMIUM
LIABILITY INSURANCE	OB, OF	\$ 1,000,000 EACH ACCIDENT	\$ 96.00
ESTIMATED TOTAL PREMIUM			\$ 96.00

FORM NUMBERS OF ENDORSEMENTS FORMING PART OF THIS POLICY ON EFFECTIVE DATE:

C-3006-0 CA01160783 CA99171280 CA99210173 (N/A NY) PA02030784 (VA)

***** PHYSICAL DAMAGE INSURANCE IS NOT PROVIDED BY THIS POLICY *****

THE ESTIMATED TOTAL PREMIUM FOR THIS POLICY IS BASED ON THE EXPOSURES YOU TOLD US YOU WOULD HAVE WHEN THIS POLICY BEGAN. WE WILL COMPUTE YOUR FINAL PREMIUM DUE WHEN WE DETERMINE YOUR ACTUAL EXPOSURES. THE ESTIMATED TOTAL PREMIUM WILL BE CREDITED AGAINST THE FINAL PREMIUM DUE AND YOU WILL BE BILLED FOR THE BALANCE, IF ANY. IF THE ESTIMATED TOTAL PREMIUM EXCEEDS THE FINAL PREMIUM DUE YOU WILL GET A REFUND. TO DETERMINE YOUR FINAL PREMIUM DUE WE MAY EXAMINE YOUR RECORDS AT ANY TIME DURING THE PERIOD OF COVERAGE AND UP TO THREE YEARS AFTERWARD. IF THIS POLICY IS ISSUED FOR MORE THAN ONE YEAR, THE PREMIUM SHALL BE COMPUTED ANNUALLY BASED ON OUR RATES OR PREMIUMS IN EFFECT AT THE BEGINNING OF EACH YEAR OF THE POLICY.

ITEM THREE — DESCRIPTION OF COVERED AUTO DESIGNATION SYMBOLS

SYMBOL	DESCRIPTION
1	= ANY AUTO.
2	= OWNED AUTOS ONLY. Only those autos you own (and for liability coverage any trailers you don't own while attached to power units you own). This includes those autos whose ownership you acquire after the policy begins.
3	= OWNED PRIVATE PASSENGER AUTOS ONLY. Only the private passenger autos you own. This includes those private passenger autos whose ownership you acquire after the policy begins.
4	= OWNED AUTOS OTHER THAN PRIVATE PASSENGER AUTOS ONLY. Only those autos you own which are not of the private passenger type (and for liability coverage any trailers you don't own while attached to power units you own). This includes those autos, not of the private passenger type, whose ownership you acquire after the policy begins.
5	= OWNED AUTOS SUBJECT TO NO-FAULT. Only those autos you own for which you are required to have No-Fault Benefits in the state where they are licensed or principally garaged. This includes those autos whose ownership you acquire after the policy begins provided you are required to have No-Fault Benefits in the state where they are licensed or principally garaged.
6	= OWNED AUTOS SUBJECT TO A COMPULSORY UNINSURED MOTORISTS LAW. Only those autos you own for which, because of the law in the state where they are licensed or principally garaged you are required to have and cannot reject uninsured motorists insurance. This includes those autos whose ownership you acquire after the policy begins provided they are subject to the same state uninsured motorists requirement.
7	= SPECIFICALLY DESCRIBED AUTOS. Only those autos described in ITEM FOUR for which a premium charge is shown (and for liability coverage any trailers you don't own while attached to any power unit described in ITEM FOUR).
8	= HIRED AUTOS ONLY. Only those autos you lease, hire, rent or borrow. This does not include any auto you lease, hire, rent or borrow from any of your employees or members of their households.
9	= NONOWNED AUTOS ONLY. Only those autos you do not own, lease, hire or borrow which are used in connection with your business. This includes autos owned by your employees or members of their households but only while used in your business or your personal affairs.

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ITEM FOUR - SCHEDULE OF COVERED AUTOS YOU OWN

DOES NOT APPLY

ITEM FIVE - SCHEDULE OF HIRED AUTOS (COVERAGES AND PREMIUMS)

LIABILITY INSURANCE - RATING BASIS IS COST OF HIRE. COST OF HIRE MEANS THE TOTAL AMOUNT YOU INCUR FOR THE HIRE OF AUTOS YOU DON'T OWN (NOT INCLUDING AUTOS YOU BORROW OR RENT FROM YOUR EMPLOYEES OR THEIR FAMILY MEMBERS). COST OF HIRE DOES NOT INCLUDE CHARGES FOR SERVICES PERFORMED BY MOTOR CARRIERS OF PROPERTY OR PASSENGERS.

ESTIMATED COST OF HIRE: IF ANY
RATE PER EACH \$100 COST OF HIRE: \$ 1.863

ESTIMATED PREMIUM: \$ 48.00

ITEM SIX - SCHEDULE FOR NON-OWNERSHIP LIABILITY

LIABILITY INSURANCE (INCLUDES AUTOS OWNED BY YOUR EMPLOYEES, OR MEMBERS OF THEIR HOUSEHOLDS BUT ONLY WHILE USED IN YOUR BUSINESS OR YOUR PERSONAL AFFAIRS). RATING BASIS IS NUMBER OF EMPLOYEES

ESTIMATED NUMBER OF EMPLOYEES: 5

ESTIMATED PREMIUM: \$ 40.00

PART I — WORDS AND PHRASES WITH SPECIAL MEANING — READ THEM CAREFULLY

The following words and phrases have special meaning throughout this policy and appear in **boldface type** when used:

- A. **"You"** and **"your"** mean the person or organization shown as the named insured in ITEM ONE of the declarations.
- B. **"We"**, **"us"** and **"our"** mean the company providing the insurance.
- C. **"Accident"** includes continuous or repeated exposure to the same conditions resulting in **bodily injury** or **property damage** the insured neither expected nor intended.
- D. **"Auto"** means a land motor vehicle, trailer or semi-trailer designed for travel on public roads but does not include mobile equipment.
- E. **"Bodily injury"** means bodily injury, sickness or disease including death resulting from any of these.
- F. **"Insured"** means any person or organization qualifying as an insured in the WHO IS INSURED section of the applicable insurance. Except with respect to our limit of liability, the insurance afforded applies separately to each insured who is seeking coverage or against whom a claim is made or suit is brought.
- G. **"Loss"** means direct and accidental damage or loss.
- H. **"Mobile equipment"** means any of the following type of land vehicles:
 - 1. Specialized equipment such as: Bulldozers; Power shovels; Rollers, graders or scrapers; Farm machinery; Cranes; Street sweepers or other cleaners; Diggers; Forklifts; Pumps; Generators; Air Compressors; Drills; Other similar equipment.
 - 2. Vehicles designed for use principally off public roads.
 - 3. Vehicles maintained solely to provide mobility for such specialized equipment when permanently attached.
 - 4. Vehicles not required to be licensed.
 - 5. Autos maintained for use solely on your premises or that part of roads or other accesses that adjoin your premises.
- I. **"Property damage"** means damage to or loss of use of tangible property.
- J. **"Trailer"** includes semitrailer.

PART II — WHICH AUTOS ARE COVERED AUTOS

- A. ITEM TWO of the declarations shows the autos that are covered autos for each of your coverages. The numerical symbols explained in ITEM THREE of the declarations describe which autos are covered autos. The symbols entered next to a coverage designate the only autos that are covered autos.
- B. **OWNED AUTOS YOU ACQUIRE AFTER THE POLICY BEGINS.**
 - 1. If symbols "1", "2", "3", "4", "5" or "6" are entered next to a coverage in ITEM TWO, then you already have coverage for autos of the type described until the policy ends.
 - 2. But, if symbol "7" is entered next to a coverage in ITEM TWO, an auto you acquire will be a covered auto for that coverage only if:
 - a. We already insure all autos that you own for that coverage or it replaces an auto you previously owned that had that coverage; and
 - b. You tell us within 30 days after you acquire it that you want us to insure it for that coverage.
- C. **CERTAIN TRAILERS AND MOBILE EQUIPMENT.**

If the policy provides liability insurance, the following types of vehicles are covered autos for liability insurance:

 - 1. Trailers with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
 - 2. Mobile equipment while being carried or towed by a covered auto.

PART III — WHERE AND WHEN THIS POLICY COVERS

We cover accidents or losses which occur during the policy period:

- A. In the United States of America, its territories or possessions, Puerto Rico or Canada; or
- B. While the covered auto is being transported between any of these places.

damages because of bodily injury or property damage to which this insurance applies, caused by an accident and resulting from the ownership, maintenance or use of a covered auto.

2. We have the right and duty to defend any suit asking for these damages. However, we have no duty to defend suits for bodily injury or property damage not covered by this policy. We may investigate and settle any claim or suit as we consider appropriate. Our payment of the LIABILITY INSURANCE limit ends our duty to defend or settle.

B. WE WILL ALSO PAY.

In addition to our limit of liability, we will pay for the insured:

1. Up to \$250 for cost of bail bonds (including bonds for related traffic law violations) required because of an accident we cover. We do not have to furnish these bonds.
2. Premiums on appeal bonds in any suit we defend.
3. Premiums on bonds to release attachments in a suit we defend but only for bonds up to our limit of liability.
4. All costs taxed to the insured in a suit we defend.
5. All interest accruing after the entry of the judgment in a suit we defend. Our duty to pay interest ends when we pay or tender our limit of liability.
6. Up to \$50 a day for loss of earnings (but not other income) because of attendance at hearings or trials at our request.
7. Other reasonable expenses incurred at our request.

C. WE WILL NOT COVER — EXCLUSIONS.

This insurance does not apply to:

1. Liability assumed under any contract or agreement.
2. Any obligation for which the insured or his or her insurer may be held liable under any workers' compensation or disability benefits law or under any similar law.
3. Any obligation of the insured to indemnify another for damages resulting from bodily injury to the insured's employee.
4. Bodily injury to any fellow employee of the insured arising out of and in the course of his or her employment.
5. Bodily injury to any employee of the insured arising out of and in the course of his or her employment by the insured. However, this exclusion does not apply to bodily injury to domestic employees not entitled to workers' compensation benefits.
6. Property damage to property owned or transported by the insured or in the insured's care, custody or control.
7. Bodily injury or property damage resulting from the handling of property:

- b. After moved from the covered auto to the place where it is finally delivered by the insured.

8. Bodily injury or property damage resulting from the movement of property by a mechanical device (other than a hand truck) not attached to the covered auto.
9. Bodily injury or property damage caused by the dumping, discharge or escape of irritants, pollutants or contaminants. This exclusion does not apply if the discharge is sudden and accidental.

D. WHO IS INSURED.

1. You are an insured for any covered auto.
2. Anyone else is an insured while using with your permission a covered auto you own, hire or borrow except:
 - a. The owner of a covered auto you hire or borrow from one of your employees or a member of his or her household.
 - b. Someone using a covered auto while he or she is working in a business of selling, servicing, repairing or parking autos unless that business is yours.
 - c. Anyone other than your employees, a lessee or borrower or any of their employees, while moving property to or from a covered auto.
3. Anyone liable for the conduct of an insured described above is an insured but only to the extent of that liability. However, the owner or anyone else from whom you hire or borrow a covered auto is an insured only if that auto is a trailer connected to a covered auto you own.

E. OUR LIMIT OF LIABILITY.

1. Regardless of the number of covered autos, insureds, claims made or vehicles involved in the accident, the most we will pay for all damages resulting from any one accident is the LIABILITY INSURANCE limit shown in the declarations.
2. All bodily injury and property damage resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one accident.

F. OUT OF STATE EXTENSIONS OF COVERAGE.

1. While a covered auto is away from the state where it is licensed we will:
 - a. Increase this policy's liability limits to meet those specified by a compulsory or financial responsibility law in the jurisdiction where the covered auto is being used.
 - b. Provide the minimum amounts and types of other coverages, such as "No-Fault", required of out of state vehicles by the jurisdiction where the covered auto is being used.
2. We will not pay anyone more than once for the same elements of loss because of these extensions.

PART V — PHYSICAL DAMAGE INSURANCE

A. WE WILL PAY.

1. We will pay for loss to a covered auto or its equipment under:

- a. **Comprehensive Coverage.** From any cause except the covered auto's collision with another object or its overturn.

- b. **Specified Perils Coverage.** Caused by:

- (1) Fire or explosion;
- (2) Theft;
- (3) Windstorm, hail or earthquake;
- (4) Flood;
- (5) Mischief or vandalism;
- (6) The sinking, burning, collision or derailment of any conveyance transporting the covered auto.

- c. **Collision Coverage.** Caused by the covered auto's collision with another object or its overturn.

2. Towing.

We will pay up to \$25 for towing and labor costs incurred each time a covered auto of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

B. WE WILL ALSO PAY.

We will also pay up to \$10 per day to a maximum of \$300 for transportation expense incurred by you because of the total theft of a covered auto of the private passenger type. We will pay only for those covered autos for which you carry either Comprehensive or Specified Perils Coverage. We will pay for transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered auto is returned to use or we pay for its loss.

C. WE WILL NOT COVER — EXCLUSIONS.

This insurance does not apply to:

1. Wear and tear, freezing, mechanical or electrical breakdown unless caused by other loss covered by this policy.
2. Blowouts, punctures or other road damage to tires unless caused by other loss covered by this policy.
3. Loss caused by declared or undeclared war or insurrection or any of their consequences.
4. Loss caused by the explosion of a nuclear weapon or its consequences.

5. Loss caused by radioactive contamination.

6. Loss to tape decks or other sound reproducing equipment not permanently installed in a covered auto.

7. Loss to tapes, records or other sound reproducing devices designed for use with sound reproducing equipment.

8. Loss to any sound receiving equipment designed for use as a citizens' band radio, two-way mobile radio or telephone or scanning monitor receiver, including its antennas and other accessories, unless permanently installed in the dash or console opening normally used by the auto manufacturer for the installation of a radio.

D. HOW WE WILL PAY FOR LOSSES — THE MOST WE WILL PAY.

1. At our option we may:

- a. Pay for, repair or replace damaged or stolen property; or
- b. Return the stolen property, at our expense. We will pay for any damage that results to the auto from the theft.

2. The most we will pay for loss is the smaller of the following amounts:

- a. The actual cash value of the damaged or stolen property at the time of loss.
- b. The cost of repairing or replacing the damaged or stolen property with other of like kind or quality.

3. For each covered auto, our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the declarations. Any Comprehensive Coverage deductible shown in the declarations does not apply to loss caused by fire or lightning.

E. GLASS BREAKAGE — HITTING A BIRD OR ANIMAL — FALLING OBJECTS OR MISSILES.

We will pay for glass breakage, loss caused by hitting a bird or animal or by falling objects or missiles under Comprehensive Coverage if you carry Comprehensive Coverage for the damaged covered auto. However, you have the option of having glass breakage caused by a covered auto's collision or overturn considered a loss under Collision Coverage.

PART VI — CONDITIONS

The insurance provided by this policy is subject to the following conditions:

A. YOUR DUTIES AFTER ACCIDENT OR LOSS.

1. You must promptly notify us or our agent of any accident or loss. You must tell us how, when and

where the accident or loss happened. You must assist in obtaining the names and addresses of any injured persons and witnesses.

2. Additionally, you and other involved insureds must:

- a. Cooperate with us in the investigation, settle-

b. Immediately send us copies of any notices or legal papers received in connection with the accident or loss.

c. Submit at our expense and as often as we require to physical examinations by physicians we select.

d. Authorize us to obtain medical reports and other pertinent medical information.

3. Additionally, to recover for loss to a covered auto or its equipment you must do the following:

a. Permit us to inspect and appraise the damaged property before its repair or disposition.

b. Do what is reasonably necessary after loss at our expense to protect the covered auto from further loss.

c. Submit a proof of loss when required by us.

d. Promptly notify the police if the covered auto or any of its equipment is stolen.

B. OTHER INSURANCE.

1. For any covered auto you own this policy provides primary insurance. For any covered auto you don't own, the insurance provided by this policy is excess over any other collectible insurance. However, while a covered auto which is a trailer is connected to another vehicle the liability coverage this policy provides for the trailer:

a. Is excess while it is connected to a motor vehicle you don't own.

b. Is primary while it is connected to a covered auto you own.

2. When two or more policies cover on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the limit of our policy bears to the total of the limits of all the policies covering on the same basis.

C. OUR RIGHT TO RECOVER FROM OTHERS.

If we make any payment, we are entitled to recover what we paid from other parties. Any person to or for whom we make payment must transfer to us his or her rights of recovery against any other party. This person must do everything necessary to secure these rights and must do nothing that would jeopardize them.

D. CANCELLING THIS POLICY DURING THE POLICY PERIOD.

1. You may cancel the policy by returning it to us or by giving us advance notice of the date cancellation is to take effect.

2. We may cancel the policy by mailing you at least 10 days notice at your last address known by us. We may deliver any notice instead of mailing it. Proof of

4. If this policy is cancelled, you may be entitled to a premium refund. If so, we will send you the refund. However, making or offering to make the refund is not a condition of cancellation. If you cancel, the refund, if any, will be computed in accordance with the customary short rate procedure. If we cancel, the refund, if any, will be computed pro rata.

E. LEGAL ACTION AGAINST US.

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

F. INSPECTION.

At our option we may inspect your property and operations at any time. These inspections are for our benefit only. By our right to inspect or by our making any inspection we make no representation that your property or operations are safe, not harmful to health or comply with any law, rule or regulation.

G. CHANGES.

This policy contains all the agreements between you and us. Its terms may not be changed or waived except by endorsement issued by us. If a change requires a premium adjustment, we will adjust the premium as of the effective date of change. If we revise this policy form to provide more coverage without additional premium charge your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

H. TRANSFER OF YOUR INTEREST IN THIS POLICY.

Your rights and duties under this policy may not be assigned without our written consent.

I. NO BENEFIT TO BAILEE — PHYSICAL DAMAGE INSURANCE ONLY.

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this policy.

J. BANKRUPTCY.

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

K. APPRAISAL FOR PHYSICAL DAMAGE LOSSES.

1. If you and we fail to agree as to the amount of loss either may demand an appraisal of the loss. In such event, you and we shall each select a competent appraiser, and the appraisers shall select a competent and disinterested umpire. The appraisers shall

state separately the actual cash value and the amount of loss, and, failing to agree, shall submit their differences to the umpire. An award in writing of any two shall determine the amount of loss. You and we shall each pay the chosen appraiser and shall bear equally the other expenses of the appraisal and umpire.

2. We shall not be held to have waived any of our rights by any act relating to appraisal.

L. TWO OR MORE POLICIES ISSUED BY US.

If this policy and any other policy issued to you by us or any company affiliated with us apply to the same accident, the aggregate maximum limit of liability under all the policies shall not exceed the highest applicable limit of liability under any one policy. This condition does not apply to any policy issued by us or an affiliated company specifically to apply as excess insurance over this policy.

Stated Amount — Physical Damage Insurance

HOW WE WILL PAY FOR LOSSES — THE MOST WE WILL PAY is changed to read:

1. At our option we may:
 - a. Pay for, repair or replace damaged or stolen property; or
 - b. Return the stolen property at our expense. We will pay for any damage that results to the auto from the theft.
2. The most we will pay for loss is the smallest of the following amounts:
 - a. The actual cash value of the damaged or stolen property at the time of loss.
 - b. The cost of repairing or replacing the damaged or stolen property with other of like kind or quality.
 - c. The stated amount, if any, shown
 - (1) in the "Schedule of Covered Autos You Own" as "Dollar Limit";
 - (2) in the form, "Physical Damage Insurance — Hired Autos" as a limit (if this form is made a part of this policy).
3. For each covered auto, our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any COMPREHENSIVE COVERAGE deductible shown in the Declarations does not apply to loss caused by fire or lightning.

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CHANGES IN POLICY—VIRGINIA

For a covered auto principally located or principally used in, or garage operations conducted in, Virginia, the policy is changed as follows:

A. CHANGES IN LIABILITY INSURANCE

1. If the policy provides LIABILITY INSURANCE only for owned autos, a temporary substitute for one of these will also be considered a covered auto, subject to the following provisions:

- a. The owned auto must be out of service because of its breakdown, repair, servicing, loss or destruction.
- b. The temporary substitute must be owned by someone other than you or a member of your household.
- c. The temporary substitute must be used with the permission of the owner.
- d. The LIABILITY INSURANCE for the temporary substitute is excess over any other collectible insurance.

2. OUT LIMIT OF LIABILITY applies except that we will apply the limit shown in the declarations to first provide the separate limits required by Virginia law as follows:

- a. \$25,000 for bodily injury to any one person caused by any one accident,
- b. \$50,000 for bodily injury to two or more persons caused by any one accident, and
- c. \$10,000 for property damage caused by any one accident.

This provision will not change our limit of liability.

B. CHANGES IN MEDICAL PAYMENTS INSURANCE

Medical services includes chiropractic services.

C. CHANGES IN CONDITIONS

YOUR DUTIES AFTER ACCIDENT OR LOSS is changed for LIABILITY INSURANCE by adding the following:

The Insured will be deemed not to have cooperated with us only if his failure or refusal to do so harms our defense of an action for damages.

YOUR DUTIES AFTER ACCIDENT OR LOSS is changed for AUTO MEDICAL PAYMENTS INSURANCE by adding the following:

The failure or refusal of the Insured to notify us of an accident will relieve us of our obligation to pay only if his failure or refusal prejudices us in establishing the validity of any claim.

INDIVIDUAL NAMED INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
TRUCKERS COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM

If you are an individual, the policy is changed as follows:

A. CHANGES IN LIABILITY COVERAGE

1. The FELLOW EMPLOYEE Exclusion does not apply to "bodily injury" to your or any "family member's" fellow employees.

2. PERSONAL AUTO COVERAGE

While any "auto" you own of the "private passenger type" is a covered "auto" under LIABILITY COVERAGE:

- a. The following is added to WHO IS AN INSURED:

"Family members" are "insureds" for any covered "auto" you own of the "private passenger type" and any other "auto" described in paragraph 2.b. of this endorsement.

- b. Any "auto" you don't own is a covered "auto" while being used by you or by any "family member" except:

- (1) Any "auto" owned by any "family members."
- (2) Any "auto" furnished or available for your or any "family member's" regular use.
- (3) Any "auto" used by you or by any of your "family members" while working in a business of selling, servicing, repairing or parking "autos."
- (4) Any "auto" other than an "auto" of the "private passenger type" used by you or any of your "family members" while working in any other business or occupation.

- c. The POLLUTION Exclusion and, if forming a part of the policy, the NUCLEAR ENERGY LIABILITY EXCLUSION (BROAD FORM), does not apply to any covered "auto" of the "private passenger type."

- d. The following exclusion is added and applies only to "private passenger type" covered "autos":

This insurance does not apply to:

"Bodily injury" or "property damage" for which an "insured" under the policy is also an "insured" under a nuclear energy liability policy or would be an "insured" but for its termination upon its exhaustion of its limit of liability. A nuclear energy liability policy is a policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or any of their successors. This exclusion does not apply to "autos" registered or principally garaged in New York.

B. CHANGES IN PHYSICAL DAMAGE

PERSONAL AUTO COVERAGE

While any "auto" you own of the "private passenger type" is a covered "auto" under PHYSICAL DAMAGE COVERAGE, a "non-owned auto" will also be considered a covered "auto." However, the most we will pay for "loss" to a "non-owned auto" which is a "trailer" is \$500.

C. ADDITIONAL DEFINITIONS

1. The following is added to the DEFINITIONS Section:

"Family member" means a person related to you by blood, marriage or adoption who is a resident of your household, including a ward or foster child.

2. The words "you" and "your" include your spouse if a resident of the same household except for notice of cancellation.
3. When the phrase "private passenger type" appears in quotation marks it includes any covered "auto" you own of the pick-up or van type not used for business purposes, other than farming or ranching.

4. "Non-owned auto" means any private passenger type "auto," pick up, van or "trailer" not owned by or furnished or available for the regular use of you or any "family member," while it is in the custody of or being operated by you or any "family member."

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT
(Broad Form)

It is agreed that:

A. The policy does not apply:

1. Under any Liability Coverage, to bodily injury or property damage
 - a. with respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - b. resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
2. Under any Medical Payments Coverage, or under any Supplementary Payments provision relating to first aid, to expenses incurred with respect to bodily injury resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.
3. Under any Liability Coverage, to bodily injury or property damage resulting from the hazardous properties of nuclear material, if
 - a. the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;
 - b. the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
 - c. the bodily injury or property damage arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories

or possessions or Canada, this exclusion c applies only to property damage to such nuclear facility and any property thereat.

B. As used in this endorsement:

"hazardous properties" include radioactive, toxic or explosive properties;

"nuclear material" means source material, special nuclear material or byproduct material;

"source material", "special nuclear material", and "byproduct material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

"waste" means any waste material (a) containing byproduct material and (b) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph 1 or 2 thereof;

"nuclear facility" means

1. any nuclear reactor,
2. any equipment or device designed or used for (a) separating the isotopes of uranium or plutonium, (b) processing or utilizing spent fuel, or (c) handling, processing or packaging waste,
3. any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
4. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"property damage" includes all forms of radioactive contamination of property.

THIS ENDORSEMENT IS A PART OF THE POLICY NUMBERED BELOW:

POLICY NUMBER: 42 UEC KP7961

THIS IS A TRUE & CERTIFIED COPY OF
POLICY # 42 UEC KP79613

NAMED INSURED: A & R INDUSTRIAL SWEEPING &
CLEANING

Elizabeth Ernst

AGENT OR BROKER: HAMILTON INS AGENCY INC. (UNLIMITED)

POLICY CHANGE EFFECTIVE DATE: 12/08/88

NO PREMIUM DUE AT POLICY CHANGE EFFECTIVE DATE.

FORM NUMBERS OF COVERAGE PARTS AND ENDORSEMENTS ADDED TO THIS POLICY
AT ENDORSEMENT ISSUE:

IH12001185 COUNTERSIGNATURE

IH12001185 (APPLIES TO)

THIS ENDORSEMENT DOES NOT CHANGE THE POLICY EXCEPT AS SHOWN.
THIS ENDORSEMENT WILL NOT BE BINDING UNLESS COUNTERSIGNED BY A DULY
AUTHORIZED AGENT OF THE COMPANY.

COUNTERSIGNED BY _____

AUTHORIZED AGENT

CHANGES IN POLICY — CANCELLATION (VIRGINIA)

If you are an individual and a covered auto you own is of the private passenger type, CANCELLING THIS POLICY DURING THE POLICY PERIOD does not apply to that auto. The following Condition applies instead:

ENDING THIS POLICY

A. Cancellation

1. You or your attorney-in-fact may cancel the policy by returning it to us or by giving us advance notice of the date cancellation is to take effect.
2. When this policy is in effect less than 60 days and is not a renewal or continuation policy, we may cancel for any reason provided we mail you notice within this period. If we cancel we will mail you at least 10 days notice.
3. When this policy is in effect 60 days or more or is a renewal or continuation policy, we may cancel only for one or more of the following reasons:
 - a. Nonpayment of premium. If we cancel for this reason, we will mail you at least 15 days notice.
 - b. Your driver's license or that of a driver who lives with you or customarily uses the covered auto has been suspended or revoked during the policy period or, if the policy is a renewal, during its policy period or the 90 days immediately preceding the last anniversary of the effective date. If we cancel for this reason we will mail you at least 45 days notice.
 - c. We replace this policy with another one providing similar coverages and the same limits for the covered auto. The replacement policy will take effect when this policy is cancelled, and will end a year after this policy begins or on this policy's expiration date, whichever is earlier.
4. If this policy is cancelled, you may be entitled to a premium refund. If so, we will send you the refund. However, making or offering to

make the refund is not a condition of cancellation. If you or your attorney-in-fact cancel the refund, if any, will be computed in accordance with our customary short rate procedure. If we cancel, the refund, if any, will be computed pro rata.

5. The effective date of cancellation stated in the notice shall become the end of the policy period.

B. Non-Renewal

1. If we decide not to renew or continue this policy we will mail you notice at least 45 days before the end of the policy period. If the policy is written for a period of less than one year or without a fixed expiration date we will have the right not to renew or continue a particular coverage only at the end of any six month period following its original effective date.
2. If we or our agent offer to renew or continue and you or your attorney-in-fact do not accept, this policy will terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that you or your attorney-in-fact have not accepted our offer.

C. Mailing of Notices

Any notice of cancellation or non-renewal will be mailed to your last known address by certificate of mailing, provided we retain a duplicate certified copy of said notice, or by registered or certified mail, pursuant to Section 38.1-381.1 of the Code of Virginia. However, we may deliver any notice instead of mailing it.

COMMON POLICY DECLARATIONS Elizabeth Ernst

ITEM

1. NAMED INSURED AND MAILING ADDRESS: A & R INDUSTRIAL SWEEPING & CLEANING
5108 NINIAN AVE.,
ALEXANDRIA, VA 22310
2. POLICY PERIOD: FROM 12/08/88 TO 12/03/89
12:01 A.M. STANDARD TIME AT
YOUR MAILING ADDRESS SHOWN ABOVE.
3. AGENT'S OR BROKER'S CODE: 640350
AGENT'S OR BROKER'S NAME: HAMILTON INS AGENCY INC-UNLIMI
PREVIOUS POLICY NO.: 42 UEC KP7961
4. AUDIT PERIOD: ANNUAL.
5. POLICY INSURED IS: INDIVIDUAL
6. DESCRIPTION OF YOUR BUSINESS:
CLEANING GARAGES IN EVENINGS
7. INSURANCE PROVIDED:
IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS
OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE INSURANCE AS STATED IN
THIS POLICY.

THE COVERAGE PARTS THAT ARE A PART OF THIS POLICY ARE LISTED BELOW OR
ON THE EXTENSION SCHEDULE ATTACHED. THE PREMIUMS SHOWN MAY BE SUBJECT
TO ADJUSTMENT.

8. SUMMARY OF COVERAGE PARTS, INSURANCE
COMPANY AND PREMIUM:

SEE EXTENSION SCHEDULE (FORM HM0012)

TOTAL PREMIUM PAYABLE AT INCEPTION

\$1,299.00

COUNTERSIGNED BY

AUTHORIZED AGENT

DATE

COUNTERSIGNATURE

THE COUNTERSIGNATURE FORM G-1760-10 AND G-2669-04 IS DELETED
FROM POLICY

THIS ENDORSEMENT DOES NOT CHANGE THE POLICY EXCEPT AS SHOWN.

ITEM

9. FORM NUMBERS OF COVERAGE PARTS,
FORMS AND ENDORSEMENTS THAT ARE A
PART OF THIS POLICY AND THAT ARE
NOT LISTED IN THE COVERAGE PARTS:

HM00011185 HM00121185T G-1760-10(01) IH00170586 IH99140287 IL00211185
ILO1381185 HC00101185T

ITEM

6. SUMMARY OF COVERAGE PARTS, INSURANCE
COMPANY AND PREMIUM

GENERAL LIABILITY

ADVANCE PREMIUM:

\$1,299.00

COMMERCIAL GENERAL LIABILITY
COVERAGE PART

COMPANY NAME AND ADDRESS:

HARTFORD ACCIDENT AND INDEMNITY COMPANY

HARTFORD PLAZA

HARTFORD, CONNECTICUT 06115

COMPANY CODE: 5

COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

A. CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. CHANGES

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized on behalf of all insureds to agree with us on changes in the terms of this policy. If the terms are changed, the changes will be shown in an endorsement issued by us and made a part of this policy.

C. EXAMINATION OF YOUR BOOKS AND RECORDS

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

We may do the same as to the books and records of any organization you newly acquire or form that is deemed to be a Named Insured under this policy.

D. INSPECTIONS AND SURVEYS

We have the right but are not obligated to:

1. Make inspections and surveys at any time;
2. Give you reports on the conditions we find; and
3. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. Such inspections are not safety inspections. We do not undertake any duty to provide for the health or safety of any person. And we do not represent or warrant that conditions:

1. Are safe or healthful; or
2. Comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations on our behalf.

E. PREMIUMS

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual Named Insured.

while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

IT IS HEREBY UNDERSTOOD AND AGREED THE FOLLOWING IS ADDED AS
ADDITIONAL INSURED FOR THE ABOVE POLICY.

W/RS:

45

AMENDATORY ENDORSEMENT

The paragraph immediately preceding the signatures of our President and Secretary is deleted and replaced by the following:

Our President and Secretary have signed this policy. The Declarations page has also been countersigned by our duly authorized agent.

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT

(Broad Form)

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS POLICY
COMMERCIAL AUTO COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
FARM COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY NEW YORK DEPARTMENT OF
TRANSPORTATION

1. The insurance does not apply:

A. Under any Liability Coverage, to "bodily injury" or "property damage:"

(1) With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.

C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material," if:

(1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;

(2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured;" or

(3) The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility," but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

2. As used in this endorsement:

"Hazardous properties" includes radioactive, toxic or explosive properties;

"Nuclear material" means "source material," "Special nuclear material" or "by-product material;"

"Source material," "special nuclear material," and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor;"

"Waste" means any waste material (a) containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and (b) resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility."

"Nuclear facility" means:

(a) Any "nuclear reactor;"

(b) Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing "spent fuel," or (3) handling, processing or packaging "waste;"

(c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste;"

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"Property damage" includes all forms of radioactive contamination of property.

VIRGINIA CHANGES - CANCELLATION

This endorsement modifies insurance provided under the following:

COMMERCIAL CRIME - SAFE DEPOSITORY LIABILITY COVERAGE FORM
COMMERCIAL CRIME - LIABILITY FOR GUESTS' PROPERTY - PREMISES COVERAGE FORM
COMMERCIAL CRIME - LIABILITY FOR GUESTS' PROPERTY - SAFE DEPOSIT BOX COVERAGE FORM
COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

- A. Paragraphs 2. and 3. and 5. of the CANCELLATION Common Policy Condition are replaced by the following:**
- 2. We may cancel this policy by mailing or delivering to you written notice of cancellation, stating the reason for cancellation, at least:**
 - a. 15 days before the effective date of cancellation if we cancel for nonpayment of premium; or**
 - b. 45 days before the effective date of cancellation if we cancel for any other reason.**
 - 3. We will send written notice by registered or certified mail or deliver written notice to your last mailing address known to us.**
 - 5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund will generally be 90% of pro rata. The cancellation will be effective even if we have not made or offered a refund.**
- B. The following is added and supersedes any other provision to the contrary:**
- NONRENEWAL**
- 1. If we elect not to renew this policy, we will mail or deliver a notice of nonrenewal to you, stating the reason for nonrenewal, at least:**
 - a. 15 days before the expiration date if the nonrenewal is due to nonpayment of premium; or**
 - b. 45 days before the expiration date if the nonrenewal is for any other reason.**
 - 2. We will send written notice by registered or certified mail or deliver written notice of nonrenewal to your last mailing address known to us.**

THIS COMMERCIAL GENERAL LIABILITY COVERAGE PART CONSISTS OF:

- A. THIS DECLARATIONS,
- B. COMMERCIAL GENERAL LIABILITY SCHEDULE,
- C. COMMERCIAL GENERAL LIABILITY COVERAGE FORM, AND
- D. ANY ENDORSEMENTS ISSUED TO BE A PART OF THIS COVERAGE PART AND LISTED BELOW.

LIMITS OF INSURANCE

THE LIMITS OF INSURANCE, SUBJECT TO ALL THE TERMS OF THIS POLICY THAT APPLY, ARE:

EACH OCCURRENCE LIMIT \$ 400,000

PERSONAL AND ADVERTISING INJURY LIMIT \$ 400,000

FIRE DAMAGE LIMIT - ANY ONE FIRE \$ 100,000

MEDICAL EXPENSE LIMIT - ANY ONE PERSON \$ 10,000

GENERAL AGGREGATE LIMIT, \$ 1,000,000
(OTHER THAN PRODUCTS-COMPLETED OPERATIONS)

PRODUCTS-COMPLETED OPERATIONS AGGREGATE LIMIT \$ 1,000,000

ADVANCE PREMIUM: \$ 1,299.00

EXCEPT IN THIS DECLARATIONS, WHEN WE USE THE WORD "DECLARATIONS" IN THIS COVERAGE PART, WE MEAN THIS "DECLARATIONS" OR THE "COMMON POLICY DECLARATIONS".

FORM NUMBERS OF COVERAGE FORMS AND
ENDORSEMENTS THAT ARE PART OF THIS
COVERAGE PART:

CG000011185 CG00410586 CG03001185T CG25041185 HC26000884
HC70011185 HC12101185T

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we," "us" and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under SECTION II — WHO IS AN INSURED.

Other words and phrases that appear in quotation marks have special meaning. Refer to SECTION V — DEFINITIONS.

SECTION I — COVERAGES

COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement.

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS — COVERAGES A AND B. This insurance applies only to "bodily injury" and "property damage" which occurs during the policy period. The "bodily injury" or "property damage" must be caused by an "occurrence." The "occurrence" must take place in the "coverage territory." We will have the right and duty to defend any "suit" seeking those damages. But:

- (1) The amount we will pay for damages is limited as described in SECTION III — LIMITS OF INSURANCE;
- (2) We may investigate and settle any claim or "suit" at our discretion; and
- (3) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

- b. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury."

- c. "Property damage" that is loss of use of tangible property that is not physically injured shall be deemed to occur at the time of the "occurrence" that caused it.

2. Exclusions.

This insurance does not apply to:

- a. "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.
- b. "Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:
 - (1) Assumed in a contract or agreement that is an "insured contract;" or
 - (2) That the insured would have in the absence of the contract or agreement.
- c. "Bodily injury" or "property damage" for which any insured may be held liable by reason of:
 - (1) Causing or contributing to the intoxication of any person;
 - (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
 - (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

- d. Any obligation of the insured under a workers compensation, disability benefits or unemployment compensation law or any similar law.

- e. "Bodily injury" to:

- (1) An employee of the insured arising out of and in the course of employment by the insured; or
- (2) The spouse, child, parent, brother or sister of that employee as a consequence of (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract."

f. (1) "Bodily injury" or "property damage" arising out of the act, alleged or threatened discharge, disposal, release or escape of pollutants:

- (a) At or from premises you own, rent or occupy;
- (b) At or from any site or location used by or for you or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are at any time transported, handled, stored, treated, disposed of, or processed as waste by or for you or any person or organization for whom you may be legally responsible; or
- (d) At or from any site or location on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations:
 - (i) if the pollutants are brought on or to the site or location in connection with such operations; or
 - (ii) if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize the pollutants.

(2) Any loss, cost, or expense arising out of any governmental direction or request that you test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

g. "Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading."

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in paragraph f.(2) or f.(3) of the definition of "mobile equipment" (Section V.8).

h. "Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.

i. "Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

j. "Property damage" to:

- (1) Property you own, rent, or occupy;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in your care, custody or control;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

k. "Property damage" to "your product" arising out of it or any part of it.

- l. "Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard."

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

- m. "Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work;" or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

- n. Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product;"
- (2) "Your work;" or
- (3) "Impaired property;"

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

Exclusions c. through n. do not apply to damage by fire to premises rented to you. A separate limit of insurance applies to this coverage as described in SECTION III — LIMITS OF INSURANCE.

COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement.

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal injury" or "advertising injury" to which this insurance applies. No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS—COVERAGES A AND B. We will have the right and duty to defend any "suit" seeking those damages. But:

- (1) The amount we will pay for damages is limited as described in SECTION III — LIMITS OF INSURANCE;

- (2) We may investigate and settle any claim or "suit" at our discretion; and

- (3) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

- b. This insurance applies to "personal injury" only if caused by an offense:

- (1) Committed in the "coverage territory" during the policy period; and
- (2) Arising out of the conduct of your business, excluding advertising, publishing, broadcasting or telecasting done by or for you.

- c. This insurance applies to "advertising injury" only if caused by an offense committed:

- (1) In the "coverage territory" during the policy period; and
- (2) In the course of advertising your goods, products or services.

2. Exclusions.

This insurance does not apply to:

- a. "Personal injury" or "advertising injury:"

- (1) Arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity;
- (2) Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period;
- (3) Arising out of the willful violation of a penal statute or ordinance committed by or with the consent of the insured; or
- (4) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

- b. "Advertising injury" arising out of:

- (1) Breach of contract, other than misappropriation of advertising ideas under an implied contract;
- (2) The failure of goods, products or services to conform with advertised quality or performance;
- (3) The wrong description of the price of goods, products or services; or
- (4) An offense committed by an insured whose business is advertising, broadcasting, publishing or telecasting.

COVERAGE C. MEDICAL PAYMENTS

1. Insuring Agreement.

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
- provided that:

- (1) The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within one year of the date of the accident; and
- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions.

We will not pay expenses for "bodily injury:"

- a. To any insured.
- b. To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. To a person injured on that part of premises you own or rent that the person normally occupies.
- d. To a person, whether or not an employee of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers compensation or disability benefits law or a similar law.
- e. To a person injured while taking part in athletics.
- f. Included within the "products-completed operations hazard."
- g. Excluded under Coverage A.
- h. Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

SUPPLEMENTARY PAYMENTS — COVERAGES A AND B

We will pay, with respect to any claim or "suit" we defend:

1. All expenses we incur.
2. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
3. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
4. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit," including actual loss of earnings up to \$100 a day because of time off from work.
5. All costs taxed against the insured in the "suit."
6. Pre-judgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any pre-judgment interest based on that period of time after the offer.
7. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

SECTION II — WHO IS AN INSURED

1. If you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
 - c. An organization other than a partnership or joint venture, you are an insured. Your executive officers and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
2. Each of the following is also an insured:
 - a. Your employees, other than your executive officers, but only for acts within the scope of their employment by you. However, none of these employees is an insured for:

- (1) "Bodily injury" or "personal injury" to you or to a co-employee while in the course of his or her employment; or
 - (2) "Bodily injury" or "personal injury" arising out of his or her providing or failing to provide professional health care services; or
 - (3) "Property damage" to property owned or occupied by or rented or loaned to that employee, any of your other employees, or any of your partners or members (if you are a partnership or joint venture).
- b. Any person (other than your employee), or any organization while acting as your real estate manager.
 - c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
 - d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:
 - a. "Bodily injury" to a co-employee of the person driving the equipment; or
 - b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.
 4. Any organization you newly acquire or form, other than a partnership or joint venture, and over which you maintain ownership or majority interest, will be deemed to be a Named Insured if there is no other similar insurance available to that organization. However:
 - a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage B does not apply to "personal injury" or "advertising injury" arising out of an offense committed before you acquired or formed the organization.
- No person or organization is an insured with respect to the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations.

SECTION III — LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits."
2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage C; and
 - b. Damages under Coverage A and Coverage B, except damages because of injury and damage included in the "products-completed operations hazard."
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of injury and damage included in the "products-completed operations hazard."
4. Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal injury" and all "advertising injury" sustained by any one person or organization.
5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage A; and
 - b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence."
6. Subject to 5. above, the Fire Damage Limit is the most we will pay under Coverage A for damages because of "property damage" to premises rented to you arising out of any one fire.
7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The limits of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV — COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy.

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Claim Or Suit.

a. You must see to it that we are notified promptly of an "occurrence" which may result in a claim. Notice should include:

- (1) How, when and where the "occurrence" took place; and
- (2) The names and addresses of any injured persons and witnesses.

b. If a claim is made or "suit" is brought against any insured, you must see to it that we receive prompt written notice of the claim or "suit."

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit;"
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation, settlement or defense of the claim or "suit;" and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insureds will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us.

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance.

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

- (1) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work;"
- (2) That is Fire insurance for premises rented to you; or
- (3) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Coverage A (Section I).

When this insurance is excess, we will have no duty under Coverage A or B to defend any claim or "suit" that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurer that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit.

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy term is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations.

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds.

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us.

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

SECTION V — DEFINITIONS

1. "Advertising injury" means injury arising out of one or more of the following offenses:

- a. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- b. Oral or written publication of material that violates a person's right of privacy;
- c. Misappropriation of advertising ideas or style of doing business; or
- d. Infringement of copyright, title or slogan.

2. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment."

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

4. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, provided the injury or damage does not occur in the course of travel or transportation to or from any place not included in a. above; or

- c. All parts of the world if:

- (1) The injury or damage arises out of:

- (a) Goods or products made or sold by you in the territory described in a. above; or
- (b) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; and

- (2) The insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in a. above or in a settlement we agree to.

5. "Impaired property" means tangible property, other than "your product" or "your work," that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

- a. The repair, replacement, adjustment or removal of "your product" or "your work;" or
- b. Your fulfilling the terms of the contract or agreement.

6. "Insured contract" means:

- a. A lease of premises;
- b. A sidetrack agreement;
- c. An easement or license agreement in connection with vehicle or pedestrian private railroad crossings at grade;
- d. Any other easement agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- e. An indemnification of a municipality as required by ordinance, except in connection with work for a municipality;
- f. An elevator maintenance agreement; or
- g. That part of any other contract or agreement pertaining to your business under which you assume the tort liability of another to pay damages because of "bodily injury" or "property damage" to a third person or organization, if the contract or agreement is made prior to the "bodily injury" or "property damage." Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

An "insured contract" does not include that part of any contract or agreement:

- a. That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (1) Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
 - (2) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- b. Under which the insured, if an architect, engineer or surveyor, assumes liability for injury or damage arising out of the insured's rendering or failing to render professional services, including those listed in a. above and supervisory, inspection or engineering services; or

c. That indemnifies any person or organization for damage by fire to premises rented or loaned to you.

7. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto;"
- b. While it is in or on an aircraft, watercraft or "auto;" or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto."

8. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos:"

- (1) Equipment designed primarily for:
 - (a) Snow removal;

- (b) Road maintenance, but not construction or resurfacing;
 - (c) Street cleaning;
 - (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
9. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
10. "Personal injury" means injury, other than "bodily injury," arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;
 - c. Wrongful entry into, or eviction of a person from, a room, dwelling or premises that the person occupies;
 - d. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services; or
 - e. Oral or written publication of material that violates a person's right of privacy.
11. a. "Products-completed operations hazard" includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
- (1) Products that are still in your physical possession; or
 - (2) Work that has not yet been completed or abandoned.
- b. "Your work" will be deemed completed at the earliest of the following times:
- (1) When all of the work called for in your contract has been completed.
 - (2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site.
 - (3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.
- Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- c. The hazard does not include "bodily injury" or "property damage" arising out of:
 - (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle created by the "loading or unloading" of it;
 - (2) The existence of tools, uninstalled equipment or abandoned or unused materials;
 - (3) Products or operations for which the classification in this Coverage Part or in our manual of rules includes products or completed operations.
12. "Property damage" means:
- a. Physical injury to tangible property, including all resulting loss of use of that property; or
 - b. Loss of use of tangible property that is not physically injured.
13. "Suit" means a civil proceeding in which damages because of "bodily injury," "property damage," "personal injury" or "advertising injury" to which this insurance applies are alleged. "Suit" includes an arbitration proceeding alleging such damages to which you must submit or submit with our consent.
14. "Your product" means:
- a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (1) You;
 - (2) Others trading under your name; or
 - (3) A person or organization whose business or assets you have acquired; and
 - b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
- "Your product" includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in a. and b. above.
- "Your product" does not include vending machines or other property rented to or located for the use of others but not sold.
15. "Your work" means:
- a. Work or operations performed by you or on your behalf; and
 - b. Materials, parts or equipment furnished in connection with such work or operations.
- "Your work" includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in a. or b. above.

THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY.

DEDUCTIBLE LIABILITY INSURANCE

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

COVERAGE:

AMOUNT AND BASIS OF DEDUCTIBLE

PROPERTY DAMAGE LIABILITY

\$ 250

PER CLAIM

(IF NO ENTRY APPEARS ABOVE, INFORMATION REQUIRED TO COMPLETE THIS ENDORSEMENT WILL BE SHOWN IN THE DECLARATIONS AS APPLICABLE TO THIS ENDORSEMENT.)

APPLICATION OF ENDORSEMENT (ENTER BELOW ANY LIMITATIONS ON THE APPLICATION OF THIS ENDORSEMENT. IF NO LIMITATION IS ENTERED, THE DEDUCTIBLES APPLY TO DAMAGES FOR ALL "BODILY INJURY" AND "PROPERTY DAMAGE", HOWEVER CAUSED):

COVERAGE A EXCLUDING PRODUCTS AND COMPLETED OPERATIONS HAZARD --
"PROPERTY DAMAGE" ONLY

1. OUR OBLIGATION UNDER THE BODILY INJURY LIABILITY AND PROPERTY DAMAGE LIABILITY COVERAGES TO PAY DAMAGES ON YOUR BEHALF APPLIES ONLY TO THE AMOUNT OF DAMAGES IN EXCESS OF ANY DEDUCTIBLE AMOUNTS STATED IN THE SCHEDULE ABOVE AS APPLICABLE TO SUCH COVERAGES, AND THE LIMITS OF INSURANCE APPLICABLE TO "EACH OCCURRENCE" FOR SUCH COVERAGES WILL BE REDUCED BY THE AMOUNT OF SUCH DEDUCTIBLE. "AGGREGATE" LIMITS FOR SUCH COVERAGES SHALL NOT BE REDUCED BY THE APPLICATION OF SUCH DEDUCTIBLE AMOUNT.

2. THE DEDUCTIBLE AMOUNTS STATED IN THE SCHEDULE APPLY AS FOLLOWS:

PER CLAIM BASIS - IF THE DEDUCTIBLE IS ON A "PER CLAIM" BASIS, THE DEDUCTIBLE AMOUNT APPLIES:

1. UNDER THE BODILY INJURY LIABILITY OR PROPERTY DAMAGE LIABILITY COVERAGE, RESPECTIVELY:

- A. TO ALL DAMAGES BECAUSE OF "BODILY INJURY" SUSTAINED BY ONE PERSON, OR
- B. TO ALL DAMAGES BECAUSE OF "PROPERTY DAMAGE" SUSTAINED BY ONE PERSON OR ORGANIZATION.

AS THE RESULT OF ANY ONE "OCCURRENCE".

2. UNDER BODILY INJURY LIABILITY AND PROPERTY DAMAGE LIABILITY COVERAGE COMBINED TO ALL DAMAGES BECAUSE OF "BODILY INJURY" AND "PROPERTY DAMAGE" SUSTAINED BY ONE PERSON OR ORGANIZATION AS THE RESULT OF ANY ONE "OCCURRENCE."

AMENDMENT OF POLLUTION EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following is added to exclusion f. of COVERAGE A (Section I):

Subparagraphs (a) and (d)(i) of paragraph (1) of this exclusion do not apply to "bodily injury" or "property damage" caused by heat, smoke or fumes from a hostile fire. As used in this exclusion, a hostile fire is a fire which becomes uncontrollable or breaks out from where it was intended to be.

AMENDMENT—AGGREGATE LIMITS OF INSURANCE (PER LOCATION)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

The General Aggregate Limit under LIMITS OF INSURANCE (Section III) applies separately to each "Location" owned by or rented to you.

"Location" means premises involving the same or connecting lots, or premises whose connection is made only by a street, roadway, waterway or right-of-way of a railroad.

OCCURRENCE

READ YOUR POLICY CAREFULLY

DECLARATIONS PAGES

Named Insured and Mailing Address
Policy Period
Description of Business and Location
Coverages and Limits of Insurance

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ENDORSEMENTS

These form numbers are shown on the Coverage Part-Declarations Page or on the Common Policy Declarations Page.

Form HC 70 01 11 85 Printed in U.S.A. (NS)

THE HARTFORD 

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SPECIAL BROAD FORM COMMERCIAL GENERAL LIABILITY ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. PERSONAL INJURY

- a. The following is added to the "personal injury" definition:

- f. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:

- (1) Not done intentionally by or at the direction of:

- (a) The insured; or
(b) Any executive officer, director, stockholder, partner or member of the insured; and

- (2) Not directly or indirectly related to the employment, prospective employment or termination of employment of any person or persons by any insured.

- b. Exclusion a.(4) of COVERAGE B (Section I) is deleted.

Paragraph f. of definition 10. "personal injury" of the DEFINITIONS Section does not apply in the states of New York or Ohio.

This provision 1. does not apply if COVERAGE B. PERSONAL INJURY LIABILITY is excluded either by the provisions of the Coverage Part or by endorsement.

2. MEDICAL PAYMENTS

Subject to all the terms of SECTION III — LIMITS OF INSURANCE, the Medical Expense Limit is the higher of:

- a. \$10,000; or
b. The amount shown in the Declarations.

This provision 2. does not apply if COVERAGE C.

MEDICAL PAYMENTS is excluded either by the provisions of the Coverage Part or by endorsement.

3. IMPAIRED PROPERTY

- a. Definition 5. "impaired property" of the DEFINITIONS Section does not apply.

- b. Exclusions m. and n. of COVERAGE A (Section I) are replaced by the following:

- m. Loss of use of tangible property which has not been physically injured or destroyed, resulting from:

- (1) A delay in or lack of performance by you or on your behalf of any contract or agreement; or
(2) The failure of "your product" or "your work" to meet the level of performance, quality, fitness or durability warranted or represented by you or on your behalf.

This exclusion does not apply to loss of use of other tangible property resulting from the sudden and accidental physical injury to or destruction of:

- (1) "Your product;" or
(2) "Your work;"

after such product or work has been put to its intended use.

- n. Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product;" or
(2) "Your work;" or

drawn or recalled in the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

4. FIRE AND EXPLOSION DAMAGE

- a. The word "fire" is changed to "fire or explosion" where it appears in:

- (1) The Limits of Insurance section of the Declarations;
- (2) The last paragraph of **COVERAGE A** (Section I) (after the Exclusions);
- (3) Paragraph 6. of **LIMITS OF INSURANCE**; and
- (4) Paragraph b. of the **OTHER INSURANCE** condition;

But the Limit of Insurance shown in the Declarations will apply to all damage proximately caused by the same event, whether such damage results from fire or explosion or both.

- b. Subject to all the terms of **SECTION III — LIMITS OF INSURANCE**, the Fire and Explosion Limit is the higher of:

- (1) \$100,000; or
- (2) The amount shown in the Declarations.

This provision 4. does not apply if Fire Damage Legal Liability of **COVERAGE A** is excluded either by the provisions of the Coverage Part or by endorsement.

5. PROPERTY DAMAGE LIABILITY — ELEVATORS AND SIDETRACK AGREEMENTS

The insurance for "property damage" liability is also subject to the following:

- a. Paragraphs (3), (4) and (6) of exclusion j. of **COVERAGE A** (Section I) do not apply to the use of elevators.
- b. Exclusion k. of **COVERAGE A** (Section I) does not apply to:
 - (1) The use of elevators; or
 - (2) Liability assumed under a sidetrack agreement.
- c. The insurance afforded by reason of this provision 5. is excess over any valid and collectible property insurance (including any deductible) available to the insured, and the **OTHER INSURANCE** condition is changed accordingly.

neither

- a. Owned by you; nor
- b. Being used to carry persons for a charge;

This provision 6. does not apply if the insured has any other insurance for "bodily injury" or "property damage" liability that would also be covered under this provision, whether the other insurance is primary, excess, contingent or on any other basis. In that case, this provision 6. does not provide any insurance.

7. NEWLY FORMED OR ACQUIRED ORGANIZATIONS

In paragraph 4.a. of **SECTION II — WHO IS AN INSURED**, "90th day" is changed to "180th day."

This provision 7. does not apply if newly formed or acquired organizations coverage is excluded either by the provisions of the Coverage Part or by endorsement.

8. SUPPLEMENTARY PAYMENTS

In the **SUPPLEMENTARY PAYMENTS — COVERAGE A AND B** provision, the limit for loss of earnings is changed from "\$100 a day" to "\$250 a day."

9. ADDITIONAL INSUREDS — BY CONTRACT

- a. **SECTION II — WHO IS AN INSURED** is changed to include any:

- (1) Person;
- (2) Organization;
- (3) Trustee;
- (4) Estate; or
- (5) Governmental entity,

to whom or to which you must, because of a:

- (1) Written contract;
- (2) Written agreement; or
- (3) Permit,

provide insurance such as that under this policy.

- b. This provision 9. applies:

- (1) Only to "your work" or facilities owned or used by you; and

- (2) Then only for the smaller of:

- a. The amounts of insurance required by the contract, agreement or permit; or
- b. The applicable limits of insurance of this policy;

(1) As to "occurrences" taking place after the contract or agreement has been signed or the permit has been issued; and

(2) Then only if the name of such insured has been given to us:

- a. By the effective date of the policy; or
- b. Within 180 days after the effective date of the contract or agreement, or of the date the permit is issued, if the contract or agreement takes effect or the permit is issued during the policy period.

10. NONOWNED AIRCRAFT

Exclusion g. is changed so that **COVERAGE A — (Section I)** applies to aircraft that is:

1. Hired, chartered or loaned with a paid crew; but
2. Not owned by any insured;

This provision 10. does not apply if the insured has any other insurance for "bodily injury" or "property damage" liability that would also be covered under this provision, whether the other insurance is primary, excess, contingent or on any other basis. In that case, this provision 10. does not provide any insurance.

CLAIM OR SUIT

The requirement in condition 2.a. that you must see to it that we are notified of an "occurrence" applies only when the "occurrence" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

The requirement in condition 2.b. that you must see to it that we receive notice of a claim or "suit" will not be considered breached unless the breach occurs after such claim or "suit" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

12. LIBERALIZATION

If we adopt a change in our forms or rules that would broaden the coverage of this policy without extra charge, the broader coverage will apply to this policy. It will apply when the change becomes effective in your state.

ENTRIES HEREIN, EXCEPT AS SPECIFICALLY PROVIDED ELSEWHERE IN THIS POLICY,
DO NOT MODIFY ANY OF THE OTHER PROVISIONS OF THE POLICY.

R A T I N G C L A S S I F I C A T I O N S

DESCRIPTION OF HAZARDS: PREMISES/OPERATIONS COVERAGE

REFER TO: "COMMERCIAL GENERAL LIABILITY
COVERAGE PART" (FORM HC0010)

PRMS/BLDG. NO: 001/001
LOCATION: 5108 NINIAN AVE.,
ALEXANDRIA
VA. 22310

CLASSIFICATION CODE NUMBER
AND DESCRIPTION: 96816
JANITORIAL SERVICES - INCLUDING PRODUCTION AND/OR COMPLETED OPERATIONS

PREMIUM AND RATING BASIS: PAYROLL PER 1,000

EXPOSURE: 26,300

RATE: 49.3990

ADVANCE PREMIUM: 1,299.00

FORM(S) APPLICABLE TO THIS CLASS CODE:
HC2115

TOTAL ADVANCE PREMIUM: 1,299.00

COMMONWEALTH OF VIRGINIA

DIVISION OF MOTOR VEHICLES

VEHICLE IDENTIFICATION NO.		YEAR	MAKE	BODY STYLE	TITLE NO.
1FTHF2613ENA02977		84	FORD	PICKUP	32497769
EMPTY WGT.	GROSS WGT.	AXLES	FUEL	SALES TAX PAID	ODOMETER
4926	08600	2		343.98	73
OTHER PERTINENT DATA				DATE ISSUED	
656 NK				10/27/83	
				PRIOR TITLE NUMBER	

NAME(S) AND ADDRESS(ES) OF VEHICLE OWNER(S)

ALFONSO C RECALDE
ANITA G MORA
5108 NINIAN DR
ALEXANDRIA VA 22310

CONTROL NO.

B1224155

(This is not a title number)

OCT 31 RECD

CERTIFICATE OF TITLE FOR A VEHICLE

THE DIVISION OF MOTOR VEHICLES, COMMONWEALTH OF VIRGINIA, HEREBY CERTIFIES THAT AN APPLICATION FOR A CERTIFICATE OF TITLE HAS BEEN MADE FOR THE VEHICLE DESCRIBED HEREON PURSUANT TO THE PROVISIONS OF THE MOTOR VEHICLE LAWS OF THIS STATE, THAT THE APPLICANT NAMED ON THE FACE HEREOF HAS BEEN DULY RECORDED AS THE LAWFUL OWNER OF SAID VEHICLE, AND THAT, FROM THE STATEMENTS OF THE OWNER AND THE RECORDS ON FILE WITH THIS DIVISION, THE HEREON DESCRIBED VEHICLE IS SUBJECT TO THE SECURITY INTERESTS SHOWN HEREON, IF ANY, AND NONE OTHER.

ADDITIONAL LIENS	
FIRST LIEN-HOLDER	INTEREST IN THE ABOVE DESCRIBED VEHICLE IS HEREBY RELEASED.
FORD MOTOR CREDIT CO PO BOX 905 MCLEAN VA 22101	BY <u>James K. M. Lawrence</u> DATE <u>10-13-87</u>
SECOND LIEN-HOLDER	INTEREST IN THE ABOVE DESCRIBED VEHICLE IS HEREBY RELEASED.
	BY _____ DATE _____

KEEP IN SAFE PLACE - ANY ALTERATION OR ERASURE VOIDS THIS TITLE

DEFENDANT'S
EXHIBIT

ALL-STATE LEGAL SUPPLY CO.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

RECEIVED

NOV 30 1993

ALFONSO C. RECALDE, t/a
A&R SWEEPING & CLEANING, *

Plaintiff,

v.

ITT HARTFORD,

Defendant.

LEWIS, TRICHILO, BANCROFT,
McGAVIN & HORVATH P.C.

:
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: Civil Action No. 92-CA03862
: Calendar - 14
: JUDGE ARTHUR L. BURNETT, SR.
:
:
:

MEMORANDUM AND ORDER

Before this Court is the defendant's Motion for Summary Judgment, filed December 9, 1992. On December 22, 1992 counsel for the parties filed a Joint Consent Motion to Extend Time to Respond to Defendant's Motion for Summary Judgment. On January 13, 1993 counsel for the Plaintiff, Alfonso C. Recalde t/a A&R Sweeping & Cleaning, which has since gone out of business, filed his Memorandum of Points and Authorities in Opposition to Defendant's Motion for Summary Judgment. On January 21, 1993 counsel for ITT Hartford filed his Reply Memorandum in Support of his Motion for Summary Judgment. This Court has reviewed the foregoing and has thoroughly reviewed the entire court file in this case and has

*The Court notes that in the underlying case this party's name is spelled "Alphonso C. Recalde."

reviewed again thoroughly and completely the court file in the related underlying case of Donald E. Reynard and Judith A. Reynard v. Alphonso C. Recalde, CA 91-01932, out of which this declaratory judgment action arises.

This Court concludes that ITT Hartford's Motion for Summary Judgment must be granted for the following reasons. The applicable insurance policy, styled "Commercial General Liability Coverage Form" under Section 1, Coverages, under "Coverage A. Bodily Injury and Property Damage Liability" explicitly provides, to the extent relevant and controlling here,

2. Exclusions.

This insurance does not apply to:

* * *

- g. "Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading."

"Auto" is defined in Section V as meaning "a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment." Thus, in this case the 1984 Ford pickup truck, with its trailer and compact sweeper thereon, constituted an "auto" and Alphonso C. Recalde's answers to interrogatories and documentary evidence establishes beyond doubt that the vehicle involved in the accident was a 1984 Pickup Truck, VIN 1FTHF2613ENA02977, titled under a Virginia Certificate of Title to Alfonso C. Recalde and Anita G. Mora, Title No. 32497769, which after the accident of September 22, 1989, was

sold to Allstate Insurance Co. on October 20, 1989 as a total loss.

This Court, noting that the entire policy is titled, "Special Multi-Flex Policy From The Hartford" and has in it a page with the legend at the top, "Item Three - Description of Covered Auto Designation Symbols, concludes that this page does not deal with coverage. Thus, the references to Item 8,

"HIRED AUTOS ONLY. Only those autos you lease, hire, rent or borrow. This does not include any auto you lease, hire, rent or borrow from any of your employees or members of their households"

and to Item 9,

"NONOWNED AUTOS ONLY. Only those autos you do not own, lease, hire or borrow which are used in connection with your business. This includes autos owned by your employees or members of their households but only while used in your business or your personal affairs,"

are not relevant to our consideration of the issues now presented. They do not deal with "coverage" and it is absolutely clear now that the vehicle involved here was a vehicle Mr. Recalde owned.

This Court further concludes that Virginia law must apply since the policy here in question was issued in Virginia to a Virginia resident and citizen operating and carrying on his business in Alexandria, Virginia. The Virginia Supreme Court has repeatedly stated that the words of such policies should be given their ordinary and usual meaning, and a court should simply apply the terms of the policy as written. State Farm Fire and Cas. Co. v. Warren, 423 S.E. 188, 191 (Va. 1992); State Farm Mutual

Automobile Insurance Co. v. Rice, 391 S.E.2d 71, 72 (Va. 1990) (quoting State Farm Mutual v. Powell, 227 Va. 492, 500-501, 318 S.E. 393, 397 (1984)). Quoting from Powell, the Virginia Supreme Court stated:

[C]onsideration must be given to the intention of the parties to the insurance agreement in determining the scope of the coverage afforded. In addition, the 'ownership, maintenance, or use' provision should be construed in the light of the subject matter with which the parties are dealing; the terms of the policy should be given their natural and ordinary meaning. Even though ownership, maintenance, or use of the vehicle need not be the direct, proximate cause of the injury in the strict legal sense, nevertheless, there must be a causal relationship between the accident and employment of the insured motor vehicle as a vehicle. (Emphasis added)

Id. at 500-501, 318 S.#.2d at 397.

In the instant case, liability in the underlying case is predicated on the claim that Reginald Hinton, an occasional laborer and driver for Reynard C. Recalde, was negligent in leaving the keys in the ignition of the Ford pickup truck, with the engine running, while he got out allegedly to check the chains tying down the compact sweeper on the trailer hooked to the rear of the truck and then to speak to another worker in a car some three (3) feet behind the trailer, a distance estimated to be 25 feet from the driver's door of the Ford pickup truck, at which time Dwayne Johnson, opened the door, jumped into it, drove it away, stealing the truck sometime between 12:30 a.m. and 1:00 a.m. in the morning of September 22, 1989. Thus it is alleged that Mr. Hinton's conduct was a "substantial factor" in the chain of events and proximately caused a later accident happening about 3:45 a.m. in Stafford County, Virginia, about 50 miles south of Washington, D.C., resulting in the injuries to the male plaintiff in the

underlying case, Donald E. Reynard. Thus, it is clear beyond peradventure that the claim here arises out of Mr. Recalde entrusting the vehicle to an employee who was assertedly operating the vehicle in the scope of his employment, although this was disputed by the defendant Recalde in opposing the Plaintiff Donald E. Reynard's Motion for Partial Summary Judgment in the underlying case..

The fact that the plaintiff in the underlying case, as Count II in the complaint, has alleged negligent training and supervision does not change this conclusion. It is this Court's view that the impact of the exclusion provision can not be simply avoided by the artful device of changing the label on the cause of action, for in essence, it alleges negligence arising out of the operation and use of the motor vehicle. This Court is satisfied that the Virginia courts would not allow such a simple evasion of the ordinary and normal meaning of the language of the exclusion provision. While this Court in the related case will allow the negligent training and supervision cause of action to be presented in the underlying tort case-in-chief because of the conflicting record representations as to whether Reginald Hinton was operating the vehicle at the time of its theft in the course of his employment or whether he was on a "detour or a frolic," such an approach to that case does not warrant holding the "exclusion provision" here to be inapplicable. This is especially so in view of the breadth of the "exclusion provision" which includes not only the "ownership" and "maintenance" of an "auto" but also includes its "use" or its "entrustment to others." Certainly here, Mr. Recalde entrusted his

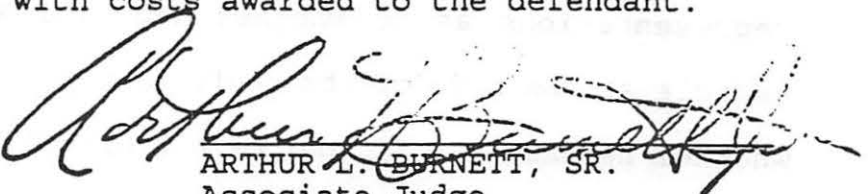
1984 Ford Pickup Truck to Reginald Hinton. Further, the exclusion covers an "auto" "owned or operated by or rented or loaned to any insured." Again, this is very broad and expansive language which would include not only a truck owned by Mr. Recalde, as in this case, but would have included a motor vehicle rented or loaned to him, or any vehicle operated by him, or a person to whom he had entrusted it. Thus, this Court concludes that the ITT Hartford insurance policy provides no coverage, supplementary or excess, to Alphonso C. Recalde, trading as A&R Sweeping & Cleaning at the time of the accident involved in this case on September 22, 1989.

Accordingly, for the foregoing reasons, it is now hereby this 2nd November, 1993,

ORDERED:

1. That the Joint Consent Motion to Extend Time to Respond to Defendant's Motion for Summary Judgment, filed December 22, 1992, be and is hereby GRANTED, nunc pro tunc December 22, 1992.

2. That ITT Hartford's Motion for Summary Judgment, filed December 9, 1992 be and is hereby GRANTED, and the complaint for declaratory judgment against ITT Hartford, filed March 12, 1992, be and is hereby DISMISSED, with costs awarded to the defendant.


ARTHUR L. BURNETT, SR.
Associate Judge
Signed in Chambers

DOCKETED NOV 27 1993

MAILED NOV 29 1993

Copies mailed to counsel:

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Washington, D.C. 20005
(202) 319-2600
(Counsel for the Plaintiff)

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(Counsel for Defendant, ITT Hartford)

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Gerald F. Daltan, Esq.
700 Princess Anne Street
Fredericksburg, Virginia 22401

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

ALPHONSO C. RECALDE,
TRADING AS
A&R SWEEPING & CLEANING,

Plaintiffs,

v.

ITT HARTFORD,

Defendant.

:
:
:
:
:
:
: Civil Action No. 92-03862
: Calendar - 14
: JUDGE ARTHUR L. BURNETT, SR.
: (Retained Jurisdiction)
:
:

MEMORANDUM AND ORDER

Before the Court is the Motion of Alphonso C. Recalde, through counsel, Alan S. Toppelberg, Esq, to Alter or Amend Judgment, pursuant to District of Columbia Superior Court Civil Rule 60(b), filed January 7, 1994. This Court has thoroughly reviewed and considered the representations and arguments advanced therein, has noted and reviewed the defendant ITT Hartford's Consent Motion for an Extension of Time in Which Defendant ITT Hartford Can File Its Memorandum in Opposition to Plaintiff's Motion to Alter or Amend Judgment of February 9, 1994, and has further reviewed and considered Defendant ITT Hartford's Memorandum of Points and Authorities in Opposition To Plaintiff's Motion to Alter or Amend Judgment of February 9, 1994, Plaintiff's Reply to Defendant's Opposition to Plaintiff's Motion to Alter Judgment of February 18, 1994 and the Defendant ITT Hartford's Response to Plaintiff's Reply

Memorandum of February 25, 1994. In addition to the foregoing, this Court has reviewed the prior pleadings and memoranda in the court file and the necessary relevant portions of the court file bearing on the issue presented.

This Court first observes that the Motion to Alter or Amend Judgment is based on an erroneous premises, for this Court did consider the insurance policy as a whole and the provisions of the policy now argued by the plaintiff in support of his motion. This Court simply rejected the notion and contention that the insured was A&R Sweeping & Cleaning as somehow a separate and distinct legal entity of Alphonso C. Recalde as the functional and substantive insured in this case. This Court fully agrees with the argument advanced by ITT Hartford that there is absolutely no ambiguity that Alphonso C. Recalde, as a sole proprietor, and his business, A&R Industrial Sweeping & Cleaning, are one and the same, and therefore, to name one as the "named insured" is to name the other.¹ This Court agrees with the argument advanced by ITT Hartford that since an insurance contract is to be given a reasonable construction, it is obvious Alphonso C. Recalde is synonymous and interchangeable with the business he trades as, A&R. Industrial Sweeping & Cleaning and that to name one is to name the other. If the technical distinction now urged by Alan S. Toppelberg, Esq. on behalf of Alphonso C. Recalde is to be

¹ Counsel for the plaintiff, Alphonso C. Recalde has cited no Virginia judicial precedent to support his argument that "A&R Seeping & Cleaning" should be treated as a separate entity "insured" from Alphonso C. Recalde, the sole proprietor of that business. As stated in this Court's ruling on the motion for summary judgment, this Court is of the view that the resolution of this case is controlled by Virginia law.

accepted, then he should convinced the Court of Appeals to accept it.²

This Court fully considered the issue and arguments now advanced by counsel for Alphonso C. Recalde prior to ruling on the motion for summary judgment and rejected this contention and argument. This Court did not inadvertently overlook the provisions counsel now urge upon the court nor did it overlook this issue and the arguments advanced, for they were presented and considered in the memoranda submitted prior to this Court's ruling on the summary judgment motion. Thus, in reality his motion is one properly treated as a Motion for Reconsideration and is thus untimely.

Accordingly, it is now hereby this 29th day of August, 1994,

ORDERED:

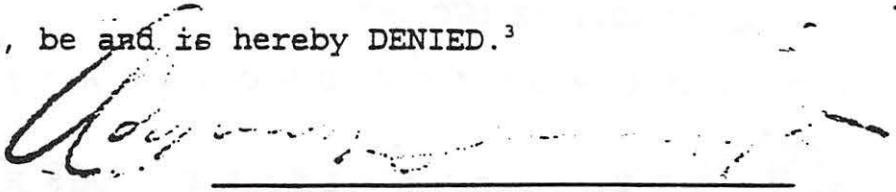
1. That the defendant ITT Hartford's Consent Motion in this matter and same hereby is granted and that the defendant is given until Friday, February 11, 1994 to file any Memorandum of Points and Authorities in Opposition to Plaintiff's Motion to Alter or Amend Judgment, nunc pro tunc February 11, 1994.

2. That the Plaintiff's Motion to Alter or Amend Judgment, treated as a Motion for Reconsideration, be and is hereby DENIED as untimely.

3. That the Plaintiff's Motion to Alter or Amend Judgment,

² While ITT Hartford has not cited a case directly on point, this Court is of the view that those cases that treat a "trading as" business the same as its owner in a sole proprietorship, by analogy, should control the resolution of this case. It was for this reason that this Court found the cases cited by ITT Hartford persuasive. See, e.g. Duval v. Midwest Auto City, Inc., 425 F.Supp. 1381, 1287 (D.Neb. 1977); Louisville Planing Mill Co. v. Weir Sheet Iron Works, 251 S.W. 176, 177 (Ky. 1925).

treated on its merits as a Motion to Alter or Amend Judgment, for the reasons stated above, be and is hereby DENIED.³


ARTHUR L. BURNETT, SR.
Associate Judge
Signed in Chambers

Copies mailed to all counsel listed:

Stephen A. Horvath, Esq.
LEWIS, TRICHILO, BANCROFT,
MCGAVIN & HORVATH, P.C.
4117 Chain Bridge Road, Suite # 400
P.O. Box 22
Fairfax, Virginia 22030
(703) 385-1000

DOCKETED

SEP 08 1994

MAILED SEP 09 1994

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BROWN, BROWN & WATKINS
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(202) 319-2600

Gerald F. Daltan, Esq.
700 Princess Anne Street
Fredericksburg, Virginia 22401

³ While this Court is most sympathetic concerning the degree and severity of the injuries suffered by Donald Reynard arising out of the tragic automobile accident involved here, this Court must be govern by the law and apply the legal principles as required thereby. Judicial decisions can not be predicated on sympathy but must be based on the requirements of the law, regardless of the facts in a given case.

THIS SPECIAL MULTI-FLEX POLICY CONSISTS OF THIS COMMON POLICY DECLARATION PAGE, THE POLICY JACKET, COMMON POLICY CONDITIONS, COVERAGE PARTS AND ANY OTHER FORMS AND ENDORSEMENTS ISSUED TO BE A PART OF THIS POLICY.

POLICY NO.: 42 UEC KP7961

COMMON POLICY DECLARATIONS

ITEM

1. NAMED INSURED AND

MAILING ADDRESS:

A. & R. INDUSTRIAL SWEEPING & CLEANING

5108 NINIAN AVE.,
ALEXANDRIA, VA 22310

2. POLICY PERIOD: FROM 12/08/90 TO 12/08/91
12:01 A.M., STANDARD TIME AT
YOUR MAILING ADDRESS SHOWN ABOVE.

3. AGENT'S OR BROKER'S CODE: 640350
AGENT'S OR BROKER'S NAME: HAMILTON INS AGENCY INC-UNLIM

PREVIOUS POLICY NO.: 42 UEC KP7961

4. AUDIT PERIOD: ANNUAL

5. NAMED INSURED IS: INDIVIDUAL

6. DESCRIPTION OF YOUR BUSINESS:
CLEANING GARAGES IN EVENINGS

7. INSURANCE PROVIDED:
IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS
OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE INSURANCE AS STATED IN
THIS POLICY.

THE COVERAGE PARTS THAT ARE A PART OF THIS POLICY ARE LISTED BELOW OR
ON THE EXTENSION SCHEDULE ATTACHED. THE PREMIUMS SHOWN MAY BE SUBJECT
TO ADJUSTMENT.

8. SUMMARY OF COVERAGE PARTS, INSURANCE
COMPANY AND PREMIUM:

SEE EXTENSION SCHEDULE (FORM HM0012)

PREMIUM PAYABLE AT INCEPTION:
PREMIUM EXCLUDING AUTOMOBILE
PREMIUM FOR AUTOMOBILE

\$801.00
\$96.00

TOTAL PREMIUM PAYABLE AT INCEPTION

\$983.00

COUNTERSIGNED BY

AUTHORIZED AGENT

DATE

80

ATTACHMENT FOUR

COMMON POLICY DECLARATIONS
EXTENSION SCHEDULE

POLICY NO.: 42 UEC KP7961

ITEM

3. SUMMARY OF COVERAGE PARTS, INSURANCE
COMPANY AND PREMIUM:

AUTOMOBILE

ADVANCE PREMIUM:

\$96.00

COMMERCIAL AUTO COVERAGE PART

COMPANY NAME AND ADDRESS:
HARTFORD FIRE INSURANCE COMPANY
HARTFORD PLAZA
HARTFORD, CONNECTICUT 06115
COMPANY CODE: 1

GENERAL LIABILITY

ADVANCE PREMIUM:

\$837.00

COMMERCIAL GENERAL LIABILITY
COVERAGE PART

COMPANY NAME AND ADDRESS:
TWIN CITY FIRE INSURANCE COMPANY
HARTFORD PLAZA
HARTFORD, CT 06115
COMPANY CODE: 7

A & R INDUSTRIAL SWEEPING & CLEANING
 5108 NINIAN AVE. N.E.
 ALEXANDRIA, VIRGINIA 22310

5049

Seven hundred Fourteen and No/100

DOLLARS

TO THE ORDER OF	DATE	QHOSS	DISC.	CHECK NO.	CHECK AMOUNT
Maryland Cycle & Equipment Co.	9/23/89	(2) P.B. 400-E	ECHO Blowers	5049	\$ 714.00

THE RIGGS NATIONAL BANK OF WASHINGTON, D.C.
 207H & L OFFICE - 1020 L STREET, N.W.

[Signature]
 AUTHORIZED SIGNATURE

⑈005049⑈ ⑆054000030⑆ 23⑈08436407⑈

District of Columbia Court of Appeals
500 Indiana Avenue, N.W.
Washington, D.C. 20001

TELEPHONE 879-2725
AREA CODE 202

AND PINKSTON, JR.
CLERK OF THE COURT

March 5, 1997

The Honorable David Beach
Clerk
Supreme Court of the State
of Virginia
100 North Ninth Street
Richmond, Virginia 23219

RE: Certification of Question of Law to the Supreme Court
of Virginia; Recalde T/A A&R Sweeping and Cleaning v.
ITT Hartford, Appeal No. 93-CV-1670

Dear Mr. Beach:

Enclosed, pursuant to Rule 5:42 of the Rules of the Supreme Court of Virginia and D.C. Code § 11-723 (h) (1995), is an order of the District of Columbia Court of Appeals certifying a question of law to the Supreme Court of Virginia. Also enclosed are copies of the briefs of the parties to the proceedings in the D.C. Court of Appeals: the appellant (Alfonso Recalde); the appellee (ITT Hartford); and the intervenors (Donald E. and Judith A. Reynard).

In compliance with Rule 5:42 (b) (5), the names, addresses and telephone numbers of the counsel for each of the parties involved are as follows:

1. For the appellant, Alfonso C. Recalde:

Alan S. Toppelberg, Esquire
Alan S. Toppelberg & Associates
1444 N Street, N.W.
Washington, D.C. 20005
(202) 319-2600

2. For the appellee, ITT Hartford:


Stephen A. Horvath, Esquire
Melissa S. Hogue, Esquire
Trichilo, Bancroft, McGavin, Horvath
and Judkins, P.C.
4117 Chain Bridge Road, Suite 400
Post Office Box 22
Fairfax, VA 22030
(703) 385-1000

3. For the intervenors, Donald E. and Judith A. Reynard:

Roger C. Johnson, Esquire
Marc Fiedler, Esquire
Koonz, McKenney, Johnson and Regan, P.C.
2020 K Street, N.W., Suite 500
Washington, D.C. 20006
(202) 659-5500

Please let me know if you or the Supreme Court of Virginia need further information in considering the certification order.

Sincerely,



GARLAND PINKSTON, JR.

Enclosures:

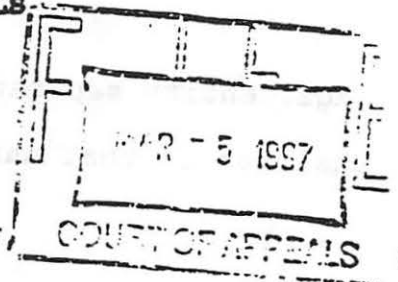
1. DCCA Certification Order
2. Appellant's Statement in Lieu of Brief
3. Brief of Appellee
4. Brief for Intervenors
5. Appellant's Statement in Lieu of Reply Brief
6. Reply Brief for Intervenors

cc: Alan S. Toppelberg, Esquire
Stephen A. Horvath, Esquire
Roger C. Johnson, Esquire

DISTRICT OF COLUMBIA COURT OF APPEALS

No. 93-CV-1670

ALFONSO C. RECALDE
T/A A & R SWEEPING AND CLEANING, APPELLANT,



v.

ITT HARTFORD, APPELLEE.

Appeal from the Superior Court of the
District of Columbia

(Argued February 18, 1997)

Before FARRELL, KING, and RUIZ, *Associate Judges*.

CERTIFICATION OF QUESTION OF LAW

Pursuant to Rule 5:42 of the Rules of the Supreme Court of Virginia and D.C. Code § 11-723 (h) (1995), the District of Columbia Court of Appeals respectfully certifies to the Supreme Court of Virginia the following question of law that is determinative in the appeal before this court and concerning which it appears there is no controlling precedent on point in the decisions of the Supreme Court of Virginia or the Court of Appeals of Virginia. The question is whether under Virginia law, for the purpose of deciding the scope of coverage of a commercial insurance policy for injury or property damage arising from the use of a motor vehicle, a sole proprietorship named as the insured is a

legal entity separate and distinct from the individual owner doing business in that name.

I.

The issue arises from a tort action filed in the Superior Court of the District of Columbia entitled *Donald E. Reynard and Judith A. Reynard v. Alphonso C. Recalde and A & R Sweeping and Cleaning*, Civ. Action No. 91-01932. The plaintiffs in that case sought recovery for damages for personal injuries sustained in a collision involving a motor vehicle owned by Alfonso¹ C. Recalde and Anita G. Mora, his wife. The plaintiffs alleged that on September 22, 1989, an employee of A & R had left the vehicle -- a Ford pickup truck -- unattended without removing the keys, and that a thief stole the vehicle, drove it away at a high rate of speed, lost control of it, and collided with the Reynards' automobile, causing personal injuries to Mr. Reynard and Mrs. Reynard's loss of consortium.

Thereafter, Alfonso C. Recalde, t/a A & R Sweeping and Cleaning,² filed a complaint in the Superior Court for a declaratory judgment that, on the basis of the Business Auto

¹ "Alfonso" is the correct spelling of Mr. Recalde's name.

² A & R Sweeping and Cleaning is conceded to be a sole proprietorship owned by Recalde.

Coverage Part of an insurance policy issued by appellee Hartford Accident and Indemnity Company (hereafter ITT Hartford) to A & R, ITT Hartford had a duty to defend A & R and to provide coverage in the *Reynard* matter.³ The Superior Court denied a motion to consolidate the Reynards' tort action with the declaratory judgment action, but stayed further proceedings in the tort suit pending resolution of the latter action. After a hearing, the trial court granted summary judgment for ITT Hartford, concluding that the claims in the *Reynard* case fell within the exclusion in the Commercial General Liability Coverage Part of the insurance policy for "'[b]odily injury' or 'property damage' arising out of the ownership, maintenance, use or entrustment to others of any . . . 'auto' . . . owned or operated by or rented or loaned to any insured." The court rejected Mr. Recalde's reliance on the Business Auto Coverage Part of the insurance policy, specifically the coverage provided there for "Hired Autos Only" and "Nonowned Autos Only," defined in paragraphs 8 and 9 of the Description of Covered Auto Designation Symbols. In holding this coverage inapplicable, the court rejected

the notion and contention that the insured was A & R Sweeping & Cleaning as somehow a separate and distinct legal entity of [sic; from] Al[f]onso C. Recalde as the functional and substantive insured in this case. . . . [T]here is absolutely no ambiguity that

³ A & R's claim against ITT Hartford is actually for excess coverage, as it appears the pickup truck is also insured under a policy issued by Allstate Insurance Company.

Al[f]onso C. Recalde, as a sole proprietor, and his business, A & R Sweeping & Cleaning, are one and the same, and therefore, to name one as the 'named insured' is to name the other..

Mr. Recalde, on behalf of A & R, appealed the grant of summary judgment. This court denied a motion by the Reynards to intervene on A & R's behalf, but allowed the brief and reply brief which they have filed to be treated as the briefs of appellant.

II.

The trial court determined, and the parties agree, that Virginia substantive law governs the dispute in this case. At the heart of the appeal are the designation of the "named insured" in both "Coverage Parts" of the insurance policy (*i.e.*, the "Business Auto Coverage Part" and the "Commercial General Liability Coverage Part") and the two classes of motor vehicles identified as "covered autos" in the Business Auto Coverage Part. The named insured is "A & R Sweeping & Cleaning," and its mailing address is stated as "5108 Ninian Ave., Alexandria, Va. 22310," which was concededly both Mr. Recalde's home address and the address used for his business at the time. The two types of autos covered by the Business Auto Coverage Part are defined as follows:

8 = HIRED AUTOS ONLY. Only those autos you lease, hire, rent or borrow. This does not include any auto you lease, hire, rent or borrow from any of your employees or members of their households.

9 = NONOWNED AUTOS ONLY. Only those autos you do not own, lease, hire or borrow which are used in connection with your business. This includes autos owned by your employees or members of their households but only while used in your business or your personal affairs.

The parties agree that if the Ford pickup truck (which is conceded to be an "auto") is not an auto covered by either of these provisions, the accident was excluded from coverage by the language of the Commercial General Liability Coverage Part quoted earlier. The dispositive question before this court, therefore, is whether the vehicle in question was a "borrow[ed]" auto (para. 8) or a "nonowned" auto used in connection with the business (para. 9), by virtue of the fact that the named insured (referenced by "you" and "your") was not Mr. Recalde but rather "A & R Industrial Sweeping & Cleaning."⁴ In other words, when the

⁴ Appellant makes an additional argument which we reject on the basis of the contract language itself and do not certify to the Supreme Court of Virginia. Appellant argues that, even if Recalde himself is determined to have been the named insured, the auto was not "owned" by Recalde because it was also registered in the name of Anita G. Mora, his wife, citing, e.g., *American States Ins. Co. v. Gawlicki & Hussey, Inc.*, 596 N.E.2d 720 (Ill. App. Ct.), *app. denied*, 606 N.E.2d 1224 (Ill. 1992). This argument is defeated, however, by an endorsement to (among other things) the Business Auto Coverage Form of the policy entitled Individual Names Insured, which adds to the Definition section the following: "The words 'you' and 'your' include your spouse if a resident of the same household except for notice of cancellation." At oral argument, appellant suggested for the first time that this endorsement may not have
(continued...)

specifically named insured in a commercial insurance policy is a sole proprietorship, is the sole proprietor also deemed to be the insured?

The parties have not cited any Virginia precedent that even arguably may be said to be controlling on that issue, and our own research has uncovered none. The parties do cite general principles of contract and insurance policy interpretation under Virginia case law and proceed to read the present policy in light of them. Thus, for example, appellant Recalde cites the rule that an insurance policy "must be construed according to its terms; and the evident intent of the parties is to be gathered from the

⁴(...continued)

been a part of Recalde's policy because each record copy of the endorsement form bears a printed date of "1990" at the bottom of the page, and the accident occurred in 1989. At trial, however, ITT Hartford stated as a material fact as to which there was no genuine issue the fact that "Exhibit 'B'," attached to its statement, was a true and correct copy of the insurance policy issued to Recalde; that exhibit included the same endorsement. Nowhere in the trial record submitted to us did Recalde dispute that fact. Similarly, in a pretrial submission, Recalde "admitted" that "Exhibit 'A'" to ITT Hartford's request for admission was a correct copy of the insurance policy issued to A & R. The policy appears twice in the record furnished to us (and once as an appendix to appellant's own brief), and in each case it contains the endorsement in question. Thus, while the particular endorsement form in the record may not be identical to the form contained in the policy effective in 1989, Recalde never disputed at trial -- nor even in his briefs on appeal -- that his policy included the endorsement definition equating himself with his spouse for purposes of coverage and exclusion. Only the barest speculation would allow submission of that issue to the jury. (And only similar speculation would allow submission of the possibility, never asserted in the trial court and only as an aside at oral argument, that Ms. Mora might not have been a resident of the same household).

language used." *Mutual Assurance Soc'y v. Scottish Union & Nat'l Ins. Co.*, 84 Va. 116, 123, 4 S.E. 178, 180 (1887) (citations omitted); *see also Central Sur. & Ins. Corp. v. Elder*, 204 Va. 192, 197, 129 S.E.2d 651, 655 (1963) ("Insurance policies are to be construed according to their terms"). The "language used" in designation of the named insured, appellant says, is a business entity, not the individual Recalde. Appellee ITT Hartford responds in part by emphasizing the rule that all provisions of an insurance policy (like any contract) are to be considered and construed as a whole, *e.g.*, *Norfolk Fire Ins. Co. v. Talley*, 112 Va. 413, 417, 71 S.E. 534, 536 (1911); *see also Central Sur. & Ins. Corp., supra*, and points to features of the policy as a whole including the statement in the Commercial General Liability Coverage Part that the "named insured is: individual," as well as the printed endorsement modifying the Business Auto Coverage Part entitled "Individual Named Insured," an endorsement relevant -- appellee says -- only if the insured was intended to be an individual. None of the Virginia precedents stating general rules of interpretation of contracts and insurance policies seem to us controlling on what legal status the appellate courts of Virginia would assign to a sole proprietorship named as the insured.

The parties have, of course, ranged farther abroad and cited opposing authority from other jurisdictions on whether, in the context of insurance coverage, a sole proprietorship is a cognizable legal entity separate from the individual owner.

Compare, e.g., Hertz Corp. v. Ashbaugh, 607 P.2d 1173, 1176 (N.M. Ct. App.), *cert. denied*, 614 P.2d 545 (N.M. 1980) (holding it "not unreasonable to construe 'named insured' to mean Corky's Wrecker Service only [a sole proprietorship], and not to include Tilman H. Ashbaugh individually The meaning of 'named insured' was ambiguous; the trial court could properly construe the policy to give effect to the intent of the parties," which was "to insure Ashbaugh's business of providing wrecker service") *with Providence Wash Ins. Co. v. Valley Forge Ins. Co.*, 50 Cal. Rptr. 2d 192, 194-96 (1996) (criticizing *Ashbaugh*, citing cases from other jurisdictions, and holding that there is "no ambiguity in the listing of the named insured" when a sole proprietorship is named either alone or with a "dba" designation: "a trade name does not create a separate entity," because "a sole proprietorship is not separate from its individual owner"). Regardless of which line of authority we believe the Virginia courts would likely find persuasive, we cannot say that Virginia precedent in and of itself is controlling on this issue. We thus conclude that the Supreme Court of Virginia, in its discretion, should be given the opportunity to answer the question.

The clerk shall certify this question to the Supreme Court of Virginia under the official seal of this court. Pursuant to Rule 5:42 of the rules of the Supreme Court of Virginia, the clerk shall provide that court with the names, addresses, and telephone

numbers of counsel for each of the parties involved, together with a copy of the briefs of the parties filed in this court. This court will retain jurisdiction of the case pending the certification.

So ordered.

PER CURIAM

For the Court:

A handwritten signature in cursive script, reading "Michael W. Farrell". The signature is written in dark ink and is positioned above the printed name.

MICHAEL W. FARRELL
Associate Judge
Presiding Judge of Division

VIRGINIA:

*In the Supreme Court of Virginia hold at the Supreme Court Building in the
City of Richmond on Friday the 18th day of April, 1997.*

Alfonso C. Recalde, t/a A & R
Sweeping and Cleaning,

Appellant,

against Record No. 970437

ITT Hartford,

Appellee.

Upon consideration of the order of certification entered by the District of Columbia Court of Appeals, this Court accepts the question of law certified by the said Court of Appeals in this case.

Oral argument tentatively is scheduled for 30 minutes during the September 1997 session of this Court. The time for filing appellant's opening brief and appendix and the designation of the parts of the record to be included in the appendix shall run from the date of this order. The filing of all other briefs and pleadings shall be in accordance with Rules 5:26 through 5:32.

A Copy,

Teste:


Clerk