

01-657-CD
NEW HAMPSHIRE INDEMNITY vs. ANDREW E.
VISONFSKY et al

No. 01-657-CD

NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY

vs.

ANDREW E. VISNOFSKY, a minor, by and
through his parent and natural guardian,

VICTORIA L. VISNOFSKY and VICTORIA
L. VISNOFSKY, in her own right:

JOHN L. VISKNFSKY,

KENNETH J. LONG and KATHIE M. LONG,
his wife, as parents and natural guardians of
ALISON M. LONG, a minor, and in their own right:

SHERI HARASYMIW and CHRISTOPHER SMITH,
as legal guardians of JUSTIN D. VICKERS, a minor,
SHERI HARASYMIW and CHRISTOPHER SMITH,
in their own right;
and the Estate of JAMES A BLAYLOCK, deceased,
by the representative of his Estate,
PRISCILLA KEPHART

JOHN K. BRYAN, ESQ., Zimmer
Kunz, 3300 USA Tower, PGH

15219 412-281-8000

DANIEL MCGEE, ESQ., Delafield,
McGee, Jones & Kauffman, 300 S.
Allen St., St. College 16801

237-6278

LOUIS C. SCHMITT, JR., ESQ.,
McIntyre, Dugas, Hartye & Schmitt
PO Box 533, Hollidaysburg 16648-
0533 696-3581

DENNIS J. STOKFO, ESQ., PO
Box 5500, Johnstown 15904
262-0064

MICHAEL J. KOEHLER, ESQ.
Nicholas, Perot, Strauss & Keohler,
2527 W. 26th St., Erie 16506
833-8851

Pro Se, 24 Dunham Ave., Claymont,
Delaware 19103

MARK F. BENNETT, ESQ., Berger
and Green, P.C. Ste. 200, 5850
Ellsworth Ave., PGH 15232
412-661-1400

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,
Plaintiff,

vs.

ANDREW E. VISNOFSKY, a minor, by and through his parent and natural guardian, VICTORIA L. VISNOFSKY and VICTORIA L. VISNOFSKY, in her own right; JOHN E. VISNOFSKY, KENNETH J. LONG and KATHIE M. LONG, his wife, as parents and natural guardians of ALISON M. LONG, a minor, and in their own right; SHERI HARASYMIW and CHRISTOPHER SMITH, as legal guardians of JUSTIN D. VICKERS, a minor, SHERI HARASYMIW and CHRISTOPHER SMITH in their own right; and the Estate of JAMES A. BLAYLOCK, deceased, by the representative of his Estate, PRISCILLA KEPHART,

Defendants.

CIVIL DIVISION

No.: 01-657-CO

COMPLAINT FOR
DECLARATORY JUDGMENT

Filed on behalf of Plaintiff:
NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY

Counsel of Record for this party:
JEFFREY A. RAMALEY, ESQUIRE
Pa. I.D. #41559
JOHN K. BRYAN, ESQUIRE
Pa. I.D. 62901

ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY
Firm #920
3300 USX Tower
Pittsburgh, PA 15219

(412) 281-8000

FILED

MAY 07 2001

William A. Shaw
Prothonotary


Attorneys for Plaintiff

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

NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,
Plaintiff,

CIVIL DIVISION

vs.

No.:

ANDREW E. VISNOFSKY, a minor, by and
through his parent and natural guardian,
VICTORIA L. VISNOFSKY and VICTORIA
L. VISNOFSKY, in her own right; JOHN E.
VISNOFSKY, KENNETH J. LONG and
KATHIE M. LONG, his wife, as parents and
natural guardians of ALISON M. LONG, a
minor, and in their own right; SHERI
HARASYMIW and CHRISTOPHER SMITH,
as legal guardians of JUSTIN D. VICKERS, a
minor, SHERI HARASYMIW and
CHRISTOPHER SMITH in their own right;
and the Estate of JAMES A. BLAYLOCK,
deceased, by the representative of his Estate,
PRISCILLA KEPHART,

Defendants.

NOTICE TO DEFEND

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

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

**LAWYER REFERRAL SERVICE
THE COURT ADMINISTRATOR OF CLEARFIELD COUNTY
2ND FLOOR, CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD, PA 16830
TELEPHONE: (814) 765-2641**

COMPLAINT FOR DECLARATORY JUDGMENT

AND NOW, comes the Plaintiff, **NEW HAMPSHIRE INDEMNITY INSURANCE COMPANY**, by its attorneys, **ZIMMER KUNZ, PROFESSIONAL LIMITED LIABILITY COMPANY, JEFFREY A. RAMALEY, ESQUIRE AND JOHN K. BRYAN, ESQUIRE**, and files the following Complaint for Declaratory Judgment and, in support thereof, avers as follows:

1. The Plaintiff is a corporation authorized to sell automobile insurance policies in the Commonwealth of Pennsylvania.
2. The Defendant, Andrew E. Visnofsky is a minor whose parent and natural guardian is Victoria L. Visnofsky, and who resides on Main Street, P. O. Box 257 in Madera, Clearfield County, Pennsylvania 16661.
3. The Defendant, Victoria L. Visnofsky, is an adult individual who is the parent and natural guardian of Andrew E. Visnofsky, a minor, and who resides at Main Street, P. O. Box 257, Madera, Clearfield County, Pennsylvania 16661.
4. The Defendant, John E. Visnofsky, is an adult individual and is the parent and natural guardian of Andrew E. Visnofsky, a minor, and resides on Main Street, P. O. Box 466, Madera, Clearfield County, Pennsylvania 66661.
5. The Defendants, Kenneth J. Long and Kathie M. Long, are adult individuals who are husband and wife, and who are parents and natural guardians of the minor,

Alison M. Long, residing on State Route 0053, P. O. Box 292, Madera, Clearfield County, Pennsylvania 16661.

6. The Defendants, Sherri Harasymiw and Christopher Smith, are adult individuals and legal guardians of Justin D. Vickers, a minor, who reside on Lynn Street, P. O. Box 361, Madera, Clearfield County, Pennsylvania 16661.

7. The Defendant, Priscilla Kephart, is an adult individual who is the personal representative of the Estate of James A. Blaylock, deceased, and whose mailing address is P.O. Box 283, Madera, Clearfield County, Pennsylvania 16661.

8. Prior to July 9, 2000, Plaintiff sold a policy of automobile insurance to Defendant, Victoria L. Visnofsky. A true and correct copy of the declaration page to said policy and the relevant portions of said policy are attached hereto and marked as Exhibit "A".

9. On or about July 9, 2000, Defendant, Andrew E. Visnofsky, was operating a 1990 Mazda automobile bearing Pennsylvania title or out-of-state vehicle identification number 51582210 when it was involved in a motor vehicle accident out of which the Defendant Longs, Vickers and Blaylocks allegedly suffered injuries and damages.

10. At the time of the motor vehicle accident in question, Defendant, Andrew E. Visnofsky was using the vehicle without a reasonable belief that he was entitled to do so for the following reasons:

- (a) Defendant, Victoria L. Visnofsky, did not give Defendant, Andrew E. Visnofsky, permission to operate the vehicle;

- (b) Defendant, Victoria L. Visnofsky, did not engage in any course of conduct from which Defendant, Andrew E. Visnofsky, could reasonably infer that he had permission to operate the vehicle;
- (c) That Defendant, Andrew E. Visnofsky, knew and/or should have known that he did not have Defendant, Victoria L. Visnofsky's permission to operate the vehicle;
- (d) That Defendant, Andrew E. Visnofsky, was under the legal age to operate a vehicle and did not have a license to operate a motor vehicle;
- (e) That the vehicle did not have a registration plate;
- (f) That the vehicle was not currently registered; and
- (g) That because of the mechanical condition of the car, it was not to be driven.

11. The motor vehicle operated by Andrew E. Visnofsky at the time of the accident was not a vehicle shown in the declaration page of the policy in question, and was a vehicle owned by Defendant, Victoria L. Visnofsky.

12. Defendant, Victoria L. Visnofsky, did not ask Plaintiff to insure the aforementioned automobile within thirty (30) days after she became the owner of the vehicle.

13. The aforementioned vehicle was not a replacement vehicle for any vehicle shown in the declaration page of the policy.

14. The Long Defendants filed a Complaint in Civil Action in the Court of Common Pleas of Clearfield County, Pennsylvania at Civil Action, Law 2000-1487-CD. Attached hereto and marked as Exhibit "B" is a true and correct copy of said Complaint.

15. Defendant, Victoria L. Visnofsky, has submitted this Complaint to the Plaintiff and has requested defense and coverage from the Plaintiff for the matters set forth in the Complaint.

16. Plaintiff submits that Andrew E. Visnofsky and Victoria L. Visnofsky are not entitled to coverage under the aforementioned policy of insurance in that Andrew E. Visnofsky operated the motor vehicle without a reasonable belief that he was entitled to do so and said vehicle was owned by the named insured, Victoria L. Visnofsky, but was not a "covered auto" under the policy.

WHEREFORE, for the reasons set forth above, the Plaintiff, **NEW HAMPSHIRE INDEMNITY INSURANCE COMPANY**, requests that this Court enter a declaration that it has no duty to defend and/or indemnify Andrew E. Visnofsky and Victoria L. Visnofsky in this Civil Action or in any other Civil Action(s) to be filed as a result of the motor vehicle accident of July 9, 2000.

Respectfully submitted,

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY**

BY


JEFFREY A. RAMALEY
JOHN K. BRYAN
ATTORNEYS FOR PLAINTIFF
NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY



AIGDEC 8/96

REGIONAL OFFICE
P.O. BOX 1802
ALPHARETTA, GA 30023

COMPANY COPY

NEW DECLARATION * * * * * EFFECTIVE 05/19/00

POLICY NUMBER	POLICY PERIOD FROM	POLICY PERIOD TO	COVERAGE IS PROVIDED IN THE	AGENCY
AIG 9809487	05/19/00	11/19/00	NEW HAMPSHIRE INDEMNITY CO	3737421
NAMED INSURED AND ADDRESS			AGENT	
VICTORIA VISNOFSKY PO BOX 257 MADERA, PA			SIMLER INSURANCE AGENCY 118 E. PRESQUEISLE STREET PHILIPSBURG, PA.	16866

APPLICABLE FORMS

FORM #	DATE	UNIT									
PP0001	06/94*	ALL	PP0151	12/96*	ALL	PP0338	12/98*	ALL	PA0001	04/96*	ALL
IL0910	01/81*	ALL	PA0003	06/96*	ALL	PP1301	12/99*	ALL	PP0309	04/86*	001
PP0551	06/94*	001	PP0563	06/94*	001						

GARAGE LOCATION FOR UNIT #001
PINE ST AND BLACKBURN RD

16866

POLICY PERIOD 12:01 AM

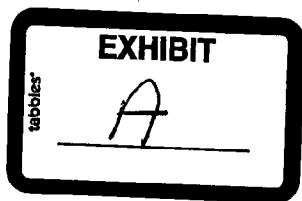
SIMLER INSURANCE AGENCY 05/31/00

AUTHORIZED REPRESENTATIVE

DATE

PREMIUM THIS TRANSACTION.....

\$173.00





AIGDEC 8/96

REGIONAL OFFICE

P.O. BOX 1802

ALPHARETTA, GA 30023

COMPANY COPY

PERSONAL AUTO POLICY
NEW DECLARATION * * * * * EFFECTIVE 05/19/00

POLICY NUMBER	POLICY PERIOD FROM	POLICY PERIOD TO	COVERAGE IS PROVIDED IN THE	AGENCY
AIG 9809487	05/19/00	11/19/00	NEW HAMPSHIRE INDEMNITY CO	3737421
NAMED INSURED AND ADDRESS				AGENT
VICTORIA CISNOFSKY PO BOX 257 MADERA, PA				SIMLER INSURANCE AGENCY 118 E. PRESQUEISLE STREET PHILIPSBURG, PA. 16661 16866

DOMICILED ADDRESS IS: NEW HAMPSHIRE INDEMNITY COMPANY, INC.
2005 MARKET ST.
PHILADELPHIA, PA. 19103

FOR PROMPT SERVICE ALL CORRESPONDENCE SHOULD BE SENT TO OUR REGIONAL OFFICE AT
P.O. BOX 8215, CORAOPOLIS, PA 15108

VEHICLES COVERED
UNIT ST TER YR MAKE-DESCRIPTION SERIAL NUMBER AGE SYM CLASS CST NEW CHG DATE
001 PA 049 86 RENA ENCORE S 1XMAC9332GK121919 6 10 3N-00 05/19/00
INSURANCE IS PROVIDED WHERE A PREMIUM IS SHOWN FOR THE COVERAGE.

THIS POLICY AFFORDS COLLISION COVERAGE TO RENTAL VEHICLES IF YOU HAVE SELECTED
PHYSICAL DAMAGE COVERAGES. THE SAME DEDUCTIBLE OPTIONS LISTED BELOW WILL APPLY.

COVERAGES LISTED BELOW ARE PROVIDED ON A LIMITED TORT BASIS PER YOUR SELECTION

COVERAGE	LIMITS OF LIABILITY	PREMIUMS
A BODILY INJURY	\$25,000 EA PERSON	UNIT 1 EA ACCIDENT 48.00
A PROPERTY DAMAGE	\$10,000 EACH ACCIDENT	75.00
MEDICAL BENEFITS	\$5,000	50.00
	TOTAL BY UNIT	173.00
	TOTAL TERM PREMIUM	\$173.00

DISCOUNTS/SURCHARGES APPLIED TO APPLICABLE COVERAGES
UNIT 01 30% TRANSFER DISCOUNT

DRIVER ID 01	DRIVER NAME VICTORIA CISNOFSKY	LICENSE NUMBER 22344863	BIRTH DATE 09/18/67
-----------------	-----------------------------------	----------------------------	------------------------

CONTINUED ON NEXT PAGE

PERSONAL AUTO POLICY

AGREEMENT

In return for payment of the premium and subject to all the terms of this policy, we agree with you as follows:

DEFINITIONS

- A. Throughout this policy, "you" and "your" refer to:
 1. The "named insured" shown in the Declarations; and
 2. The spouse if a resident of the same household.
- B. "We", "us" and "our" refer to the Company providing this insurance.
- C. For purposes of this policy, a private passenger type auto shall be deemed to be owned by a person if leased:
 1. Under a written agreement to that person; and
 2. For a continuous period of at least 6 months.

Other words and phrases are defined. They are in quotation marks when used.

- D. "Bodily injury" means bodily harm, sickness or disease, including death that results.
- E. "Business" includes trade, profession or occupation.
- F. "Family member" means a person related to you by blood, marriage or adoption who is a resident of your household. This includes a ward or foster child.
- G. "Occupying" means in, upon, getting in, on, out or off.
- H. "Property damage" means physical injury to, destruction of or loss of use of tangible property.
- I. "Trailer" means a vehicle designed to be pulled by:
 1. Private passenger auto; or
 2. Pickup or van.

It also means a farm wagon or farm implement while towed by a vehicle listed in 1. or 2. above.
- J. "Your covered auto" means:
 1. Any vehicle shown in the Declarations.
 2. Any of the following types of vehicles on the date you become the owner:
 - a. a private passenger auto; or
 - b. a pickup or van that:
 - (1) has a Gross Vehicle Weight of less than 10,000 lbs.; and
 - (2) is not used for the delivery or transportation of goods and materials unless such use is:
 - (a) incidental to your "business" of installing, maintaining or repairing furnishings or equipment; or
 - (b) for farming or ranching.

This provision (J.2.) applies only if:

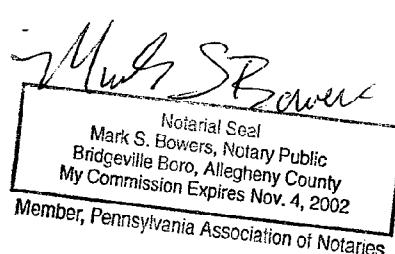
- a. you acquire the vehicle during the policy period;
- b. you ask us to insure it within 30 days after you become the owner; and
- c. with respect to a pickup or van, no other insurance policy provides coverage for that vehicle.

If the vehicle you acquire replaces one shown in the Declarations, it will have the same coverage as the vehicle it replaced. You must ask us to insure a replacement vehicle within 30 days only if you wish to add or continue Coverage for Damage to Your Auto.

If the vehicle you acquire is in addition to any shown in the Declarations, it will have the broadest coverage we now provide for any vehicle shown in the Declarations.

- 3. Any "trailer" you own.
- 4. Any auto or "trailer" you do not own while used as a temporary substitute for any other vehicle described in this definition which is out of normal use because of its:
 - a. breakdown;
 - b. repair;
 - c. servicing;
 - d. loss; or
 - e. destruction.

This provision (J.4.) does not apply to Coverage for Damage to Your Auto.



This exclusion (5.) does not apply to the interests of Loss Payees in "your covered auto".

6. Loss to a camper body or "trailer" you own which is not shown in the Declarations. This exclusion (6.) does not apply to a camper body or "trailer" you:
 - a. acquire during the policy period; and
 - b. ask us to insure within 30 days after you become the owner.
7. Loss to any "non-owned auto" when used by you or any "family member" without a reasonable belief that you or that "family member" are entitled to do so.
8. Loss to:
 - a. awnings or cabanas; or
 - b. equipment designed to create additional living facilities.
9. Loss to equipment designed or used for the detection or location of radar or laser.
10. Loss to any custom furnishings or equipment in or upon any pickup or van. Custom furnishings or equipment include but are not limited to:
 - a. special carpeting and insulation, furniture or bars;
 - b. facilities for cooking and sleeping;
 - c. height-extending roofs; or
 - d. custom murals, paintings or other decals or graphics.
11. Loss to any "non-owned auto" being maintained or used by any person while employed or otherwise engaged in the "business" of:
 - a. selling; d. storing; or
 - b. repairing; e. parking;
 - c. servicing;

vehicles designed for use on public highways. This includes road testing and delivery.
12. Loss to any "non-owned auto" being maintained or used by any person while employed or otherwise engaged in any "business" not described in exclusion 11. This exclusion (12.) does not apply to the maintenance or use by you or any "family member" of a "non-owned auto" which is a private passenger auto or "trailer."
13. Loss to "your covered auto" or any "non-owned auto", located inside a facility designed for racing, for the purpose of:
 - a. Competing in; or
 - b. Practicing or preparing for;

any prearranged or organized racing or speed contest.
14. Loss to, or loss of use of, a "non-owned auto" rented by:
 - a. You; or
 - b. Any "family member";

If a rental vehicle company is precluded from recovering such loss or loss of use from you or that "family member", pursuant to the provisions of any applicable rental agreement or state law.

LIMIT OF LIABILITY

- A. Our limit of liability for loss will be the lesser of the:
 1. Actual cash value of the stolen or damaged property; or
 2. Amount necessary to repair or replace the property with other property of like kind and quality.

However, the most we will pay for loss to any "non-owned auto" which is a trailer is \$500.
- B. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total loss.
- C. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

However, the most we will pay for loss to any "non-owned auto" which is a trailer is \$500.

B. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total loss.

C. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

PAYMENT OF LOSS

We may pay for loss in money or repair or replace the damaged or stolen property. We may, at our expense, return any stolen property to:

1. You; or
2. The address shown in this policy.

If we return stolen property we will pay for any damage resulting from the theft. We may keep all or part of the property at an agreed or appraised value.

If we pay for loss in money, our payment will include the applicable sales tax for the damaged or stolen property.

NO BENEFIT TO BAILEE

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

OTHER SOURCES OF RECOVERY

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

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

APPRAISAL

a. Competing in; or
b. Practicing or preparing for;
any prearranged or organized racing or speed
contest.

14. Loss to, or loss of use of, a "non-owned auto"
rented by:
a. You; or
b. Any "family member";
if a rental vehicle company is precluded from
recovering such loss or loss of use, from you
or that "family member", pursuant to the pro-
visions of any applicable rental agreement or
state law.

A. If we and you do not agree on the amount of loss,
either may demand an appraisal of the loss. In this
event, each party will select a competent appraiser.
The two appraisers will select an umpire. The ap-
praisers will state separately the actual cash value
and the amount of loss. If they fail to agree, they
will submit their differences to the umpire. A deci-
sion agreed to by any two will be binding. Each
party will:
1. Pay its chosen appraiser; and
2. Bear the expenses of the appraisal and umpire
equally.

B. We do not waive any of our rights under this policy
by agreeing to an appraisal.

PART E—DUTIES AFTER AN ACCIDENT OR LOSS

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

- A. We must be notified promptly of how, when and where the accident or loss happened. Notice should also include the names and addresses of any injured persons and of any witnesses.
- B. A person seeking any coverage must:
 1. Cooperate with us in the investigation, settlement or defense of any claim or suit.
 2. Promptly send us copies of any notices or legal papers received in connection with the accident or loss.
 3. Submit as often as we reasonably require:
 - a. to physical exams by physicians we select. We will pay for these exams.
 - b. to examinations under oath and subscribe the same.
 4. Authorized us to obtain:
 - a. medical reports; and
 - b. other pertinent records.

- 5. Submit a proof of loss when required by us.
- C. A person seeking Uninsured Motorist Coverage must also:
 1. Promptly notify the police if a hit-and-run driver is involved.
 2. Promptly send us copies of the legal papers if a suit is brought.
- D. A person seeking Coverage for Damage to Your Auto must also:
 1. Take reasonable steps after loss to protect "your covered auto" or any "non-owned auto" and their equipment from further loss. We will pay reasonable expenses incurred to do this.
 2. Promptly notify the police if "your covered auto" or any "non-owned auto" is stolen.
 3. Permit us to inspect and appraise the damaged property before its repair or disposal.

PART F—GENERAL PROVISIONS

BANKRUPTCY

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

CHANGES

- A. This policy contains all the agreements between you and us. Its terms may not be changed or waived except by endorsement issued by us.
- B. If there is a change to the information used to develop the policy premiums, we may adjust your premium. Changes during the policy term that may result in a premium increase or decrease include, but are not limited to, changes in:
 1. The number, type or use classifications of insured vehicles;
 2. Operators using insured vehicles;
 3. The place of principal garaging of insured vehicles;
 4. Coverage, deductible or limits.

If a change resulting from A. or B. requires a premium adjustment, we will make the premium adjustment in accordance with our manual rules.

- C. If we make a change which broadens coverage under this edition of your policy without additional premium charge, that change will automatically apply to your policy as of the date we implement the change in your state. This paragraph (C.) does not apply to changes implemented with a general program revision that includes both broadenings and restrictions in coverage, whether that general program revision is implemented through introduction of:

1. A subsequent edition of your policy; or
2. An Amendatory Endorsement.

FRAUD

We do not provide coverage for any "insured" who has made fraudulent statements or engaged in fraudulent conduct in connection with any accident or loss for which coverage is sought under this policy.

LEGAL ACTION AGAINST US

- A. No legal action may be brought against us until there has been full compliance with all the terms of this policy. In addition, under Part A, no legal action may be brought against us until:
 1. We agree in writing that the "insured" has an obligation to pay; or

- 2. The amount of that obligation has been finally determined by judgment after trial.
- B. No person or organization has any right under this policy to bring us into any action to determine the liability of an "insured."

OUR RIGHT TO RECOVER PAYMENT

- A. If we make a payment under this policy and the person to or for whom payment was made has a right to recover damages from another we shall be subrogated to that right. That person shall do:
 - 1. Whatever is necessary to enable us to exercise our rights; and
 - 2. Nothing after loss to prejudice them.
 However, our rights in this paragraph (A.) do not apply under Part D. against any person using "your covered auto" with a reasonable belief that that person is entitled to do so.
- B. If we make a payment under this policy and the person to or from whom payment is made recovers damages from another, that person shall:
 - 1. Hold in trust for us the proceeds of the recovery; and
 - 2. Reimburse us to the extent of our payment.

POLICY PERIOD AND TERRITORY

- A. This policy applies only to accidents and losses which occur:
 - 1. During the policy period as shown in the Declarations; and
 - 2. Within the policy territory.
- B. The policy territory is:
 - 1. The United States of America, its territories or possessions;
 - 2. Puerto Rico; or
 - 3. Canada.

This policy also applies to loss to, or accidents involving, "your covered auto" while being transported between their ports.

TERMINATION

- A. Cancellation. This policy may be cancelled during the policy period as follows:
 - 1. The named insured shown in the Declarations may cancel by:
 - a. returning this policy to us; or
 - b. giving us advance written notice of the date cancellation is to take effect.

- 2. We may cancel by mailing to the named insured shown in the Declarations at the address shown in this policy:
 - a. at least 10 days notice:
 - (1) if cancellation is for nonpayment of premium; or
 - (2) if notice is mailed during the first 60 days this policy is in effect and this is not a renewal or continuation policy; or
 - b. at least 20 days notice in all other cases.
- 3. After this policy is in effect for 60 days, or if this is a renewal or continuation policy, we will cancel only:
 - a. for nonpayment of premium; or
 - b. if your driver's license or that of:
 - (1) any driver who lives with you; or
 - (2) any driver who customarily uses "your covered auto;"
 has been suspended or revoked. This must have occurred:
 - (1) during the policy period; or
 - (2) since the last anniversary of the original effective date if the policy period is other than 1 year; or
 - c. if the policy was obtained through material misrepresentation.

- B. Nonrenewal. If we decide not to renew or continue this policy, we will mail notice to the named insured shown in the Declarations at the address shown in this policy. Notice will be mailed at least 20 days before the end of the policy period. If the policy period is:
 - 1. Less than 6 months, we will have the right not to renew or continue this policy every 6 months, beginning 6 months after its original effective date.
 - 2. 1 year or longer, we will have the right not to renew or continue this policy at each anniversary of its original effective date.

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

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

D. Other Termination Provisions.

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

TRANSFER OF YOUR INTEREST IN THIS POLICY

- A. Your rights and duties under this policy may not be assigned without our written consent. However, if a named insured shown in the Declarations dies, coverage will be provided for:
 1. The surviving spouse if resident in the same household at the time of death. Coverage applies to the spouse as if a named insured shown in the Declarations; and
 2. The legal representative of the deceased person as if a named insured shown in the Declarations. This applies only with respect to the representative's legal responsibility to maintain or use "your covered auto."
- B. Coverage will only be provided until the end of the policy period.

TWO OR MORE AUTO POLICIES

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

PENNSYLVANIA NOTICE

IL 09 10/H0 291
(Ed. 01 81)

An Insurance Company, its agents, employees, or service contractors acting on its behalf, may provide services to reduce the likelihood of injury, death or loss. These services may include any of the following or related services incident to the application for, issuance, renewal or continuation of, a policy of insurance:

1. surveys;
2. consultation or advice; or
3. inspections.

The "Insurance Consultation Services Exemption Act" of Pennsylvania provides that the Insurance Company, its agents, employees or service contractors acting on its behalf, is not liable for damages from injury, death or loss occurring as a result of any act or omission by any person in the furnishing of or the failure to furnish these services.

The Act does not apply:

1. if the injury, death or loss occurred during the actual performance of the services and was caused by the negligence of the Insurance Company, its agents, employees or service contractors;
2. to consultation services required to be performed under a written service contract not related to a policy of insurance; or
3. if any acts or omissions of the Insurance Company, its agents, employees or service contractors are judicially determined to constitute a crime, actual malice, or gross negligence.

Instruction to Policy Writers

Attach the Pennsylvania Notice to all new and renewal policies and renewal certificates insuring risks located in Pennsylvania.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE - PENNSYLVANIA

With respect to coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

THIS ENDORSEMENT PROVIDES PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE ONLY FOR AN "INSURED" INJURED BY A MOTORCYCLE, MOVED OR SIMILAR-TYPE VEHICLE OR RECREATIONAL-TYPE VEHICLE.

SCHEDULE

Description of Vehicle	Pedestrian Basic First Party Benefit Coverage Limit of Liability
	\$5,000
	\$5,000
	\$5,000

I: DEFINITIONS

The Definitions section is amended as follows:

- A. "The Act" refers to the Pennsylvania Motor Vehicle Financial Responsibility Law.
- B. The definition of "bodily injury" is replaced by the following:
"Bodily injury" means accidental bodily harm to a person, and that person's resulting illness, disease or death.
- C. The following definitions are added:
 1. "Insured motor vehicle" means a:
 - a. Motorcycle, moped or similar-type vehicle; or
 - b. Recreational-type vehicle; shown in the Schedule or Declarations to which Part A of this policy applies.
 2. "Motor vehicle" means a self-propelled vehicle operated or designed for use upon public roads. However, "motor vehicle" does not include a vehicle operated:
 - a. By muscular power; or
 - b. On rails or tracks.
- D. As used in this endorsement, "insured" means any person not:
 1. "Occupying" a "motor vehicle"; and
 2. Provided first party benefits under any automobile insurance policy as a named insured or family member.

II. PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE

INSURING AGREEMENT

- A. We will pay, in accordance with the Act, the Pedestrian Basic First Party Benefit to or for an "insured" who sustains "bodily injury". The "bodily injury" must be caused by an accident arising out of the maintenance or use of an "insured motor vehicle".
- B. Subject to the limit shown in the Schedule or Declarations, the Pedestrian Basic First Party Benefit consists of:
Medical expenses. Reasonable and necessary medical expenses incurred for an "insured's":
 1. Care;
 2. Recovery; or
 3. Rehabilitation.This includes remedial care and treatment rendered in accordance with a recognized religious method of healing.
Medical expenses will be paid if incurred within 18 months from the date of the accident causing "bodily injury". However, if within 18 months from the date of the accident, it can be determined with reasonable medical probability that additional expenses may be incurred after this period, the 18 month time limit will not apply to the payment of the additional medical expenses.

EXCLUSIONS

- A. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury" sustained by any "insured":
 1. While "occupying" a:
 - a. Recreational-type vehicle designed for use off public roads; or
 - b. Motorcycle, moped or similar-type vehicle.
 2. While intentionally causing or attempting to cause "bodily injury" to himself or any other person.
 3. While committing a felony.
 4. Seeking to elude lawful apprehension or arrest by a law enforcement official.
 5. While maintaining or using a "motor vehicle" knowingly converted by that "insured". This exclusion (A.5.) does not apply to:
 - a. You; or
 - b. Any "family member".
 6. Who, at the time of the accident, is the owner of one or more registered "motor vehicles", none of which have in effect the financial responsibility required by the Act.
 7. Maintaining or using a "motor vehicle" while located for use as a residence or premises.
- B. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury":
 1. Sustained by a pedestrian if the accident occurs outside of Pennsylvania. This exclusion (B.1.) does not apply to:
 - a. You; or
 - b. Any "family member".
 2. Caused by or as a consequence of:
 - a. Discharge of a nuclear weapon (even if accidental);
 - b. War (declared or undeclared);
 - c. Civil war;
 - d. Insurrection; or
 - e. Rebellion or revolution.
 3. From or as a consequence of the following, whether controlled or uncontrolled or however caused:
 - a. Nuclear reaction;
 - b. Radiation; or
 - c. Radioactive contamination.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

LIMIT OF LIABILITY

- A. The limit of liability shown in the Schedule or Declarations for Pedestrian Basic First Party Benefit Coverage is the most we will pay to or for each "insured" as the result of any one accident, regardless of the number of:
 1. Claims made;
 2. Vehicles or premiums shown in the Declarations;
 3. Vehicles involved in the accident; or
 4. Insurers providing first party benefits.
- B. Any amounts payable under this coverage shall be excess over any amounts:
 1. Paid;
 2. Payable; or
 3. Required to be provided; to an "insured" under any workers' compensation law or similar law.

OTHER INSURANCE

If 2 or more policies providing Pedestrian Basic First Party Benefit Coverage are applicable to an "insured":

- A. The insurer against whom the claim is first made shall process and pay the claim as if wholly responsible. The insurer is then entitled to recover contribution pro rata from any other insurer for the benefits paid and the costs of processing the claim. Such contribution shall be based on the number of involved motor vehicles.
- B. If we are the insurer against whom the claim is first made, our payment to or for an "insured" will not exceed the limit of liability for Pedestrian Basic First Party Benefit Coverage shown in the Schedule or Declarations.
- C. The maximum recovery under all policies will not exceed the amount payable under the policy with the highest limit of liability.

NON-DUPLICATION OF BENEFITS

No one will be entitled to recover duplicate payments for the same elements of loss under this insurance or any automobile insurance including self-insurance.

III. PART F - GENERAL PROVISIONS

Part F is amended as follows:

The Our Right To Recover Payment provision does not apply.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE - PENNSYLVANIA

With respect to coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

THIS ENDORSEMENT PROVIDES PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE ONLY FOR AN "INSURED" INJURED BY A MOTORCYCLE, MOPED OR SIMILAR-TYPE VEHICLE OR RECREATIONAL-TYPE VEHICLE.

SCHEDULE

Description of Vehicle	Pedestrian Basic First Party Benefit Coverage Limit of Liability
_____	\$5,000
_____	\$5,000
_____	\$5,000

I: DEFINITIONS

The Definitions section is amended as follows:

- A. "The Act" refers to the Pennsylvania Motor Vehicle Financial Responsibility Law.
- B. The definition of "bodily injury" is replaced by the following:
"Bodily injury" means accidental bodily harm to a person, and that person's resulting illness, disease or death.
- C. The following definitions are added:
 1. "Insured motor vehicle" means a:
 - a. Motorcycle, moped or similar-type vehicle; or
 - b. Recreational-type vehicle:
shown in the Schedule or Declarations to which Part A of this policy applies.
 2. "Motor vehicle" means a self-propelled vehicle operated or designed for use upon public roads. However, "motor vehicle" does not include a vehicle operated:
 - a. By muscular power; or
 - b. On rails or tracks.
- D. As used in this endorsement, "insured" means any person not:
 1. "Occupying" a "motor vehicle"; and
 2. Provided first party benefits under any automobile insurance policy as a named insured or family member.

II. PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE

INSURING AGREEMENT

A. We will pay, in accordance with the Act, the Pedestrian Basic First Party Benefit to or for an "insured" who sustains "bodily injury". The "bodily injury" must be caused by an accident arising out of the maintenance or use of an "insured motor vehicle".

B. Subject to the limit shown in the Schedule or Declarations, the Pedestrian Basic First Party Benefit consists of:

Medical expenses. Reasonable and necessary medical expenses incurred for an "insured's":

1. Care;
2. Recovery; or
3. Rehabilitation.

This includes remedial care and treatment rendered in accordance with a recognized religious method of healing.

Medical expenses will be paid if incurred within 18 months from the date of the accident causing "bodily injury". However, if within 18 months from the date of the accident, it can be determined with reasonable medical probability that additional expenses may be incurred after this period, the 18 month time limit will not apply to the payment of the additional medical expenses.

EXCLUSIONS

- A. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury" sustained by any "insured":
 - 1. While "occupying" a:
 - a. Recreational-type vehicle designed for use off public roads; or
 - b. Motorcycle, moped or similar-type vehicle.
 - 2. While intentionally causing or attempting to cause "bodily injury" to himself or any other person.
 - 3. While committing a felony.
 - 4. Seeking to elude lawful apprehension or arrest by a law enforcement official.
 - 5. While maintaining or using a "motor vehicle" knowingly converted by that "insured". This exclusion (A.5.) does not apply to:
 - a. You; or
 - b. Any "family member".
 - 6. Who, at the time of the accident, is the owner of one or more registered "motor vehicles", none of which have in effect the financial responsibility required by the Act.
 - 7. Maintaining or using a "motor vehicle" while located for use as a residence or premises.
- B. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury":
 - 1. Sustained by a pedestrian if the accident occurs outside of Pennsylvania. This exclusion (B.1.) does not apply to :
 - a. You; or
 - b. Any "family member".
 - 2. Caused by or as a consequence of:
 - a. Discharge of a nuclear weapon (even if accidental);
 - b. War (declared or undeclared);
 - c. Civil war;
 - d. Insurrection; or
 - e. Rebellion or revolution.
 - 3. From or as a consequence of the following, whether controlled or uncontrolled or however caused:
 - a. Nuclear reaction;
 - b. Radiation; or
 - c. Radioactive contamination.

LIMIT OF LIABILITY

- A. The limit of liability shown in the Schedule or Declarations for Pedestrian Basic First Party Benefit Coverage is the most we will pay to or for each "insured" as the result of any one accident, regardless of the number of:
 - 1. Claims made;
 - 2. Vehicles or premiums shown in the Declarations;
 - 3. Vehicles involved in the accident; or
 - 4. Insurers providing first party benefits.
- B. Any amounts payable under this coverage shall be excess over any amounts:
 - 1. Paid;
 - 2. Payable; or
 - 3. Required to be provided; to an "insured" under any workers' compensation law or similar law.

OTHER INSURANCE

If 2 or more policies providing Pedestrian Basic First Party Benefit Coverage are applicable to an "insured":

- A. The insurer against whom the claim is first made shall process and pay the claim as if wholly responsible. The insurer is then entitled to recover contribution pro rata from any other insurer for the benefits paid and the costs of processing the claim. Such contribution shall be based on the number of involved motor vehicles.
- B. If we are the insurer against whom the claim is first made, our payment to or for an "insured" will not exceed the limit of liability for Pedestrian Basic First Party Benefit Coverage shown in the Schedule or Declarations.
- C. The maximum recovery under all policies will not exceed the amount payable under the policy with the highest limit of liability.

NON-DUPLICATION OF BENEFITS

No one will be entitled to recover duplicate payments for the same elements of loss under this insurance or any automobile insurance including self-insurance.

III. PART F - GENERAL PROVISIONS

Part F is amended as follows:

The Our Right To Recover Payment provision does not apply.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

AIG Specialty Auto

Important Notice Regarding Uninsured / Underinsured Motorists

On April 13, 1978, The Superior Court of Pennsylvania declared void an exclusion which denies Uninsured Motorists coverage when an insured is injured while occupying an uninsured motor vehicle owned by that insured. Accordingly, insurers cannot deny coverage solely by reason of that exclusion for claims made or pending on or after April 13, 1978. Contact your agent if you think you are entitled to payment as a result of this change to your policy as of April 13, 1978.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE - PENNSYLVANIA

With respect to coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

THIS ENDORSEMENT PROVIDES PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE ONLY FOR "INSURED" INJURED BY A MOTORCYCLE, MOPED OR SIMILAR-TYPE VEHICLE OR RECREATIONAL-TYPE VEHICLE.

SCHEDULE

Description of Vehicle	Pedestrian Basic First Party Benefit Coverage Limit of Liability
	\$5,000
	\$5,000
	\$5,000

I. DEFINITIONS

The Definitions section is amended as follows:

- A. "The Act" refers to the Pennsylvania Motor Vehicle Financial Responsibility Law.
- B. The definition of "bodily injury" is replaced by the following:
"Bodily injury" means accidental bodily harm to a person, and that person's resulting illness, disease or death.
- C. The following definitions are added:
 1. "Insured motor vehicle" means a:
 - a. Motorcycle, moped or similar-type vehicle; or
 - b. Recreational-type vehicle;
 shown in the Schedule or Declarations to which Part A of this policy applies.
 2. "Motor vehicle" means a self-propelled vehicle operated or designed for use upon public roads. However, "motor vehicle" does not include a vehicle operated:
 - a. By muscular power; or
 - b. On rails or tracks.
- D. As used in this endorsement, "insured" means any person not:
 1. "Occupying" a "motor vehicle"; and
 2. Provided first party benefits under any automobile insurance policy as a named insured or family member.

II. PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE

INSURING AGREEMENT

- A. We will pay, in accordance with the Act, Pedestrian Basic First Party Benefit to or an "insured" who sustains "bodily injury". "bodily injury" must be caused by an accident arising out of the maintenance or use of "insured motor vehicle".
- B. Subject to the limit shown in the Schedule or Declarations, the Pedestrian Basic First Party Benefit consists of:
Medical expenses. Reasonable and necessary medical expenses incurred for an "insured's":
1. Care;
2. Recovery; or
3. Rehabilitation.
This includes remedial care and treatment rendered in accordance with a recognized religious method of healing.
Medical expenses will be paid if incurred within 18 months from the date of the accident causing "bodily injury". However, within 18 months from the date of the accident, if it can be determined with reasonable medical probability that additional expenses may be incurred after this period, the month time limit will not apply to the payment of the additional medical expenses.

EXCLUSIONS

A. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury" sustained by any "insured":

1. While "occupying" a:
 - a. Recreational-type vehicle designed for use off public roads; or
 - b. Motorcycle, moped or similar-type vehicle.
2. While intentionally causing or attempting to cause "bodily injury" to himself or any other person.
3. While committing a felony.
4. Seeking to elude lawful apprehension or arrest by a law enforcement official.
5. While maintaining or using a "motor vehicle" knowingly converted by that "insured". This exclusion (A.5.) does not apply to:
 - a. You; or
 - b. Any "family member".
6. Who, at the time of the accident, is the owner of one or more registered "motor vehicles", none of which have in effect the financial responsibility required by the Act.
7. Maintaining or using a "motor vehicle" while located for use as a residence or premises.

B. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury":

1. Sustained by a pedestrian if the accident occurs outside of Pennsylvania. This exclusion (B.1.) does not apply to:
 - a. You; or
 - b. Any "family member".
2. Caused by or as a consequence of:
 - a. Discharge of a nuclear weapon (even if accidental);
 - b. War (declared or undeclared);
 - c. Civil war;
 - d. Insurrection; or
 - e. Rebellion or revolution.
3. From or as a consequence of the following, whether controlled or uncontrolled or however caused:
 - a. Nuclear reaction;
 - b. Radiation; or
 - c. Radioactive contamination.

LIMIT OF LIABILITY

A. The limit of liability shown in the Schedule or Declarations for Pedestrian Basic First Party Benefit Coverage is the most we will pay to or for each "insured" as the result of any one accident, regardless of the number of:

1. Claims made;
2. Vehicles or premiums shown in the Declarations;
3. Vehicles involved in the accident; or
4. Insurers providing first party benefits.

B. Any amounts payable under this coverage shall be excess over any amounts:

1. Paid;
2. Payable; or
3. Required to be provided to an "insured" under any workers' compensation law or similar law.

OTHER INSURANCE

If 2 or more policies providing Pedestrian Basic First Party Benefit Coverage are applicable to an "insured":

- A. The insurer against whom the claim is first made shall process and pay the claim as if wholly responsible. The insurer is then entitled to recover contribution pro rata from any other insurer for the benefits paid and the costs of processing the claim. Such contribution shall be based on the number of involved motor vehicles.
- B. If we are the insurer against whom the claim is first made, our payment to or for an "insured" will not exceed the limit of liability for Pedestrian Basic First Party Benefit Coverage shown in the Schedule or Declarations.
- C. The maximum recovery under all policies will not exceed the amount payable under the policy with the highest limit of liability.

NON-DUPLICATION OF BENEFITS

No one will be entitled to recover duplicate payments for the same elements of loss under this insurance or any automobile insurance including self-insurance.

III. PART F - GENERAL PROVISIONS

Part F is amended as follows:

The Our Right To Recover Payment provision does not apply.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COVERAGE FOR DAMAGE TO YOUR AUTO EXCLUSION ENDORSEMENT

With respect to the coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

I. Definitions

The following definition is added:

"Diminution in value" means the actual or perceived loss in market or resale value which results from a direct and accidental loss.

II. Part D – Coverage For Damage To Your Auto

The following exclusion is added:

We will not pay for:

Loss to "your covered auto" or any "non-owned auto" due to "diminution in value".

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

LIMITED TORT ALTERNATIVE INFORMATION NOTICE - PENNSYLVANIA

Each person who elects the limited tort alternative remains eligible to seek compensation for economic loss sustained in a motor vehicle accident as the consequence of the fault of another person pursuant to applicable tort law. Unless the injury sustained is a serious injury, each person who is bound by the limited tort election shall be precluded from maintaining an action for noneconomic loss, except that:

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

1. Is convicted, or accepts Accelerated Rehabilitative Deposition for driving under the influence of alcohol or a controlled substance in that accident;
2. Is operating a motor vehicle registered in another state;
3. Intends to injure himself or another person, provided that an individual does not intentionally injure himself or another person merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of causing injury if the act or omission causing the injury is for the purpose of averting bodily harm to himself or another person; or

4. Has not maintained financial responsibility as required by the Pennsylvania Motor Vehicle Financial Responsibility Law:

provided that nothing in Paragraphs 1. through 4. shall affect the limitation of a person, precluded from maintaining an action for noneconomic damages under the limited tort alternative, to recover noneconomic damages under Uninsured Motorists Coverage or Underinsured Motorists Coverage.

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

PERSONAL AUTO POLICY

AGREEMENT

In return for payment of the premium and subject to all the terms of this policy, we agree with you as follows:

DEFINITIONS

- A. Throughout this policy, "you" and "your" refer to:
 1. The "named insured" shown in the Declarations; and
 2. The spouse if a resident of the same household.
- B. "We", "us" and "our" refer to the Company providing this insurance.
- C. For purposes of this policy, a private passenger type auto shall be deemed to be owned by a person if leased:
 1. Under a written agreement to that person; and
 2. For a continuous period of at least 6 months.
- Other words and phrases are defined. They are in quotation marks when used.
- D. "Bodily injury" means bodily harm, sickness or disease, including death that results.
- E. "Business" includes trade, profession or occupation.
- F. "Family member" means a person related to you by blood, marriage or adoption who is a resident of your household. This includes a ward or foster child.
- G. "Occupying" means in, upon, getting in, on, out or off.
- H. "Property damage" means physical injury to, destruction of or loss of use of tangible property.
- I. "Trailer" means a vehicle designed to be pulled by a:
 1. Private passenger auto; or
 2. Pickup or van.

It also means a farm wagon or farm implement while towed by a vehicle listed in 1. or 2. above.
- J. "Your covered auto" means:
 1. Any vehicle shown in the Declarations.
 2. Any of the following types of vehicles on the date you become the owner:
 - a. a private passenger auto; or
 - b. a pickup or van that:
 - (1) has a Gross Vehicle Weight of less than 10,000 lbs.; and
 - (2) is not used for the delivery or transportation of goods and materials unless such use is:
 - (a) incidental to your "business" of installing, maintaining or repairing furnishings or equipment; or
 - (b) for farming or ranching.

This exclusion (5.) does not apply to the interests of Loss Payees in "your covered auto".

6. Loss to a camper body or "trailer" you own which is not shown in the Declarations. This exclusion (6.) does not apply to a camper body or "trailer" you:
 - a. acquire during the policy period; and
 - b. ask us to insure within 30 days after you become the owner.
7. Loss to any "non-owned auto" when used by you or any "family member" without a reasonable belief that you or that "family member" are entitled to do so.
8. Loss to:
 - a. awnings or cabanas; or
 - b. equipment designed to create additional living facilities.
9. Loss to equipment designed or used for the detection or location of radar or laser.
10. Loss to any custom furnishings or equipment in or upon any pickup or van. Custom furnishings or equipment include but are not limited to:
 - a. special carpeting and insulation, furniture or bars;
 - b. facilities for cooking and sleeping;
 - c. height-extending roofs; or
 - d. custom murals, paintings or other decals or graphics.
11. Loss to any "non-owned auto" being maintained or used by any person while employed or otherwise engaged in the "business" of:

a. selling;	d. storing; or
b. repairing;	e. parking;
c. servicing;	

 vehicles designed for use on public highways. This includes road testing and delivery.
12. Loss to any "non-owned auto" being maintained or used by any person while employed or otherwise engaged in any "business" not described in exclusion 11. This exclusion (12.) does not apply to the maintenance or use by you or any "family member" of a "non-owned auto" which is a private passenger auto or "trailer."
13. Loss to "your covered auto" or any "non-owned auto", located inside a facility designed for racing, for the purpose of:
 - a. Competing in; or
 - b. Practicing or preparing for;
 any prearranged or organized racing or speed contest.
14. Loss to, or loss of use of, a "non-owned auto" rented by:
 - a. You; or
 - b. Any "family member";
 if a rental vehicle company is precluded from recovering such loss or loss of use, from you or that "family member", pursuant to the provisions of any applicable rental agreement or state law.

LIMIT OF LIABILITY

- A. Our limit of liability for loss will be the lesser of the:
 1. Actual cash value of the stolen or damaged property; or
 2. Amount necessary to repair or replace the property with other property of like kind and quality.
 However, the most we will pay for loss to any "non-owned auto" which is a trailer is \$500.
- B. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total loss.
- C. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

PAYMENT OF LOSS

We may pay for loss in money or repair or replace the damaged or stolen property. We may, at our expense, return any stolen property to:

1. You; or
2. The address shown in this policy.

If we return stolen property we will pay for any damage resulting from the theft. We may keep all or part of the property at an agreed or appraised value.

If we pay for loss in money, our payment will include the applicable sales tax for the damaged or stolen property.

NO BENEFIT TO BAILEE

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

OTHER SOURCES OF RECOVERY

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

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

APPRAISAL

- A. If we and you do not agree on the amount of loss, either may demand an appraisal of the loss. In this event, each party will select a competent appraiser. The two appraisers will select an umpire. The appraisers will state separately the actual cash value and the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:
 1. Pay its chosen appraiser; and
 2. Bear the expenses of the appraisal and umpire equally.
- B. We do not waive any of our rights under this policy by agreeing to an appraisal.

PART E—DUTIES AFTER AN ACCIDENT OR LOSS

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

- A. We must be notified promptly of how, when and where the accident or loss happened. Notice should also include the names and addresses of any injured persons and of any witnesses.
- B. A person seeking any coverage must:
 1. Cooperate with us in the investigation, settlement or defense of any claim or suit.
 2. Promptly send us copies of any notices or legal papers received in connection with the accident or loss.
 3. Submit as often as we reasonably require:
 - a. to physical exams by physicians we select. We will pay for these exams.
 - b. to examinations under oath and subscribe the same.
 4. Authorize us to obtain:
 - a. medical reports; and
 - b. other pertinent records.

- 5. Submit a proof of loss when required by us.
- C. A person seeking Uninsured Motorist Coverage must also:
 1. Promptly notify the police if a hit-and-run driver is involved.
 2. Promptly send us copies of the legal papers if a suit is brought.
- D. A person seeking Coverage for Damage to Your Auto must also:
 1. Take reasonable steps after loss to protect "your covered auto" or any "non-owned auto" and their equipment from further loss. We will pay reasonable expenses incurred to do this.
 2. Promptly notify the police if "your covered auto" or any "non-owned auto" is stolen.
 3. Permit us to inspect and appraise the damaged property before its repair or disposal.

PART F—GENERAL PROVISIONS

BANKRUPTCY

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

CHANGES

- A. This policy contains all the agreements between you and us. Its terms may not be changed or waived except by endorsement issued by us.
- B. If there is a change to the information used to develop the policy premiums, we may adjust your premium. Changes during the policy term that may result in a premium increase or decrease include, but are not limited to, changes in:
 1. The number, type or use classifications of insured vehicles;
 2. Operators using insured vehicles;
 3. The place of principal garaging of insured vehicles;
 4. Coverage, deductible or limits.

If a change resulting from A. or B. requires a premium adjustment, we will make the premium adjustment in accordance with our manual rules.

- C. If we make a change which broadens coverage under this edition of your policy without additional premium charge, that change will automatically apply to your policy as of the date we implement the change in your state. This paragraph (C.) does not apply to changes implemented with a general program revision that includes both broadenings and restrictions in coverage, whether that general program revision is implemented through introduction of:
 1. A subsequent edition of your policy; or
 2. An Amendatory Endorsement.

FRAUD

We do not provide coverage for any "insured" who has made fraudulent statements or engaged in fraudulent conduct in connection with any accident or loss for which coverage is sought under this policy.

LEGAL ACTION AGAINST US

- A. No legal action may be brought against us until there has been full compliance with all the terms of this policy. In addition, under Part A, no legal action may be brought against us until:
 1. We agree in writing that the "insured" has an obligation to pay; or

2. The amount of that obligation has been finally determined by judgment after trial.
- B. No person or organization has any right under this policy to bring us into any action to determine the liability of an "insured."

OUR RIGHT TO RECOVER PAYMENT

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

However, our rights in this paragraph (A.) do not apply under Part D. against any person using "your covered auto" with a reasonable belief that that person is entitled to do so.
- B. If we make a payment under this policy and the person to or from whom payment is made recovers damages from another, that person shall:
 1. Hold in trust for us the proceeds of the recovery; and
 2. Reimburse us to the extent of our payment.

POLICY PERIOD AND TERRITORY

- A. This policy applies only to accidents and losses which occur:
 1. During the policy period as shown in the Declarations; and
 2. Within the policy territory.
- B. The policy territory is:
 1. The United States of America, its territories or possessions;
 2. Puerto Rico; or
 3. Canada.

This policy also applies to loss to, or accidents involving, "your covered auto" while being transported between their ports.

TERMINATION

- A. Cancellation. This policy may be cancelled during the policy period as follows:
 1. The named insured shown in the Declarations may cancel by:
 - a. returning this policy to us; or
 - b. giving us advance written notice of the date cancellation is to take effect.

2. We may cancel by mailing to the named insured shown in the Declarations at the address shown in this policy:
 - a. at least 10 days notice:
 - (1) if cancellation is for nonpayment of premium; or
 - (2) if notice is mailed during the first 60 days this policy is in effect and this is not a renewal or continuation policy; or
 - b. at least 20 days notice in all other cases.
3. After this policy is in effect for 60 days, or if this is a renewal or continuation policy, we will cancel only:
 - a. for nonpayment of premium; or
 - b. if your driver's license or that of:
 - (1) any driver who lives with you; or
 - (2) any driver who customarily uses "your covered auto;"

has been suspended or revoked. This must have occurred:

 - (1) during the policy period; or
 - (2) since the last anniversary of the original effective date if the policy period is other than 1 year; or
 - c. if the policy was obtained through material misrepresentation.

- B. Nonrenewal. If we decide not to renew or continue this policy, we will mail notice to the named insured shown in the Declarations at the address shown in this policy. Notice will be mailed at least 20 days before the end of the policy period. If the policy period is:
 1. Less than 6 months, we will have the right not to renew or continue this policy every 6 months, beginning 6 months after its original effective date.
 2. 1 year or longer, we will have the right not to renew or continue this policy at each anniversary of its original effective date.

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

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

D. Other Termination Provisions.

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

TRANSFER OF YOUR INTEREST IN THIS POLICY

- A. Your rights and duties under this policy may not be assigned without our written consent. However, if a named insured shown in the Declarations dies, coverage will be provided for:
 1. The surviving spouse if resident in the same household at the time of death. Coverage applies to the spouse as if a named insured shown in the Declarations; and
 2. The legal representative of the deceased person as if a named insured shown in the Declarations. This applies only with respect to the representative's legal responsibility to maintain or use "your covered auto."
- B. Coverage will only be provided until the end of the policy period.

TWO OR MORE AUTO POLICIES

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

SPLIT LIABILITY LIMITS

PP 03 09 04 86

SCHEDULE

Bodily Injury Liability

\$ _____ each person

Property Damage Liability

\$ _____ each accident

\$ _____ each accident

The first paragraph of the Limit of Liability provision in Part A is replaced by the following:

LIMIT OF LIABILITY

The limit of liability shown in the Schedule or in the Declarations for each person for Bodily Injury Liability is our maximum limit of liability for all damages, including damages for care, loss of service or death, arising out of "bodily injury" sustained by any one person in any one auto accident. Subject to this limit for each person, the limit of liability shown in the Schedule or in the Declarations for each accident for Bodily Injury Liability is our maximum limit of liability for all damages for "bodily injury" resulting from any

one auto accident. The limit of liability shown in the Schedule or in the Declarations for each accident for Property Damage Liability is our maximum limit of liability for all "property damage" resulting from any one auto accident. This is the most we will pay regardless of the number of:

1. "Insureds";
2. Claims made;
3. Vehicles or premiums shown in the Declarations; or
4. Vehicles involved in the auto accident.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

KENNETH J. LONG and KATHIE M. LONG, his wife, as parents and natural guardians of ALISON M. LONG, a minor, and in their own right, : CIVIL ACTION - LAW
Plaintiffs : No. 2000-1484-C
v. : Type of Case: Personal Injury
: Type of Pleading: Civil Complaint
ANDREW E. VISNOFSKY, a minor, and VICTORIA L. VISNOFSKY and JOHN E. VISNOFSKY, : Filed on Behalf of: Plaintiffs
Defendants : Counsel of Record for this Party:
: Michael J. Koehler, Esquire
: PA I.D. No.: 56195
: NICHOLAS, PEROT & STRAUSS, P.C.
: 2527 West 26th Street
: Erie, PA 16506
: (814) 833-8851

I hereby certify this to be a true and attested copy of the original statement filed in this case.

NOV 28 2000

Attest:

WILLIE J.
Prothonotary



IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

KENNETH J. LONG and KATHIE M.	:	CIVIL ACTION - LAW
LONG, his wife, as parents and natural	:	
guardians of ALISON M. LONG, a minor,	:	No.
and in their own right,	:	
Plaintiffs	:	
	:	
v.	:	
	:	
ANDREW E. VISNOFSKY, a minor, and	:	
VICTORIA L. VISNOFSKY and JOHN E.	:	
VISNOFSKY,	:	
Defendants	:	

NOTICE

TO: The Above-Named Defendants

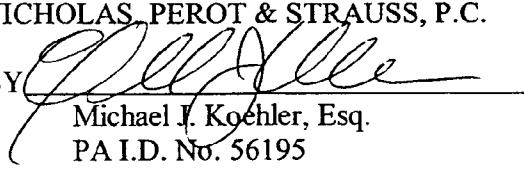
YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

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

Court Administrator
Clearfield County Courthouse
Second & Market Streets
Clearfield, Pennsylvania 16830
(814) 765-2641

NICHOLAS, PEROT & STRAUSS, P.C.

BY


Michael J. Koehler, Esq.
PA I.D. No. 56195
Attorneys for Plaintiffs
2527 West 26th Street
Erie, PA 16506
(814) 833-8851

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

KENNETH J. LONG and KATHIE	:	CIVIL ACTION - LAW
LONG, his wife, as parents and natural	:	
guardians of ALISON M. LONG, a minor,	:	No.
and in their own right,	:	
Plaintiffs	:	
	:	
v.	:	
	:	
ANDREW E. VISNOFSKY, a minor, and	:	
VICTORIA L. VISNOFSKY and JOHN E.	:	
VISNOFSKY,	:	
Defendants	:	

CIVIL COMPLAINT

AND NOW, comes the Plaintiffs, Kenneth J. Long and Kathie M. Long, his wife, as parents and natural guardians of Alison M. Long, a minor, and in their own right, by and through their attorneys, **Nicholas, Perot & Strauss, P.C.**, and files the following Complaint as follows:

1. That Plaintiff Alison M. Long, is a minor having been born on September 19, 1987.
2. That Plaintiffs Kenneth J. Long and Kathie M. Long, are adult individuals, husband and wife, and the parents and natural guardians of minor Plaintiff Alison M. Long, currently residing on Route 53, P.O. Box 292, North Madera, Clearfield County, Pennsylvania 16661.
3. That Defendant Andrew E. Visnofsky is a minor having been born on June 17, 1986 and believed to be residing with his father, Defendant John E. Visnofsky at P.O. Box 466, North Madera, Clearfield County, Pennsylvania 16661.
4. That Defendant Victoria L. Visnofsky is an adult individual and the parent and natural guardian of minor Defendant Andrew E. Visnofsky presently residing at Main Street, P.O. Box 257, North Madera, Clearfield County, Pennsylvania 16661.
5. That Defendant John E. Visnofsky is an adult individual and the parent and natural

guardian of minor Defendant Andrew E. Visnofsky presently residing at P.O. Box 466, North Madera, Clearfield County, Pennsylvania 16661.

6. That at all times relevant to this action, Defendant Victoria L. Visnofsky was the registered owner of a 1990 Mazda 323, Pennsylvania Vehicle Identification Number JM1BG2321L0115661, Pennsylvania Title Number 51582210.

7. On or about July 9, 2000 at approximately 12:36 p.m., minor Defendant Andrew E. Visnofsky was operating the 1990 Mazda 323 on Bigler Township Route 555, more commonly known as Betz Road, in Bigler Township, Clearfield County, Pennsylvania, at approximately one half mile south of its intersection with First Street.

8. That Defendant Victoria L. Visnofsky gave express and/or implied permission to operate and entrusted minor Defendant Andrew E. Visnofsky with the above motor vehicle, registered in her name on the date of the accident in question.

9. That Defendant John E. Visnofsky gave express and/or implied permission to operate and entrusted minor Defendant Andrew E. Visnofsky with the above motor vehicle, registered to Defendant Victoria L. Visnofsky, on the date of the accident in question.

10. That minor Plaintiff Alison M. Long was a rear-seat passenger in the above motor vehicle.

11. That at the above time and place, the above vehicle operated by the minor Defendant Andrew E. Visnofsky left the roadway and struck a utility pole located off the western berm.

12. That as a result of the violent impact of the above motor vehicle with the utility pole, minor Plaintiff Alison M. Long was violently shaken and suffered severe, serious and permanent injuries and permanent impairment of bodily functions including:

- a. Right frontoparietal subdural hematoma;
- b. Left occipital horn intraventricular hemorrhage;
- c. Right parietal diffuse axonal injury;
- d. Mid brain and brain stem shear injury;
- e. Corpus callosum shear injury;
- f. Right basal ganglia shear injury;
- g. Bifrontal hemorrhagic shear injury;
- h. T3, T5 and T6 compression fractures;
- i. L1, L2 and L3 compression fractures;
- j. Moderate hypothermia;
- k. Paralysis;
- l. Severe blunt force trauma to head, trunk, abdomen and upper and lower extremities; and
- m. Shock to nerves and nervous system.

13. That as a direct and proximate result of the aforementioned injuries suffered by minor

Plaintiff Alison M. Long, she has suffered the following damages:

- a. Plaintiff has suffered and will suffer great pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life's pleasures;
- b. Plaintiff has been and will be required to expend large sums of money for surgical and medical attention, including physical therapy, hospitalization, medical supplies, surgical appliances, medicines and attendant's services;
- c. Plaintiff will suffer a loss of wages and earning capacity;

d. Plaintiff's general health, strength, and vitality have been impaired.

Count I

Kenneth J. Long and Kathie M. Long as parents and natural guardians of
Alison M. Long v. Andrew E. Visnofsky

14. Plaintiffs hereby incorporate by reference paragraphs 1 through 13 of this Complaint as though fully set forth herein below in their entirety.

15. The above-captioned accident was caused solely by the negligence, recklessness, and carelessness of minor Defendant Andrew E. Visnofsky in that:

- a. He operated his vehicle at an excessive rate of speed under the circumstances;
- b. He failed to have his vehicle under proper and reasonable control;
- c. He operated his vehicle in such a manner as to cause it to leave the roadway and strike the utility pole.
- d. He failed to pay proper and reasonable attention to road hazards, traffic signs and road configuration as he proceeded down Bigler Township Route 555;
- e. He operated his vehicle without due regard for the rights and safety of his passengers in striking the utility pole;
- f. He failed to operate his vehicle in a safe and proper manner in striking the utility pole; and
- g. He failed to comply with the laws, rules and regulations of the Pennsylvania Motor Vehicle Code, specifically 75 Pa.C.S.A. Section 3732 (Homicide by Motor Vehicle); 75 Pa.C.S.A. Section 3719 (Careless Driving) and 75

Pa.C.S.A. Section 3361 (Driving Vehicle at Safe Speed).

WHEREFORE, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long demand judgment against minor Defendant Andrew E. Visnofsky in an amount in excess of \$30,000.00, plus interest and costs of suit.

Count II

Kenneth J. Long and Kathie M. Long as parents and natural guardians of Alison M. Long v. Victoria L. Visnofsky

16. Plaintiffs hereby incorporate by reference paragraphs 1 through 15 of this Complaint as though fully set forth herein below in their entirety.

17. That the provisions of the Pennsylvania Motor Vehicle Code provide that no person shall authorize or permit a motor vehicle owned by them or under their control to be driven upon any highway by any person who is not authorized under the vehicle code or who is not licensed for the type or class of vehicle to be driven, 75 Pa.C.S.A. §1574(a).

18. That the provisions of the Pennsylvania Motor Vehicle Code provide that any person violating the provisions of Section 1574(a) is guilty of a summary offense and shall be jointly and severally liable with the driver for any damages caused by the negligence of such driver in the operation of the vehicle, 75 Pa.C.S.A. §1574(b).

19. That Defendant Victoria L. Visnofsky knew or had reason to know that her son, minor Defendant Andrew E. Visnofsky, was not licensed to operate a motor vehicle and as such is jointly and severally liable for the damages caused by his negligence as more fully set forth herein before.

WHEREFORE, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long demand judgment against Defendant Victoria L. Visnofsky in an amount in excess of \$30,000.00, plus interest and costs of suit.

Count III

Kenneth J. Long and Kathie M. Long as parents and natural guardians of
Alison M. Long v. Victoria L. Visnofsky

20. Plaintiffs hereby incorporate by reference paragraphs 1 through 15 of this Complaint as though fully set forth herein below in their entirety.

21. That under Pennsylvania law, a parent is under a duty to exercise reasonable care so as to control their minor child as to prevent them from so conducting themselves as to create an unreasonable risk of bodily harm to others, if the parent knows or has reason to know that they have the ability to control their child and knows or should know of the necessity and opportunity for exercising such control. Restatement of Torts, Second §316.

22. That Defendant Victoria L. Visnofsky knew or had reason to know that she had the ability to control her son, minor Defendant Andrew E. Visnofsky, and knew or should have known of the necessity and opportunity for exercising such control.

23. That Defendant Victoria L. Visnofsky breached her duty to exercise reasonable care so as to control her minor child, Defendant Andrew E. Visnofsky, so as to prevent him from so conducting himself as to create an unreasonable risk of harm to the minor Plaintiff for which she is liable for those injuries and damages resulting therefrom.

WHEREFORE, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long demand judgment against Defendant Victoria L. Visnofsky in an amount in excess of \$30,000.00, plus interest and costs of suit.

Count IV

Kenneth J. Long and Kathie M. Long as parents and natural guardians of
Alison M. Long v. Victoria L. Visnofsky

24. Plaintiffs hereby incorporate by reference paragraphs 1 through 15 of this Complaint as though fully set forth herein below in their entirety.

25. That Defendant Victoria L. Visnofsky negligently expressly and/or implicitly entrusted and/or permitted her registered vehicle to be possessed and operated by minor Defendant Andrew E. Visnofsky when she knew or should have known that he was incapable of safe driving.

26. That Defendant Victoria L. Visnofsky negligently expressly and/or implicitly entrusted and/or permitted operation of her registered motor vehicle by minor Defendant Andrew E. Visnofsky when she recognized or should have recognized the need to exercise control over minor Defendant Andrew E. Visnofsky's use of her personal property, having the ability to exercise such control, but failing to do so under Section 318 of the Restatement of Torts, Second and as such, is liable for the injuries and damages resulting therefrom.

WHEREFORE, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long demand judgment against Defendant Victoria L. Visnofsky in an amount in excess of \$30,000.00, plus interest and costs of suit.

Count V

Kenneth J. Long and Kathie M. Long as parents and natural guardians of Alison M. Long v. John E. Visnofsky

27. Plaintiffs hereby incorporate by reference paragraphs 1 through 15 of this Complaint as though fully set forth herein below in their entirety.

28. That the provisions of the Pennsylvania Motor Vehicle Code provide that no person shall authorize or permit a motor vehicle owned by them or under their control to be driven upon any

highway by any person who is not authorized under the vehicle code or who is not licensed for the type or class of vehicle to be driven, 75 Pa.C.S.A. §1574(a).

29. That the provisions of the Pennsylvania Motor Vehicle Code provide that any person violating the provisions of Section 1574(a) is guilty of a summary offense and shall be jointly and severally liable with the driver for any damages caused by the negligence of such driver in the operation of the vehicle, 75 Pa.C.S.A. §1574(b).

30. That Defendant John E. Visnofsky had control over the motor vehicle owned by his wife, Defendant Victoria L. Visnofsky, and knew or had reason to know that his son, minor Defendant Andrew E. Visnofsky, was not licensed to operate a motor vehicle and as such is jointly and severally liable for the damages caused by his negligence as more fully set forth herein before.

WHEREFORE, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long demand judgment against Defendant John E. Visnofsky in an amount in excess of \$30,000.00, plus interest and costs of suit.

Count VI

Kenneth J. Long and Kathie M. Long as parents and natural guardians of Alison M. Long v. John E. Visnofsky

31. Plaintiffs hereby incorporate by reference paragraphs 1 through 15 of this Complaint as though fully set forth herein below in their entirety.

32. That under Pennsylvania law, a parent is under a duty to exercise reasonable care so as to control their minor child as to prevent them from so conducting themselves as to create an unreasonable risk of bodily harm to others, if the parent knows or has reason to know that they have the ability to control their child and knows or should know of the necessity and opportunity

for exercising such control. Restatement of Torts, Second §316.

33. That Defendant John E. Visnofsky knew or had reason to know that he had the ability to control his son, minor Defendant Andrew E. Visnofsky, and knew or should have known of the necessity and opportunity for exercising such control.

34. That Defendant John E. Visnofsky breached his duty to exercise reasonable care so as to control his minor child, Defendant Andrew E. Visnofsky, so as to prevent him from so conducting himself as to create an unreasonable risk of harm to the minor Plaintiff for which he is liable for those injuries and damages resulting there from.

WHEREFORE, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long demand judgment against Defendant John E. Visnofsky in an amount in excess of \$30,000.00, plus interest and costs of suit.

Count VII

Kenneth J. Long and Kathie M. Long as parents and natural guardians of Alison M. Long v. John E. Visnofsky

35. Plaintiffs hereby incorporate by reference paragraphs 1 through 15 of this Complaint as though fully set forth herein below in their entirety.

36. That Defendant John E. Visnofsky negligently expressly and/or implicitly entrusted and/or permitted minor Defendant Andrew E. Visnofsky to operate Defendant Victoria L. Visnofsky's vehicle when he knew or should have known that he was incapable of safe driving.

37. That Defendant John E. Visnofsky negligently expressly and/or implicitly entrusted and/or permitted operation of Defendant Victoria L. Visnofsky's motor vehicle by minor Defendant Andrew E. Visnofsky when he recognized or should have recognized the need to exercise control over minor Defendant Andrew E. Visnofsky's use of Defendant Victoria L.

Visnofsky's personal property, having the ability to exercise such control, but failing to do so under Section 318 of the Restatement of Torts, Second and as such, is liable for the injuries and damages resulting therefrom.

WHEREFORE, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long demand judgment against Defendant John E. Visnofsky in an amount in excess of \$30,000.00, plus interest and costs of suit.

Count VIII

Kenneth J. Long and Kathie Long as parents and natural guardians of Alison M. Long and in their own right v. Andrew E. Visnofsky, a minor, and Victoria L. Visnofsky and John E. Visnofsky

38. Plaintiffs hereby incorporate by reference paragraphs 1 through 37 of this Complaint as though fully set forth herein below in their entirety.

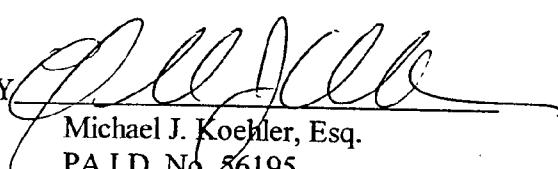
39. That as a direct and proximate result of the negligence of minor Defendant Andrew E. Visnofsky, and Defendant Victoria L. Visnofsky and Defendant John E. Visnofsky, individually, as hereinabove alleged, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long, have been obligated to expend various sums of money for doctors, nurses, hospitals, medicines and medical services in attempting to effectuate a cure for the injuries to their daughter, Alison M. Long, and will be obligated to continue making similar expenditures for the same purpose for an indefinite time in the future.

WHEREFORE, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long demand judgment against minor Defendant Andrew E. Visnofsky, and Victoria L. Visnofsky and John E. Visnofsky in an amount in excess of \$30,000.00, plus interest and costs of suit.

A JURY TRIAL OF TWELVE (12) IS DEMANDED

NICHOLAS, PEROT & STRAUSS, P.C.

BY


Michael J. Koehler, Esq.

PA I.D. No 36195

Attorneys for Plaintiffs

2527 West 26th Street

Erie, Pennsylvania 16506

(814) 833-8851

Date: 11/15/00

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

KENNETH J. LONG and KATHIE : CIVIL ACTION - LAW
LONG, his wife, as parents and natural :
guardians of ALISON M. LONG, a minor, : No.
and in their own right, :
Plaintiffs :
: :
v. :
: :
ANDREW E. VISNOFSKY, a minor, and :
VICTORIA L. VISNOFSKY and JOHN E. :
VISNOFSKY, :
Defendants :
:

VERIFICATION

I, Kenneth J. Long, individually and as parent and natural guardian of minor Plaintiff Alison M. Long, verify that the statements made in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

Kenneth J. Long
Kenneth J. Long, individually and as
p/n/g of Alison M. Long, a minor.

Date: 11/13/00

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

KENNETH J. LONG and KATHIE	:	CIVIL ACTION - LAW
LONG, his wife, as parents and natural	:	
guardians of ALISON M. LONG, a minor,	:	No.
and in their own right,	:	
Plaintiffs	:	
	:	
v.	:	
	:	
ANDREW E. VISNOFSKY, a minor, and	:	
VICTORIA L. VISNOFSKY and JOHN E.	:	
VISNOFSKY,	:	
Defendants	:	

VERIFICATION

I, Kathie Long, individually and as parent and natural guardian of minor Plaintiff Alison M. Long, verify that the statements made in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

Kathie Long
Kathie Long, individually and as
p/n/g of Alison M. Long, a minor.

Date: November 13, 2020

VERIFICATION

I, KENNETH W. BOHN, of NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY, have read the foregoing Complaint for Declaratory Judgment. The
statements therein are correct to the best of my personal knowledge, information and belief.

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

Date: 2/15/01

Kenneth W. Bohn

8-27-01

Document

Reinstated/~~Reinstated~~/Attorney
for service.

D. Kendrick (pro tem)
Deputy Prothonotary

FILED

SD
MAY 07 2001
M 19401 Gtly Remarq
William A. Shaw
Prothonotary
PD \$80.00

5 cc Sheriff

Court of Common Pleas
Of Clearfield County, PA
No

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

**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,
Plaintiff,**

vs.

ANDREW E. VISNOFSKY, a minor, by and through his parent and natural guardian, VICTORIA L. VISNOFSKY and VICTORIA L. VISNOFSKY, in her own right; JOHN E. VISNOFSKY, KENNETH J. LONG and KATHIE M. LONG, his wife, as parents and natural guardians of ALISON M. LONG, a minor, and in their own right; SHERI HARASYMIW and CHRISTOPHER SMITH, as legal guardians of JUSTIN D. VICKERS, a minor, SHERI HARASYMIW and CHRISTOPHER SMITH in their own right; and the Estate of JAMES A. BLAYLOCK, deceased, by the representative of his Estate, PRISCILLA KEPHART,

Defendants.

CIVIL DIVISION

No.: 01-657-CD

ACCEPTANCE OF SERVICE

Filed on behalf of Plaintiff:
**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY**

Counsel of Record for this party:
JEFFREY A. RAMALEY, ESQUIRE
Pa. I.D. #41559
JOHN K. BRYAN, ESQUIRE
Pa. I.D. 62901

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm #920
3300 USX Tower
Pittsburgh, PA 15219

(412) 281-8000

FILED
MAY 16 2001

William A. Shaw
Prothonotary

Court of Common Pleas
Of Clearfield County, PA
No

ACCEPTANCE OF SERVICE

I hereby accept service of the Complaint for Declaratory Judgment on behalf of
PRISCILLA KEPHART, personal representative of the **ESTATE OF JAMES A.**
BLAYLOCK and certify that I am authorized to do so.



Mark Bennett, Esquire
BERGER & GREEN
Suite 200
5850 Ellsworth Avenue
Pittsburgh, PA 15232

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within
ACCEPTANCE OF SERVICE was forwarded to counsel below named by U. S. Mail on the
14 day of May, 2001.

Mark Bennett, Esquire
BERGER & GREEN
Suite 200
5850 Ellsworth Avenue
Pittsburgh, PA 15232

Michael J. Koehler, Esquire
NICHOLAS, PEROT, STRAUSS & KOEHLER
2527 West 26th Street
Erie, PA 16506

Louis C. Schmitt, Jr., Esquire
PFAFF, McINTYRE, DUGAS, HARTYE & SCHMITT
P. O. Box 533
Hollidaysburg, PA 16648-0533

Respectfully submitted,

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY**

BY *mebj*
JOHN K. BRYAN
ATTORNEY FOR PLAINTIFF
NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY

William A. Shaw, Prothonotary
May 14, 2001
Page 2

cc:

Michael J. Koehler, Esquire
NICHOLAS, PEROT, STRAUSS & KOEHLER
2527 West 26th Street
Erie, PA 16506

Louis C. Schmitt, Jr., Esquire
PFAFF, McINTYRE, DUGAS, HARTYE & SCHMITT
P. O. Box 533
Hollidaysburg, PA 16648-0533

Mark Bennett, Esquire
BERGER & GREEN
Suite 200
5850 Ellsworth Avenue
Pittsburgh, PA 15232
(all w/enclosure)

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY INSURANCE COMPANY,	:	CIVIL ACTION - LAW
	:	No. 01-657-CD
Plaintiffs	:	
	:	
v.	:	
	:	
ANDREW E. VISNOFSKY, a minor, by and through his parents and natural guardian VICTORIA L. VISNOFSKY and VICTORIA L. VISNOFSKY, in her own right; JOHN E. VISNOFSKY, KENNETH J. LONG and KATHIE M. LONG, his wife, as parents and natural guardians of ALISON M. LONG, a minor, and in their own right; SHERI HARASYMIW and CHRISTOPHER SMITH, as legal guardians of JUSTIN D. VICKERS, a minor, SHERI HARASYMIW and CHRISTOPHER SMITH in their own right; and the Estate of JAMES A. BLAYLOCK, deceased, by the representative of his Estate, PRISCILLA KEPHART,	:	ACCEPTANCE OF SERVICE
	:	Filed on Behalf of Defendants: Kenneth J. Long and Kathie M. Long, his wife, as parents and natural guardians of Alison M. Long, a minor
	:	
	:	Counsel of Record for this party: Michael J. Koehler, Esquire
	:	Pa. I. D. #56195
	:	Nicholas, Perot, Strauss & Koehler
	:	2527 West 26th Street
	:	Erie, PA 16506
	:	(814) 833-8851
	:	
Defendants	:	

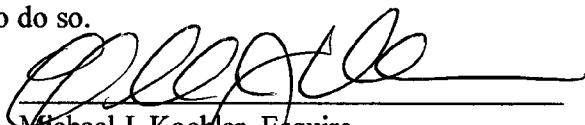
FILED

JUN 01 2001

William A. Shaw
Prothonotary

ACCEPTANCE OF SERVICE

I hereby accept service of the Complaint for Declaratory Judgment on behalf of Kenneth J. Long and Kathie M. Long, his wife, as parents and natural guardians of Alison M. Long, a minor, and in their own right and certify that I am authorized to do so.



Michael J. Koehler, Esquire
Nicholas, Perot, Strauss & Koehler, P. C.
2527 West 26th Street
Erie, PA 16506
(814) 833-8851

CERTIFICATE OF SERVICE

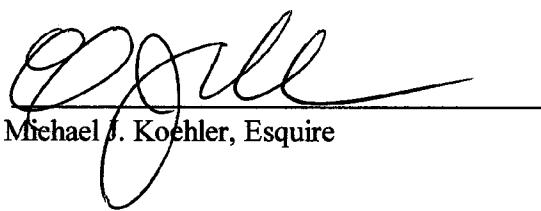
I hereby certify that on the 29 day of May, 2001, the foregoing Acceptance of Service was served upon the following individual in accordance with all applicable rules of court:

Mark Bennett, Esquire
Berger & Green
Suite 200
5850 Ellsworth Avenue
Pittsburgh, PA 15232

John K. Bryan, Esquire
Zimmer Kunz
3300 USX Tower
Pittsburgh, PA 15219

Louis C. Schmitt, Jr., Esquire
Pfaff, McIntyre, Dugas, Hartye & Schmitt
P. O. Box 533
Hollidaysburg, PA 16648-0533

Jeffrey A. Ramaley, Esquire
Zimmer Kunz
3300 USX Tower
Pittsburgh, PA 15219


Michael J. Koehler, Esquire

FILED

JUN 01 2001
m 14 NO CC
William A. Shaw
Prothonotary

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 10978

NEW HAMPSHIRE INDEMNITY INSURANCE COMPANY

01-657-CD

VS.

VISNOFSKY, ANDREW E. Et al

COMPLAINT FOR DECLARATORY JUDGMENT

SHERIFF RETURNS

NOW MAY 30, 2001 AT 9:13 AM DST SERVED THE WITHIN COMPLAINT FOR DECLARATORY JUDGMENT ON JOHN E. VISNOFSKY, DEFENDANT AT RESIDENCE, MAIN ST., PO BOX 466, MADERA, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO JOHN E. VISNOFSKY A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT FOR DECLARATORY JUDGMENT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: NEVLING/COUDRIET

NOW MAY 30, 2001 AT 9:13 AM DST SERVED THE WITHIN COMPLAINT FOR DECLARATORY JUDGMENT ON ANDREW E. VISNOFSKY a minor by & through his parent & natural guardian VICTORIA L. VISNOFSKY, DEFENDANT AT RESIDENCE, MAIN ST., MADERA, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO JOHN VISNOFSKY, FATHER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT FOR DECLARATORY JUDGMENT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: NEVLING/COUDRIET

NOW AY 30, 2001 AT 9:35 AM DST SERVED THE WITHIN COMPLAINT FOR DECLARATORY JUDGMENT ON KENNETH J. LONG & KATHIE M. LONG, as parents & natural guardian of ALLISON M. LONG, DEFENDANT AT RESIDENCE, S.R. 53, MADERA, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO KATHIE M. LONG A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT FOR DECLARATORY JUDGMENT AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: NEVLING/COUDRIET

NOW MAY 31, 2001 AT 11:26 AM DST SERVED THE WITHIN COMPLAINT FOR DECLARATORY JUDGMENT ON VICTORIA VISNOFSKY, DEFENDANT AT RESIDENCE, MAIN ST. POB X0 257, MADERA, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO JOHN CARTER, ADULT AT RESIDENCE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT FOR DECLARATORY JUDGMENT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: DAVIS/MORGILLO

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 10978

NEW HAMPSHIRE INDEMNITY INSURANCE COMPANY

01-657-CD

VS.

VISNOFSKY, ANDREW E. Et al

COMPLAINT FOR DECLARATORY JUDGMENT

SHERIFF RETURNS

NOW JUNE 1, 2001 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURN THE
WITHIN COMPLAINT FOR DECLARATORY JUDGMENT "NOT FOUND" AS TO
SHERRI HARASYMIW & CHRISTOPHER SMITH, as legal guardians of JUSTIN D.
VICKERS, DEFENDANT. MOVED LEFT NO FORWARDING ADDRESS.

FILED

JUN 08 2001

01322pm

William A. Shaw
Prothonotary

28

Return Costs

Cost	Description
63.52	SHFF. HAWKINS PAID BY: ATTY.
50.00	SURCHARGE PAID BY: ATTY.

Sworn to Before Me This

8th Day Of June 2001

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co., Clearfield, PA.

So Answers,

Chester Hawkins
by *Marilyn Hamps*
Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,
Plaintiff,

vs.

ANDREW E. VISNOFSKY, a minor, by and
through his parent and natural guardian,
VICTORIA L. VISNOFSKY and VICTORIA
L. VISNOFSKY, in her own right; JOHN E.
VISNOFSKY, KENNETH J. LONG and
KATHIE M. LONG, his wife, as parents and
natural guardians of ALISON M. LONG, a
minor, and in their own right; SHERI
HARASYMIW and CHRISTOPHER SMITH,
as legal guardians of JUSTIN D. VICKERS, a
minor, SHERI HARASYMIW and
CHRISTOPHER SMITH in their own right;
and the Estate of JAMES A. BLAYLOCK,
deceased, by the representative of his Estate,
PRISCILLA KEPHART,
Defendants.

TO: All Parties

*You are hereby notified to file a written
response to the enclosed NEW MATTER
within twenty (20) days from service
hereof or a judgment may be entered
against you.*

mcg

Attorneys for Plaintiff

CIVIL DIVISION

No.: 01-657-CO

**COMPLAINT FOR
DECLARATORY JUDGMENT**

Filed on behalf of Plaintiff:
**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY**

Counsel of Record for this party:
JEFFREY A. RAMALEY, ESQUIRE
Pa. I.D. #41559
JOHN K. BRYAN, ESQUIRE
Pa. I.D. 62901

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm #920
3300 USX Tower
Pittsburgh, PA 15219

(412) 281-8000

I hereby certify this to be a true
and correct copy of the original
statement filed in this case.

MAY 07 2001

Attest.

Williams L. Brown
Prothonotary

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

NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,
Plaintiff,

vs.

ANDREW E. VISNOFSKY, a minor, by and
through his parent and natural guardian,
VICTORIA L. VISNOFSKY and VICTORIA
L. VISNOFSKY, in her own right; JOHN E.
VISNOFSKY, KENNETH J. LONG and
KATHIE M. LONG, his wife, as parents and
natural guardians of ALISON M. LONG, a
minor, and in their own right; SHERI
HARASYMIW and CHRISTOPHER SMITH,
as legal guardians of JUSTIN D. VICKERS, a
minor, SHERI HARASYMIW and
CHRISTOPHER SMITH in their own right;
and the Estate of JAMES A. BLAYLOCK,
deceased, by the representative of his Estate,
PRISCILLA KEPHART,

CIVIL DIVISION

No.:

Defendants.

NOTICE TO DEFEND

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

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

**LAWYER REFERRAL SERVICE
THE COURT ADMINISTRATOR OF CLEARFIELD COUNTY
2ND FLOOR, CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD, PA 16830
TELEPHONE: (814) 765-2641**

COMPLAINT FOR DECLARATORY JUDGMENT

AND NOW, comes the Plaintiff, **NEW HAMPSHIRE INDEMNITY INSURANCE COMPANY**, by its attorneys, **ZIMMER KUNZ, PROFESSIONAL LIMITED LIABILITY COMPANY, JEFFREY A. RAMALEY, ESQUIRE AND JOHN K. BRYAN, ESQUIRE**, and files the following Complaint for Declaratory Judgment and, in support thereof, avers as follows:

1. The Plaintiff is a corporation authorized to sell automobile insurance policies in the Commonwealth of Pennsylvania.
2. The Defendant, Andrew E. Visnofsky is a minor whose parent and natural guardian is Victoria L. Visnofsky, and who resides on Main Street, P. O. Box 257 in Madera, Clearfield County, Pennsylvania 16661.
3. The Defendant, Victoria L. Visnofsky, is an adult individual who is the parent and natural guardian of Andrew E. Visnofsky, a minor, and who resides at Main Street, P. O. Box 257, Madera, Clearfield County, Pennsylvania 16661.
4. The Defendant, John E. Visnofsky, is an adult individual and is the parent and natural guardian of Andrew E. Visnofsky, a minor, and resides on Main Street, P. O. Box 466, Madera, Clearfield County, Pennsylvania 66661.
5. The Defendants, Kenneth J. Long and Kathie M. Long, are adult individuals who are husband and wife, and who are parents and natural guardians of the minor,

Alison M. Long, residing on State Route 0053, P. O. Box 292, Madera, Clearfield County, Pennsylvania 16661.

6. The Defendants, Sherri Harasymiw and Christopher Smith, are adult individuals and legal guardians of Justin D. Vickers, a minor, who reside on Lynn Street, P. O. Box 361, Madera, Clearfield County, Pennsylvania 16661.

7. The Defendant, Pricilla Kephart, is an adult individual who is the personal representative of the Estate of James A. Blaylock, deceased, and whose mailing address is P.O. Box 283, Madera, Clearfield County, Pennsylvania 16661.

8. Prior to July 9, 2000, Plaintiff sold a policy of automobile insurance to Defendant, Victoria L. Visnofsky. A true and correct copy of the declaration page to said policy and the relevant portions of said policy are attached hereto and marked as Exhibit "A".

9. On or about July 9, 2000, Defendant, Andrew E. Visnofsky, was operating a 1990 Mazda automobile bearing Pennsylvania title or out-of-state vehicle identification number 51582210 when it was involved in a motor vehicle accident out of which the Defendant Longs, Vickers and Blaylocks allegedly suffered injuries and damages.

10. At the time of the motor vehicle accident in question, Defendant, Andrew E. Visnofsky was using the vehicle without a reasonable belief that he was entitled to do so for the following reasons:

- (a) Defendant, Victoria L. Visnofsky, did not give Defendant, Andrew E. Visnofsky, permission to operate the vehicle;

- (b) Defendant, Victoria L. Visnofsky, did not engage in any course of conduct from which Defendant, Andrew E. Visnofsky, could reasonably infer that he had permission to operate the vehicle;
- (c) That Defendant, Andrew E. Visnofsky, knew and/or should have known that he did not have Defendant, Victoria L. Visnofsky's permission to operate the vehicle;
- (d) That Defendant, Andrew E. Visnofsky, was under the legal age to operate a vehicle and did not have a license to operate a motor vehicle;
- (e) That the vehicle did not have a registration plate;
- (f) That the vehicle was not currently registered; and
- (g) That because of the mechanical condition of the car, it was not to be driven.

11. The motor vehicle operated by Andrew E. Visnofsky at the time of the accident was not a vehicle shown in the declaration page of the policy in question, and was a vehicle owned by Defendant, Victoria L. Visnofsky.

12. Defendant, Victoria L. Visnofsky, did not ask Plaintiff to insure the aforementioned automobile within thirty (30) days after she became the owner of the vehicle.

13. The aforementioned vehicle was not a replacement vehicle for any vehicle shown in the declaration page of the policy.

14. The Long Defendants filed a Complaint in Civil Action in the Court of Common Pleas of Clearfield County, Pennsylvania at Civil Action, Law 2000-1487-CD. Attached hereto and marked as Exhibit "B" is a true and correct copy of said Complaint.

15. Defendant, Victoria L. Visnofsky, has submitted this Complaint to the Plaintiff and has requested defense and coverage from the Plaintiff for the matters set forth in the Complaint.

16. Plaintiff submits that Andrew E. Visnofsky and Victoria L. Visnofsky are not entitled to coverage under the aforementioned policy of insurance in that Andrew E. Visnofsky operated the motor vehicle without a reasonable belief that he was entitled to do so and said vehicle was owned by the named insured, Victoria L. Visnofsky, but was not a "covered auto" under the policy.

WHEREFORE, for the reasons set forth above, the Plaintiff, **NEW HAMPSHIRE INDEMNITY INSURANCE COMPANY**, requests that this Court enter a declaration that it has no duty to defend and/or indemnify Andrew E. Visnofsky and Victoria L. Visnofsky in this Civil Action or in any other Civil Action(s) to be filed as a result of the motor vehicle accident of July 9, 2000.

Respectfully submitted,

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY**

BY


JEFFREY A. RAMALEY

JOHN K. BRYAN

ATTORNEYS FOR PLAINTIFF
NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY



AIGDEC 8/96

REGIONAL OFFICE

P.O. BOX 1802
ALPHARETTA, GA 30023

COMPANY COPY

NEW DECLARATION * * * * * EFFECTIVE 05/19/00

POLICY NUMBER	POLICY FROM	PERIOD TO	COVERAGE IS PROVIDED IN THE	AGENCY
AIG 9809487	05/19/00	11/19/00	NEW HAMPSHIRE INDEMNITY CO	3737421
NAMED INSURED AND ADDRESS		AGENT		
VICTORIA VISNOFSKY PO BOX 257 MADERA, PA		SIMLER INSURANCE AGENCY 118 E. PRESQUEISLE STREET PHILIPSBURG, PA.		

APPLICABLE FORMS

FORM #	DATE	UNIT									
PP0001	06/94*	ALL	PP0151	12/96*	ALL	PP0338	12/98*	ALL	PA0001	04/96*	ALL
IL0910	01/81*	ALL	PA0003	06/96*	ALL	PP1301	12/99*	ALL	PP0309	04/86*	001
PP0551	06/94*	001	PP0563	06/94*	001						

GARAGE LOCATION FOR UNIT #001
PINE ST AND BLACKBURN RD

16661

16866

16661

POLICY PERIOD 12:01 AM

SIMLER INSURANCE AGENCY

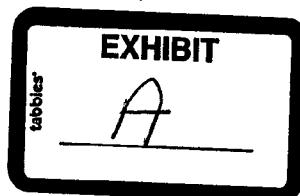
05/31/00

AUTHORIZED REPRESENTATIVE

DATE

PREMIUM THIS TRANSACTION.....

\$173.00





AIGDEC 8/96

REGIONAL OFFICE

P.O. BOX 1802
ALPHARETTA, GA 30023

COMPANY COPY

PERSONAL AUTO POLICY
NEW DECLARATION * * * * * EFFECTIVE 05/19/00

POLICY NUMBER	POLICY PERIOD FROM	POLICY PERIOD TO	COVERAGE IS PROVIDED IN THE	AGENCY
AIG 9809487	05/19/00	11/19/00	NEW HAMPSHIRE INDEMNITY CO	3737421
NAMED INSURED AND ADDRESS				AGENT
VICTORIA VISNOFSKY PO BOX 257 MADERA, PA 16661				SIMLER INSURANCE AGENCY 118 E. PRESQUEISLE STREET PHILIPSBURG, PA. 16866

DOMICILED ADDRESS IS: NEW HAMPSHIRE INDEMNITY COMPANY, INC.
2005 MARKET ST.
PHILADELPHIA, PA. 19103FOR PROMPT SERVICE ALL CORRESPONDENCE SHOULD BE SENT TO OUR REGIONAL OFFICE AT
P.O. BOX 8215, CORAOPOLIS, PA 15108VEHICLES COVERED
UNIT ST TER YR MAKE-DESCRIPTION SERIAL NUMBER AGE SYM CLASS CST NEW CHG DATE
001 PA 049 86 RENA ENCORE S 1XMAC9332GK121919 6 10 3N-00 05/19/00
INSURANCE IS PROVIDED WHERE A PREMIUM IS SHOWN FOR THE COVERAGE.THIS POLICY AFFORDS COLLISION COVERAGE TO RENTAL VEHICLES IF YOU HAVE SELECTED
PHYSICAL DAMAGE COVERAGES. THE SAME DEDUCTIBLE OPTIONS LISTED BELOW WILL APPLY.

COVERAGES LISTED BELOW ARE PROVIDED ON A LIMITED TORT BASIS PER YOUR SELECTION

COVERAGE	LIMITS OF LIABILITY	PREMIUMS
A BODILY INJURY \$25,000 EA PERSON \$50,000	EA ACCIDENT	UNIT 1 48.00
A PROPERTY DAMAGE \$10,000 EACH ACCIDENT		75.00
MEDICAL BENEFITS \$5,000		50.00
	TOTAL BY UNIT	173.00
	TOTAL TERM PREMIUM	\$173.00

DISCOUNTS/SURCHARGES APPLIED TO APPLICABLE COVERAGES
UNIT 01 30% TRANSFER DISCOUNTDRIVER ID DRIVER NAME LICENSE NUMBER BIRTH DATE
01 VICTORIA CISNOFSKY 22344863 09/18/67

CONTINUED ON NEXT PAGE

PERSONAL AUTO POLICY

AGREEMENT

In return for payment of the premium and subject to all the terms of this policy, we agree with you as follows:

DEFINITIONS

- A. Throughout this policy, "you" and "your" refer to:
 1. The "named insured" shown in the Declarations; and
 2. The spouse if a resident of the same household.
- B. "We", "us" and "our" refer to the Company providing this insurance.
- C. For purposes of this policy, a private passenger type auto shall be deemed to be owned by a person if leased:
 1. Under a written agreement to that person; and
 2. For a continuous period of at least 6 months.

Other words and phrases are defined. They are in quotation marks when used.

- D. "Bodily injury" means bodily harm, sickness or disease, including death that results.
- E. "Business" includes trade, profession or occupation.
- F. "Family member" means a person related to you by blood, marriage or adoption who is a resident of your household. This includes a ward or foster child.
- G. "Occupying" means in, upon, getting in, on, out or off.
- H. "Property damage" means physical injury to, destruction of or loss of use of tangible property.
- I. "Trailer" means a vehicle designed to be pulled by:
 1. Private passenger auto; or
 2. Pickup or van.

It also means a farm wagon or farm implement while towed by a vehicle listed in 1. or 2. above.
- J. "Your covered auto" means:
 1. Any vehicle shown in the Declarations.
 2. Any of the following types of vehicles on the date you become the owner:
 - a. a private passenger auto; or

- b. a pickup or van that:
 - (1) has a Gross Vehicle Weight of less than 10,000 lbs.; and
 - (2) is not used for the delivery or transportation of goods and materials unless such use is:
 - (a) incidental to your "business" of installing, maintaining or repairing furnishings or equipment; or
 - (b) for farming or ranching.

This provision (J.2.) applies only if:

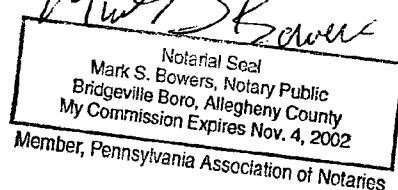
- a. you acquire the vehicle during the policy period;
- b. you ask us to insure it within 30 days after you become the owner; and
- c. with respect to a pickup or van, no other insurance policy provides coverage for that vehicle.

If the vehicle you acquire replaces one shown in the Declarations, it will have the same coverage as the vehicle it replaced. You must ask us to insure a replacement vehicle within 30 days only if you wish to add or continue Coverage for Damage to Your Auto.

If the vehicle you acquire is in addition to any shown in the Declarations, it will have the broadest coverage we now provide for any vehicle shown in the Declarations.

- 3. Any "trailer" you own.
- 4. Any auto or "trailer" you do not own while used as a temporary substitute for any other vehicle described in this definition which is out of normal use because of its:
 - a. breakdown; d. loss; or
 - b. repair; e. destruction.
 - c. servicing;

This provision (J.4.) does not apply to Coverage for Damage to Your Auto.



This exclusion (5.) does not apply to the interests of Loss Payees in "your covered auto".

6. Loss to a camper body or "trailer" you own which is not shown in the Declarations. This exclusion (6.) does not apply to a camper body or "trailer" you:
 - a. acquire during the policy period; and
 - b. ask us to insure within 30 days after you become the owner.
7. Loss to any "non-owned auto" when used by you or any "family member" without a reasonable belief that you or that "family member" are entitled to do so.
8. Loss to:
 - a. awnings or cabanas; or
 - b. equipment designed to create additional living facilities.
9. Loss to equipment designed or used for the detection or location of radar or laser.
10. Loss to any custom furnishings or equipment in or upon any pickup or van. Custom furnishings or equipment include but are not limited to:
 - a. special carpeting and insulation, furniture or bars;
 - b. facilities for cooking and sleeping;
 - c. height-extending roofs; or
 - d. custom murals, paintings or other decals or graphics.
11. Loss to any "non-owned auto" being maintained or used by any person while employed or otherwise engaged in the "business" of:
 - a. selling; d. storing; or
 - b. repairing; e. parking;
 - c. servicing;vehicles designed for use on public highways. This includes road testing and delivery.
12. Loss to any "non-owned auto" being maintained or used by any person while employed or otherwise engaged in any "business" not described in exclusion 11. This exclusion (12.) does not apply to the maintenance or use by you or any "family member" of a "non-owned auto" which is a private passenger auto or "trailer."
13. Loss to "your covered auto" or any "non-owned auto", located inside a facility designed for racing, for the purpose of:
 - a. Competing in; or
 - b. Practicing or preparing for;any prearranged or organized racing or speed contest.
14. Loss to, or loss of use of, a "non-owned auto" rented by:
 - a. You; or
 - b. Any "family member";if a rental vehicle company is precluded from recovering such loss or loss of use, from you or that "family member", pursuant to the provisions of any applicable rental agreement or state law.

LIMIT OF LIABILITY

- A. Our limit of liability for loss will be the lesser of the:
 1. Actual cash value of the stolen or damaged property; or
 2. Amount necessary to repair or replace the property with other property of like kind and quality.

However, the most we will pay for loss to any "non-owned auto" which is a trailer is \$500.
- B. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total loss.
- C. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

PAYMENT OF LOSS

We may pay for loss in money or repair or replace the damaged or stolen property. We may, at our expense, return any stolen property to:

1. You; cr
2. The address shown in this cclicy.

If we return stolen property we will pay for any damage resulting from the theft. We may keep all or part of the property at an agreed or appraised value.

If we pay for loss in money, our payment will include the applicable sales tax for the damaged or stolen property.

NO BENEFIT TO BAILEE

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

OTHER SOURCES OF RECOVERY

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

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

APPRAISAL

- A. If we and you do not agree on the amount of loss, either may demand an appraisal of the loss. In this event, each party will select a competent appraiser. The two appraisers will select an umpire. The appraisers will state separately the actual cash value and the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:
 - 1. Pay its chosen appraiser; and
 - 2. Bear the expenses of the appraisal and umpire equally.
- B. We do not waive any of our rights under this policy by agreeing to an appraisal.

PART E—DUTIES AFTER AN ACCIDENT OR LOSS

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

- A. We must be notified promptly of how, when and where the accident or loss happened. Notice should also include the names and addresses of any injured persons and of any witnesses.
- B. A person seeking any coverage must:
 1. Cooperate with us in the investigation, settlement or defense of any claim or suit.
 2. Promptly send us copies of any notices or legal papers received in connection with the accident or loss.
 3. Submit as often as we reasonably require:
 - a. to physical exams by physicians we select. We will pay for these exams.
 - b. to examinations under oath and subscribe the same.
 4. Authorized us to obtain:
 - a. medical reports; and
 - b. other pertinent records.

5. Submit a proof of loss when required by us.
- C. A person seeking Uninsured Motorist Coverage must also:
 1. Promptly notify the police if a hit-and-run driver is involved.
 2. Promptly send us copies of the legal papers if a suit is brought.
- D. A person seeking Coverage for Damage to Your Auto must also:
 1. Take reasonable steps after loss to protect "your covered auto" or any "non-owned auto" and their equipment from further loss. We will pay reasonable expenses incurred to do this.
 2. Promptly notify the police if "your covered auto" or any "non-owned auto" is stolen.
 3. Permit us to inspect and appraise the damaged property before its repair or disposal.

PART F—GENERAL PROVISIONS

BANKRUPTCY

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

CHANGES

- A. This policy contains all the agreements between you and us. Its terms may not be changed or waived except by endorsement issued by us.
- B. If there is a change to the information used to determine the policy premiums, we may adjust your premium. Changes during the policy term that may result in a premium increase or decrease include, but are not limited to, changes in:
 1. The number, type or use classifications of insured vehicles;
 2. Operators using insured vehicles;
 3. The place of principal garaging of insured vehicles;
 4. Coverage, deductible or limits.

If a change resulting from A. or B. requires a premium adjustment, we will make the premium adjustment in accordance with our manual rules.

- C. If we make a change which broadens coverage under this edition of your policy without additional premium charge, that change will automatically apply to your policy as of the date we implement the change in your state. This paragraph (C.) does not apply to changes implemented with a general program revision that includes both broadenings and restrictions in coverage, whether that general program revision is implemented through introduction of:
 1. A subsequent edition of your policy; or
 2. An Amendatory Endorsement.

FRAUD

We do not provide coverage for any "insured" who has made fraudulent statements or engaged in fraudulent conduct in connection with any accident or loss for which coverage is sought under this policy.

LEGAL ACTION AGAINST US

- A. No legal action may be brought against us until there has been full compliance with all the terms of this policy. In addition, under Part A, no legal action may be brought against us until:
 1. We agree in writing that the "insured" has an obligation to pay; or

2. The amount of that obligation has been finally determined by judgment after trial.
- B. No person or organization has any right under this policy to bring us into any action to determine the liability of an "insured."

OUR RIGHT TO RECOVER PAYMENT

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

However, our rights in this paragraph (A.) do not apply under Part D, against any person using "your covered auto" with a reasonable belief that that person is entitled to do so.

- B. If we make a payment under this policy and the person to or from whom payment is made recovers damages from another, that person shall:
 1. Hold in trust for us the proceeds of the recovery; and
 2. Reimburse us to the extent of our payment.

POLICY PERIOD AND TERRITORY

- A. This policy applies only to accidents and losses which occur:
 1. During the policy period as shown in the Declarations; and
 2. Within the policy territory.
- B. The policy territory is:
 1. The United States of America, its territories or possessions;
 2. Puerto Rico; or
 3. Canada.

This policy also applies to loss to, or accidents involving, "your covered auto" while being transported between their ports.

TERMINATION

- A. **Cancellation.** This policy may be cancelled during the policy period as follows:
 1. The named insured shown in the Declarations may cancel by:
 - a. returning this policy to us; or
 - b. giving us advance written notice of the date cancellation is to take effect.

2. We may cancel by mailing to the named insured shown in the Declarations at the address shown in this policy:
 - a. at least 10 days notice:
 - (1) if cancellation is for nonpayment of premium; or
 - (2) if notice is mailed during the first 60 days this policy is in effect and this is not a renewal or continuation policy; or
 - b. at least 20 days notice in all other cases.
3. After this policy is in effect for 60 days, or if this is a renewal or continuation policy, we will cancel only:
 - a. for nonpayment of premium; or
 - b. if your driver's license or that of:
 - (1) any driver who lives with you; or
 - (2) any driver who customarily uses "your covered auto;"has been suspended or revoked. This must have occurred:
 - (1) during the policy period; or
 - (2) since the last anniversary of the original effective date if the policy period is other than 1 year; or
 - c. if the policy was obtained through material misrepresentation.

- B. **Nonrenewal.** If we decide not to renew or continue this policy, we will mail notice to the named insured shown in the Declarations at the address shown in this policy. Notice will be mailed at least 20 days before the end of the policy period. If the policy period is:
 1. Less than 6 months, we will have the right not to renew or continue this policy every 6 months, beginning 6 months after its original effective date.
 2. 1 year or longer, we will have the right not to renew or continue this policy at each anniversary of its original effective date.

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

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

D. Other Termination Provisions.

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

TRANSFER OF YOUR INTEREST IN THIS POLICY

- A. Your rights and duties under this policy may not be assigned without our written consent. However, if a named insured shown in the Declarations dies, coverage will be provided for:
 1. The surviving spouse if resident in the same household at the time of death. Coverage applies to the spouse as if a named insured shown in the Declarations; and
 2. The legal representative of the deceased person as if a named insured shown in the Declarations. This applies only with respect to the representative's legal responsibility to maintain or use "your covered auto."
- B. Coverage will only be provided until the end of the policy period.

TWO OR MORE AUTO POLICIES

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

PENNSYLVANIA NOTICE

IL 09 10/H0 291
(Ed. 01 81)

An Insurance Company, its agents, employees, or service contractors acting on its behalf, may provide services to reduce the likelihood of injury, death or loss. These services may include any of the following or related services incident to the application for, issuance, renewal or continuation of, a policy of insurance:

1. surveys;
2. consultation or advice; or
3. inspections.

The "Insurance Consultation Services Exemption Act" of Pennsylvania provides that the Insurance Company, its agents, employees or service contractors acting on its behalf, is not liable for damages from injury, death or loss occurring as a result of any act or omission by any person in the furnishing of or the failure to furnish these services.

The Act does not apply:

1. if the injury, death or loss occurred during the actual performance of the services and was caused by the negligence of the Insurance Company, its agents, employees or service contractors;
2. to consultation services required to be performed under a written service contract not related to a policy of insurance; or
3. if any acts or omissions of the Insurance Company, its agents, employees or service contractors are judicially determined to constitute a crime, actual malice, or gross negligence.

Instruction to Policy Writers

Attach the Pennsylvania Notice to all new and renewal policies and renewal certificates insuring risks located in Pennsylvania.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE - PENNSYLVANIA

With respect to coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

THIS ENDORSEMENT PROVIDES PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE ONLY FOR AN "INSURED" INJURED BY A MOTORCYCLE, MOPED OR SIMILAR-TYPE VEHICLE OR RECREATIONAL-TYPE VEHICLE.

SCHEDULE

Description of Vehicle	Pedestrian Basic First Party Benefit Coverage Limit of Liability
_____	\$5,000
_____	\$5,000
_____	\$5,000

I. DEFINITIONS

The Definitions section is amended as follows:

- A. "The Act" refers to the Pennsylvania Motor Vehicle Financial Responsibility Law.
- B. The definition of "bodily injury" is replaced by the following:
"Bodily injury" means accidental bodily harm to a person, and that person's resulting illness, disease or death.
- C. The following definitions are added:
 1. "Insured motor vehicle" means a:
 - a. Motorcycle, moped or similar-type vehicle; or
 - b. Recreational-type vehicle:
shown in the Schedule or Declarations to which Part A of this policy applies.
 2. "Motor vehicle" means a self-propelled vehicle operated or designed for use upon public roads. However, "motor vehicle" does not include a vehicle operated:
 - a. By muscular power; or
 - b. On rails or tracks.
- D. As used in this endorsement, "insured" means any person not:
 1. "Occupying" a "motor vehicle"; and
 2. Provided first party benefits under any automobile insurance policy as a named insured or family member.

II. PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE

INSURING AGREEMENT

- A. We will pay, in accordance with the Act, the Pedestrian Basic First Party Benefit to or for an "insured" who sustains "bodily injury". The "bodily injury" must be caused by an accident arising out of the maintenance or use of an "insured motor vehicle".
- B. Subject to the limit shown in the Schedule or Declarations, the Pedestrian Basic First Party Benefit consists of:
Medical expenses. Reasonable and necessary medical expenses incurred for an "insured's":
 1. Care;
 2. Recovery; or
 3. Rehabilitation.This includes remedial care and treatment rendered in accordance with a recognized religious method of healing.
Medical expenses will be paid if incurred within 18 months from the date of the accident causing "bodily injury". However, if within 18 months from the date of the accident, it can be determined with reasonable medical probability that additional expenses may be incurred after this period, the 18 month time limit will not apply to the payment of the additional medical expenses.

EXCLUSIONS

- A. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury" sustained by any "insured":
 - 1. While "occupying" a:
 - a. Recreational-type vehicle designed for use off public roads; or
 - b. Motorcycle, moped or similar-type vehicle.
 - 2. While intentionally causing or attempting to cause "bodily injury" to himself or any other person.
 - 3. While committing a felony.
 - 4. Seeking to elude lawful apprehension or arrest by a law enforcement official.
 - 5. While maintaining or using a "motor vehicle" knowingly converted by that "insured". This exclusion (A.5.) does not apply to:
 - a. You; or
 - b. Any "family member".
 - 6. Who, at the time of the accident, is the owner of one or more registered "motor vehicles", none of which have in effect the financial responsibility required by the Act.
 - 7. Maintaining or using a "motor vehicle" while located for use as a residence or premises.
- B. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury":
 - 1. Sustained by a pedestrian if the accident occurs outside of Pennsylvania. This exclusion (B.1.) does not apply to:
 - a. You; or
 - b. Any "family member".
 - 2. Caused by or as a consequence of:
 - a. Discharge of a nuclear weapon (even if accidental);
 - b. War (declared or undeclared);
 - c. Civil war;
 - d. Insurrection; or
 - e. Rebellion or revolution.
 - 3. From or as a consequence of the following, whether controlled or uncontrolled or however caused:
 - a. Nuclear reaction;
 - b. Radiation; or
 - c. Radioactive contamination.

LIMIT OF LIABILITY

- A. The limit of liability shown in the Schedule or Declarations for Pedestrian Basic First Party Benefit Coverage is the most we will pay to or for each "insured" as the result of any one accident, regardless of the number of:
 - 1. Claims made;
 - 2. Vehicles or premiums shown in the Declarations;
 - 3. Vehicles involved in the accident; or
 - 4. Insurers providing first party benefits.
- B. Any amounts payable under this coverage shall be excess over any amounts:
 - 1. Paid;
 - 2. Payable; or
 - 3. Required to be provided; to an "insured" under any workers' compensation law or similar law.

OTHER INSURANCE

If 2 or more policies providing Pedestrian Basic First Party Benefit Coverage are applicable to an "insured":

- A. The insurer against whom the claim is first made shall process and pay the claim as if wholly responsible. The insurer is then entitled to recover contribution pro rata from any other insurer for the benefits paid and the costs of processing the claim. Such contribution shall be based on the number of involved motor vehicles.
- B. If we are the insurer against whom the claim is first made, our payment to or for an "insured" will not exceed the limit of liability for Pedestrian Basic First Party Benefit Coverage shown in the Schedule or Declarations.
- C. The maximum recovery under all policies will not exceed the amount payable under the policy with the highest limit of liability.

NON-DUPLICATION OF BENEFITS

No one will be entitled to recover duplicate payments for the same elements of loss under this insurance or any automobile insurance including self-insurance.

III. PART F - GENERAL PROVISIONS

Part F is amended as follows:

The Our Right To Recover Payment provision does not apply.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE - PENNSYLVANIA

With respect to coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

THIS ENDORSEMENT PROVIDES PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE ONLY FOR AN "INSURED" INJURED BY A MOTORCYCLE, MOPED OR SIMILAR-TYPE VEHICLE OR RECREATIONAL-TYPE VEHICLE.

SCHEDULE

Description of Vehicle	Pedestrian Basic First Party Benefit Coverage Limit of Liability
	\$5,000
	\$5,000
	\$5,000

I: DEFINITIONS

The Definitions section is amended as follows:

- A. "The Act" refers to the Pennsylvania Motor Vehicle Financial Responsibility Law.
- B. The definition of "bodily injury" is replaced by the following:
"Bodily injury" means accidental bodily harm to a person, and that person's resulting illness, disease or death.
- C. The following definitions are added:
 1. "Insured motor vehicle" means a:
 - a. Motorcycle, moped or similar-type vehicle; or
 - b. Recreational-type vehicle:
shown in the Schedule or Declarations to which Part A of this policy applies.
 2. "Motor vehicle" means a self-propelled vehicle operated or designed for use upon public roads. However, "motor vehicle" does not include a vehicle operated:
 - a. By muscular power; or
 - b. On rails or tracks.
- D. As used in this endorsement, "insured" means any person not:
 1. "Occupying" a "motor vehicle"; and
 2. Provided first party benefits under any automobile insurance policy as a named insured or family member.

II. PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE

INSURING AGREEMENT

- A. We will pay, in accordance with the Act, the Pedestrian Basic First Party Benefit to or for an "insured" who sustains "bodily injury". The "bodily injury" must be caused by an accident arising out of the maintenance or use of an "insured motor vehicle".
- B. Subject to the limit shown in the Schedule or Declarations, the Pedestrian Basic First Party Benefit consists of:
Medical expenses. Reasonable and necessary medical expenses incurred for an "insured's":
 1. Care;
 2. Recovery; or
 3. Rehabilitation.This includes remedial care and treatment rendered in accordance with a recognized religious method of healing.
Medical expenses will be paid if incurred within 18 months from the date of the accident causing "bodily injury". However, if within 18 months from the date of the accident, it can be determined with reasonable medical probability that additional expenses may be incurred after this period, the 18 month time limit will not apply to the payment of the additional medical expenses.

EXCLUSIONS

- A. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury" sustained by any "insured":
 - 1. While "occupying" a:
 - a. Recreational-type vehicle designed for use off public roads; or
 - b. Motorcycle, moped or similar-type vehicle.
 - 2. While intentionally causing or attempting to cause "bodily injury" to himself or any other person.
 - 3. While committing a felony.
 - 4. Seeking to elude lawful apprehension or arrest by a law enforcement official.
 - 5. While maintaining or using a "motor vehicle" knowingly converted by that "insured". This exclusion (A.5.) does not apply to:
 - a. You; or
 - b. Any "family member".
 - 6. Who, at the time of the accident, is the owner of one or more registered "motor vehicles", none of which have in effect the financial responsibility required by the Act.
 - 7. Maintaining or using a "motor vehicle" while located for use as a residence or premises.
- B. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury":
 - 1. Sustained by a pedestrian if the accident occurs outside of Pennsylvania. This exclusion (B.1.) does not apply to:
 - a. You; or
 - b. Any "family member".
 - 2. Caused by or as a consequence of:
 - a. Discharge of a nuclear weapon (even if accidental);
 - b. War (declared or undeclared);
 - c. Civil war;
 - d. Insurrection; or
 - e. Rebellion or revolution.
 - 3. From or as a consequence of the following, whether controlled or uncontrolled or however caused:
 - a. Nuclear reaction;
 - b. Radiation; or
 - c. Radioactive contamination.

LIMIT OF LIABILITY

- A. The limit of liability shown in the Schedule or Declarations for Pedestrian Basic First Party Benefit Coverage is the most we will pay to or for each "insured" as the result of any one accident, regardless of the number of:
 - 1. Claims made;
 - 2. Vehicles or premiums shown in the Declarations;
 - 3. Vehicles involved in the accident; or
 - 4. Insurers providing first party benefits.
- B. Any amounts payable under this coverage shall be excess over any amounts:
 - 1. Paid;
 - 2. Payable; or
 - 3. Required to be provided;to an "insured" under any workers' compensation law or similar law.

OTHER INSURANCE

If 2 or more policies providing Pedestrian Basic First Party Benefit Coverage are applicable to an "insured":

- A. The insurer against whom the claim is first made shall process and pay the claim as if wholly responsible. The insurer is then entitled to recover contribution pro rata from any other insurer for the benefits paid and the costs of processing the claim. Such contribution shall be based on the number of involved motor vehicles.
- B. If we are the insurer against whom the claim is first made, our payment to or for an "insured" will not exceed the limit of liability for Pedestrian Basic First Party Benefit Coverage shown in the Schedule or Declarations.
- C. The maximum recovery under all policies will not exceed the amount payable under the policy with the highest limit of liability.

NON-DUPLICATION OF BENEFITS

No one will be entitled to recover duplicate payments for the same elements of loss under this insurance or any automobile insurance including self-insurance.

III. PART F - GENERAL PROVISIONS

Part F is amended as follows:

The Our Right To Recover Payment provision does not apply.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

AIG Specialty Auto

Important Notice Regarding Uninsured / Underinsured Motorists

On April 13, 1978, The Superior Court of Pennsylvania declared void an exclusion which denies Uninsured Motorists coverage when an insured is injured while occupying an uninsured motor vehicle owned by that insured. Accordingly, insurers cannot deny coverage solely by reason of that exclusion for claims made or pending on or after April 13, 1978. Contact your agent if you think you are entitled to payment as a result of this change to your policy as of April 13, 1978.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE - PENNSYLVANIA

With respect to coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

THIS ENDORSEMENT PROVIDES PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE ONLY FOR "INSURED" INJURED BY A MOTORCYCLE, MOPED OR SIMILAR-TYPE VEHICLE OR RECREATIONAL-1 VEHICLE.

SCHEDULE

Description of Vehicle	Pedestrian Basic First Party Benefit Coverage Limit of Liability
	\$5,000
	\$5,000
	\$5,000

I. DEFINITIONS

The Definitions section is amended as follows:

- A. "The Act" refers to the Pennsylvania Motor Vehicle Financial Responsibility Law.
- B. The definition of "bodily injury" is replaced by the following:
"Bodily injury" means accidental bodily harm to a person, and that person's resulting illness, disease or death.
- C. The following definitions are added:
 - 1. "Insured motor vehicle" means a:
 - a. Motorcycle, moped or similar-type vehicle; or
 - b. Recreational-type vehicle;
 - shown in the Schedule or Declarations to which Part A of this policy applies.
 - 2. "Motor vehicle" means a self-propelled vehicle operated or designed for use upon public roads. However, "motor vehicle" does not include a vehicle operated:
 - a. By muscular power; or
 - b. On rails or tracks.
- D. As used in this endorsement, "insured" means any person not:
 - 1. "Occupying" a "motor vehicle"; and
 - 2. Provided first party benefits under any automobile insurance policy as a named insured or family member.

II. PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE

INSURING AGREEMENT

A. We will pay, in accordance with the Act, Pedestrian Basic First Party Benefit to an "insured" who sustains "bodily injury". "bodily injury" must be caused by an accident arising out of the maintenance or use of an "insured motor vehicle".

B. Subject to the limit shown in the Schedule of Declarations, the Pedestrian Basic First Party Benefit consists of:

Medical expenses. Reasonable and necessary medical expenses incurred for an "insured's" care:

- 1. Care;
- 2. Recovery; or
- 3. Rehabilitation.

This includes remedial care and treatment rendered in accordance with a recognized religious method of healing.

Medical expenses will be paid if incurred within 18 months from the date of the accident causing "bodily injury". However, within 18 months from the date of the accident, it can be determined with reasonable medical probability that additional expenses may be incurred after this period, the month time limit will not apply to the payment of the additional medical expenses.

EXCLUSIONS

A. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury" sustained by any "insured":

1. While "occupying" a:
 - a. Recreational-type vehicle designed for use off public roads; or
 - b. Motorcycle, moped or similar-type vehicle.
2. While intentionally causing or attempting to cause "bodily injury" to himself or any other person.
3. While committing a felony.
4. Seeking to elude lawful apprehension or arrest by a law enforcement official.
5. While maintaining or using a "motor vehicle" knowingly converted by that "insured". This exclusion (A.5.) does not apply to:
 - a. You; or
 - b. Any "family member".
6. Who, at the time of the accident, is the owner of one or more registered "motor vehicles", none of which have in effect the financial responsibility required by the Act.
7. Maintaining or using a "motor vehicle" while located for use as a residence or premises.

B. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury":

1. Sustained by a pedestrian if the accident occurs outside of Pennsylvania. This exclusion (B.1.) does not apply to:
 - a. You; or
 - b. Any "family member".
2. Caused by or as a consequence of:
 - a. Discharge of a nuclear weapon (even if accidental);
 - b. War (declared or undeclared);
 - c. Civil war;
 - d. Insurrection; or
 - e. Rebellion or revolution.
3. From or as a consequence of the following, whether controlled or uncontrolled or however caused:
 - a. Nuclear reaction;
 - b. Radiation; or
 - c. Radioactive contamination.

LIMIT OF LIABILITY

- A. The limit of liability shown in the Schedule or Declarations for Pedestrian Basic First Party Benefit Coverage is the most we will pay to or for each "insured" as the result of any one accident, regardless of the number of:
 1. Claims made;
 2. Vehicles or premiums shown in the Declarations;
 3. Vehicles involved in the accident; or
 4. Insurers providing first party benefits.
- B. Any amounts payable under this coverage shall be excess over any amounts:
 1. Paid;
 2. Payable; or
 3. Required to be provided to an "insured" under any workers' compensation law or similar law.

OTHER INSURANCE

If 2 or more policies providing Pedestrian Basic First Party Benefit Coverage are applicable to an "insured":

- A. The insurer against whom the claim is first made shall process and pay the claim as wholly responsible. The insurer is then entitled to recover contribution pro rata from an other insurer for the benefits paid and the costs of processing the claim. Such contribution shall be based on the number of involved motor vehicles.
- B. If we are the insurer against whom the claim is first made, our payment to or for an "insured" will not exceed the limit of liability for Pedestrian Basic First Party Benefit Coverage shown in the Schedule or Declarations.
- C. The maximum recovery under all policies will not exceed the amount payable under the policy with the highest limit of liability.

NON-DUPLICATION OF BENEFITS

No one will be entitled to recover duplicate payments for the same elements of loss under this insurance or any automobile insurance including self-insurance.

III. PART F - GENERAL PROVISIONS

Part F is amended as follows:

The Our Right To Recover Payment provision does not apply.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COVERAGE FOR DAMAGE TO YOUR AUTO EXCLUSION ENDORSEMENT

With respect to the coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

I. Definitions

The following definition is added:

"Diminution in value" means the actual or perceived loss in market or resale value which results from a direct and accidental loss.

II. Part D – Coverage For Damage To Your Auto

The following exclusion is added:

We will not pay for:

Loss to "your covered auto" or any "non-owned auto" due to "diminution in value".

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

LIMITED TORT ALTERNATIVE INFORMATION NOTICE - PENNSYLVANIA

Each person who elects the limited tort alternative remains eligible to seek compensation for economic loss sustained in a motor vehicle accident as the consequence of the fault of another person pursuant to applicable tort law. Unless the injury sustained is a serious injury, each person who is bound by the limited tort election shall be precluded from maintaining an action for noneconomic loss, except that:

- A. An individual otherwise bound by the limited tort election who sustains damages in a motor vehicle accident as the consequence of the fault of another person may recover damages as if the individual damaged had elected the full tort alternative whenever the person at fault:
 - 1. Is convicted, or accepts Accelerated Rehabilitative Deposition for driving under the influence of alcohol or a controlled substance in that accident;
 - 2. Is operating a motor vehicle registered in another state;
 - 3. Intends to injure himself or another person, provided that an individual does not intentionally injure himself or another person merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of causing injury if the act or omission causing the injury is for the purpose of averting bodily harm to himself or another person; or
- 4. Has not maintained financial responsibility as required by the Pennsylvania Motor Vehicle Financial Responsibility Law:
 - provided that nothing in Paragraphs 1. through 4. shall affect the limitation of a person, precluded from maintaining an action for noneconomic damages under the limited tort alternative, to recover noneconomic damages under Uninsured Motorists Coverage or Underinsured Motorists Coverage.
- B. An individual otherwise bound by the limited tort election shall retain full tort rights with respect to claims against a person in the business of designing, manufacturing, repairing, servicing or otherwise maintaining motor vehicles arising out of a defect in such motor vehicle which is caused by or not corrected by an act or omission in the course of such business, other than a defect in a motor vehicle which is operated by such business.
- C. An individual otherwise bound by the limited tort election shall retain full tort rights if injured while an occupant of a motor vehicle other than a private passenger motor vehicle.

PERSONAL AUTO POLICY

AGREEMENT

In return for payment of the premium and subject to all the terms of this policy, we agree with you as follows:

DEFINITIONS

- A. Throughout this policy, "you" and "your" refer to:
 1. The "named insured" shown in the Declarations; and
 2. The spouse if a resident of the same household.
- B. "We", "us" and "our" refer to the Company providing this insurance.
- C. For purposes of this policy, a private passenger type auto shall be deemed to be owned by a person if leased:
 1. Under a written agreement to that person; and
 2. For a continuous period of at least 6 months.
- Other words and phrases are defined. They are in quotation marks when used.
- D. "Bodily injury" means bodily harm, sickness or disease, including death that results.
- E. "Business" includes trade, profession or occupation.
- F. "Family member" means a person related to you by blood, marriage or adoption who is a resident of your household. This includes a ward or foster child.
- G. "Occupying" means in, upon, getting in, on, out or off.
- H. "Property damage" means physical injury to, destruction of or loss of use of tangible property.
- I. "Trailer" means a vehicle designed to be pulled by:
 1. Private passenger auto; or
 2. Pickup or van.

It also means a farm wagon or farm implement while towed by a vehicle listed in 1. or 2. above.
- J. "Your covered auto" means:
 1. Any vehicle shown in the Declarations.
 2. Any of the following types of vehicles on the date you become the owner:
 - a. a private passenger auto; or
 - b. a pickup or van that:
 - (1) has a Gross Vehicle Weight of less than 10,000 lbs.; and
 - (2) is not used for the delivery or transportation of goods and materials unless such use is:
 - (a) incidental to your "business" of installing, maintaining or repairing furnishings or equipment; or
 - (b) for farming or ranching.

This provision (J.2.) applies only if:

- a. you acquire the vehicle during the policy period;
- b. you ask us to insure it within 30 days after you become the owner; and
- c. with respect to a pickup or van, no other insurance policy provides coverage for that vehicle.

If the vehicle you acquire replaces one shown in the Declarations, it will have the same coverage as the vehicle it replaced. You must ask us to insure a replacement vehicle within 30 days only if you wish to add or continue Coverage for Damage to Your Auto.

If the vehicle you acquire is in addition to any shown in the Declarations, it will have the broadest coverage we now provide for any vehicle shown in the Declarations.

- 3. Any "trailer" you own.
- 4. Any auto or "trailer" you do not own while used as a temporary substitute for any other vehicle described in this definition which is out of normal use because of its:
 - a. breakdown;
 - b. repair;
 - c. servicing;
 - d. loss; or
 - e. destruction.

This provision (J.4.) does not apply to Coverage for Damage to Your Auto.

This exclusion (5.) does not apply to the interests of Loss Payees in "your covered auto".

6. Loss to a camper body or "trailer" you own which is not shown in the Declarations. This exclusion (6.) does not apply to a camper body or "trailer" you:
 - a. acquire during the policy period; and
 - b. ask us to insure within 30 days after you become the owner.
7. Loss to any "non-owned auto" when used by you or any "family member" without a reasonable belief that you or that "family member" are entitled to do so.
8. Loss to:
 - a. awnings or cabanas; or
 - b. equipment designed to create additional living facilities.
9. Loss to equipment designed or used for the detection or location of radar or laser.
10. Loss to any custom furnishings or equipment in or upon any pickup or van. Custom furnishings or equipment include but are not limited to:
 - a. special carpeting and insulation, furniture or bars;
 - b. facilities for cooking and sleeping;
 - c. height-extending roofs; or
 - d. custom murals, paintings or other decals or graphics.
11. Loss to any "non-owned auto" being maintained or used by any person while employed or otherwise engaged in the "business" of:
 - a. selling; d. storing; or
 - b. repairing; e. parking;
 - c. servicing;

vehicles designed for use on public highways. This includes road testing and delivery.
12. Loss to any "non-owned auto" being maintained or used by any person while employed or otherwise engaged in any "business" not described in exclusion 11. This exclusion (12.) does not apply to the maintenance or use by you or any "family member" of a "non-owned auto" which is a private passenger auto or "trailer."
13. Loss to "your covered auto" or any "non-owned auto", located inside a facility designed for racing, for the purpose of:
 - a. Competing in; or
 - b. Practicing or preparing for;

any prearranged or organized racing or speed contest.
14. Loss to, or loss of use of, a "non-owned auto" rented by:
 - a. You; or
 - b. Any "family member";

If a rental vehicle company is precluded from recovering such loss or loss of use, from you or that "family member", pursuant to the provisions of any applicable rental agreement or state law.

LIMIT OF LIABILITY

- A. Our limit of liability for loss will be the lesser of the:
 1. Actual cash value of the stolen or damaged property; or
 2. Amount necessary to repair or replace the property with other property of like kind and quality.

However, the most we will pay for loss to any "non-owned auto" which is a trailer is \$500.
- B. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total loss.
- C. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

PAYMENT OF LOSS

We may pay for loss in money or repair or replace the damaged or stolen property. We may, at our expense, return any stolen property to:

1. You; or
2. The address shown in this policy.

If we return stolen property we will pay for any damage resulting from the theft. We may keep all or part of the property at an agreed or appraised value.

If we pay for loss in money, our payment will include the applicable sales tax for the damaged or stolen property.

NO BENEFIT TO BAILEE

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

OTHER SOURCES OF RECOVERY

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

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

APPRAISAL

- A. If we and you do not agree on the amount of loss, either may demand an appraisal of the loss. In this event, each party will select a competent appraiser. The two appraisers will select an umpire. The appraisers will state separately the actual cash value and the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:
 1. Pay its chosen appraiser; and
 2. Bear the expenses of the appraisal and umpire equally.
- B. We do not waive any of our rights under this policy by agreeing to an appraisal.

PART E—DUTIES AFTER AN ACCIDENT OR LOSS

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

- A. We must be notified promptly of how, when and where the accident or loss happened. Notice should also include the names and addresses of any injured persons and of any witnesses.
- B. A person seeking any coverage must:
 1. Cooperate with us in the investigation, settlement or defense of any claim or suit.
 2. Promptly send us copies of any notices or legal papers received in connection with the accident or loss.
 3. Submit as often as we reasonably require:
 - a. to physical exams by physicians we select. We will pay for these exams.
 - b. to examinations under oath and subscribe the same.
 4. Authorize us to obtain:
 - a. medical reports; and
 - b. other pertinent records.

- 5. Submit a proof of loss when required by us.
- C. A person seeking Uninsured Motorist Coverage must also:
 1. Promptly notify the police if a hit-and-run driver is involved.
 2. Promptly send us copies of the legal papers if a suit is brought.
- D. A person seeking Coverage for Damage to Your Auto must also:
 1. Take reasonable steps after loss to protect "your covered auto" or any "non-owned auto" and their equipment from further loss. We will pay reasonable expenses incurred to do this.
 2. Promptly notify the police if "your covered auto" or any "non-owned auto" is stolen.
 3. Permit us to inspect and appraise the damaged property before its repair or disposal.

PART F—GENERAL PROVISIONS

BANKRUPTCY

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

CHANGES

- A. This policy contains all the agreements between you and us. Its terms may not be changed or waived except by endorsement issued by us.
- B. If there is a change to the information used to develop the policy premiums, we may adjust your premium. Changes during the policy term that may result in a premium increase or decrease include, but are not limited to, changes in:
 1. The number, type or use classifications of insured vehicles;
 2. Operators using insured vehicles;
 3. The place of principal garaging of insured vehicles;
 4. Coverage, deductible or limits.

If a change resulting from A. or B. requires a premium adjustment, we will make the premium adjustment in accordance with our manual rules.

- C. If we make a change which broadens coverage under this edition of your policy without additional premium charge, that change will automatically apply to your policy as of the date we implement the change in your state. This paragraph (C.) does not apply to changes implemented with a general program revision that includes both broadenings and restrictions in coverage, whether that general program revision is implemented through introduction of:
 1. A subsequent edition of your policy; or
 2. An Amendatory Endorsement.

FRAUD

We do not provide coverage for any "insured" who has made fraudulent statements or engaged in fraudulent conduct in connection with any accident or loss for which coverage is sought under this policy.

LEGAL ACTION AGAINST US

- A. No legal action may be brought against us until there has been full compliance with all the terms of this policy. In addition, under Part A, no legal action may be brought against us until:
 1. We agree in writing that the "insured" has an obligation to pay; or

- 2. The amount of that obligation has been finally determined by judgment after trial.
- B. No person or organization has any right under this policy to bring us into any action to determine the liability of an "insured."

OUR RIGHT TO RECOVER PAYMENT

- A. If we make a payment under this policy and the person to or for whom payment was made has a right to recover damages from another we shall be subrogated to that right. That person shall do:
 - 1. Whatever is necessary to enable us to exercise our rights; and
 - 2. Nothing after loss to prejudice them.
 However, our rights in this paragraph (A.) do not apply under Part D, against any person using "your covered auto" with a reasonable belief that that person is entitled to do so.
- B. If we make a payment under this policy and the person to or from whom payment is made recovers damages from another, that person shall:
 - 1. Hold in trust for us the proceeds of the recovery; and
 - 2. Reimburse us to the extent of our payment.

POLICY PERIOD AND TERRITORY

- A. This policy applies only to accidents and losses which occur:
 - 1. During the policy period as shown in the Declarations; and
 - 2. Within the policy territory.
- B. The policy territory is:
 - 1. The United States of America, its territories or possessions;
 - 2. Puerto Rico; or
 - 3. Canada.

This policy also applies to loss to, or accidents involving, "your covered auto" while being transported between their ports.

TERMINATION

- A. **Cancellation.** This policy may be cancelled during the policy period as follows:
 - 1. The named insured shown in the Declarations may cancel by:
 - a. returning this policy to us; or
 - b. giving us advance written notice of the date cancellation is to take effect.

- 2. We may cancel by mailing to the named insured shown in the Declarations at the address shown in this policy:
 - a. at least 10 days notice:
 - (1) if cancellation is for nonpayment of premium; or
 - (2) if notice is mailed during the first 60 days this policy is in effect and this is not a renewal or continuation policy; or
 - b. at least 20 days notice in all other cases.
- 3. After this policy is in effect for 60 days, or if this is a renewal or continuation policy, we will cancel only:
 - a. for nonpayment of premium; or
 - b. if your driver's license or that of:
 - (1) any driver who lives with you; or
 - (2) any driver who customarily uses "your covered auto;"
 has been suspended or revoked. This must have occurred:
 - (1) during the policy period; or
 - (2) since the last anniversary of the original effective date if the policy period is other than 1 year; or
 - c. if the policy was obtained through material misrepresentation.

- B. **Nonrenewal.** If we decide not to renew or continue this policy, we will mail notice to the named insured shown in the Declarations at the address shown in this policy. Notice will be mailed at least 20 days before the end of the policy period. If the policy period is:
 - 1. Less than 6 months, we will have the right not to renew or continue this policy every 6 months, beginning 6 months after its original effective date.
 - 2. 1 year or longer, we will have the right not to renew or continue this policy at each anniversary of its original effective date.

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

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

D. Other Termination Provisions.

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

TRANSFER OF YOUR INTEREST IN THIS POLICY

- A. Your rights and duties under this policy may not be assigned without our written consent. However, if a named insured shown in the Declarations dies, coverage will be provided for:
 1. The surviving spouse if resident in the same household at the time of death. Coverage applies to the spouse as if a named insured shown in the Declarations; and
 2. The legal representative of the deceased person as if a named insured shown in the Declarations. This applies only with respect to the representative's legal responsibility to maintain or use "your covered auto."
- B. Coverage will only be provided until the end of the policy period.

TWO OR MORE AUTO POLICIES

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

SPLIT LIABILITY LIMITS

PP 03 09 04 86

SCHEDULE

Bodily Injury Liability

\$ _____ each person

\$ _____ each accident

Property Damage Liability

\$ _____ each accident

The first paragraph of the Limit of Liability provision in Part A is replaced by the following:

LIMIT OF LIABILITY

The limit of liability shown in the Schedule or in the Declarations for each person for Bodily Injury Liability is our maximum limit of liability for all damages, including damages for care, loss of service or death, arising out of "bodily injury" sustained by any one person in any one auto accident. Subject to this limit for each person, the limit of liability shown in the Schedule or in the Declarations for each accident for Bodily Injury Liability is our maximum limit of liability for all damages for "bodily injury" resulting from any

one auto accident. The limit of liability shown in the Schedule or in the Declarations for each accident for Property Damage Liability is our maximum limit of liability for all "property damage" resulting from any one auto accident. This is the most we will pay regardless of the number of:

1. "Insureds";
2. Claims made;
3. Vehicles or premiums shown in the Declarations; or
4. Vehicles involved in the auto accident.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

KENNETH J. LONG and KATHIE M. LONG, his wife, as parents and natural guardians of ALISON M. LONG, a minor, and in their own right, : CIVIL ACTION - LAW
No. 2000-1469-C
Plaintiffs : Type of Case: Personal Injury
v. : Type of Pleading: Civil Complaint
ANDREW E. VISNOFSKY, a minor, and VICTORIA L. VISNOFSKY and JOHN E. VISNOFSKY, : Filed on Behalf of: Plaintiffs
Defendants : Counsel of Record for this Party:
Michael J. Koehler, Esquire
PA I.D. No.: 56195
NICHOLAS, PEROT & STRAUSS, P.C.
2527 West 26th Street
Erie, PA 16506
(814) 833-8851

I hereby certify this to be a true and attested copy of the original statement filed in this case.

NOV 28 2000

Attest:

William J. Prothonotary



IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

KENNETH J. LONG and KATHIE M. : CIVIL ACTION - LAW
LONG, his wife, as parents and natural :
guardians of ALISON M. LONG, a minor, : No.
and in their own right, :
Plaintiffs :
v. :
ANDREW E. VISNOFSKY, a minor, and :
VICTORIA L. VISNOFSKY and JOHN E. :
VISNOFSKY, :
Defendants :
.

N O T I C E

TO: The Above-Named Defendants

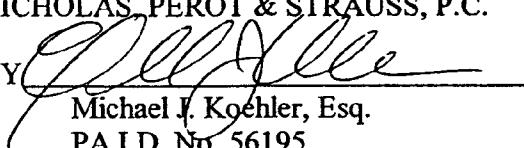
YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

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

Court Administrator
Clearfield County Courthouse
Second & Market Streets
Clearfield, Pennsylvania 16830
(814) 765-2641

NICHOLAS, PEROT & STRAUSS, P.C.

BY


Michael J. Kochler, Esq.
PA I.D. No. 56195
Attorneys for Plaintiffs
2527 West 26th Street
Erie, PA 16506
(814) 833-8851

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

KENNETH J. LONG and KATHIE	:	CIVIL ACTION - LAW
LONG, his wife, as parents and natural	:	
guardians of ALISON M. LONG, a minor,	:	No.
and in their own right,	:	
Plaintiffs	:	
	:	
v.	:	
	:	
ANDREW E. VISNOFSKY, a minor, and	:	
VICTORIA L. VISNOFSKY and JOHN E.	:	
VISNOFSKY,	:	
Defendants	:	

CIVIL COMPLAINT

AND NOW, comes the Plaintiffs, Kenneth J. Long and Kathie M. Long, his wife, as parents and natural guardians of Alison M. Long, a minor, and in their own right, by and through their attorneys, **Nicholas, Perot & Strauss, P.C.**, and files the following Complaint as follows:

1. That Plaintiff Alison M. Long, is a minor having been born on September 19, 1987.
2. That Plaintiffs Kenneth J. Long and Kathie M. Long, are adult individuals, husband and wife, and the parents and natural guardians of minor Plaintiff Alison M. Long, currently residing on Route 53, P.O. Box 292, North Madera, Clearfield County, Pennsylvania 16661.
3. That Defendant Andrew E. Visnofsky is a minor having been born on June 17, 1986 and believed to be residing with his father, Defendant John E. Visnofsky at P.O. Box 466, North Madera, Clearfield County, Pennsylvania 16661.
4. That Defendant Victoria L. Visnofsky is an adult individual and the parent and natural guardian of minor Defendant Andrew E. Visnofsky presently residing at Main Street, P.O. Box 257, North Madera, Clearfield County, Pennsylvania 16661.
5. That Defendant John E. Visnofsky is an adult individual and the parent and natural

guardian of minor Defendant Andrew E. Visnofsky presently residing at P.O. Box 466, North Madera, Clearfield County, Pennsylvania 16661.

6. That at all times relevant to this action, Defendant Victoria L. Visnofsky was the registered owner of a 1990 Mazda 323, Pennsylvania Vehicle Identification Number JM1BG2321L0115661, Pennsylvania Title Number 51582210.

7. On or about July 9, 2000 at approximately 12:36 p.m., minor Defendant Andrew E. Visnofsky was operating the 1990 Mazda 323 on Bigler Township Route 555, more commonly known as Betz Road, in Bigler Township, Clearfield County, Pennsylvania, at approximately one half mile south of its intersection with First Street.

8. That Defendant Victoria L. Visnofsky gave express and/or implied permission to operate and entrusted minor Defendant Andrew E. Visnofsky with the above motor vehicle, registered in her name on the date of the accident in question.

9. That Defendant John E. Visnofsky gave express and/or implied permission to operate and entrusted minor Defendant Andrew E. Visnofsky with the above motor vehicle, registered to Defendant Victoria L. Visnofsky, on the date of the accident in question.

10. That minor Plaintiff Alison M. Long was a rear-seat passenger in the above motor vehicle.

11. That at the above time and place, the above vehicle operated by the minor Defendant Andrew E. Visnofsky left the roadway and struck a utility pole located off the western berm.

12. That as a result of the violent impact of the above motor vehicle with the utility pole, minor Plaintiff Alison M. Long was violently shaken and suffered severe, serious and permanent injuries and permanent impairment of bodily functions including:

- a. Right frontoparietal subdural hematoma;
- b. Left occipital horn intraventricular hemorrhage;
- c. Right parietal diffuse axonal injury;
- d. Mid brain and brain stem shear injury;
- e. Corpus callosum shear injury;
- f. Right basal ganglia shear injury;
- g. Bifrontal hemorrhagic shear injury;
- h. T3, T5 and T6 compression fractures;
- i. L1, L2 and L3 compression fractures;
- j. Moderate hypothermia;
- k. Paralysis;
- l. Severe blunt force trauma to head, trunk, abdomen and upper and lower extremities; and
- m. Shock to nerves and nervous system.

13. That as a direct and proximate result of the aforementioned injuries suffered by minor

Plaintiff Alison M. Long, she has suffered the following damages:

- a. Plaintiff has suffered and will suffer great pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life's pleasures;
- b. Plaintiff has been and will be required to expend large sums of money for surgical and medical attention, including physical therapy, hospitalization, medical supplies, surgical appliances, medicines and attendant's services;
- c. Plaintiff will suffer a loss of wages and earning capacity;

d. Plaintiff's general health, strength, and vitality have been impaired.

Count I

Kenneth J. Long and Kathie M. Long as parents and natural guardians of
Alison M. Long v. Andrew E. Visnofsky

14. Plaintiffs hereby incorporate by reference paragraphs 1 through 13 of this Complaint as though fully set forth herein below in their entirety.

15. The above-captioned accident was caused solely by the negligence, recklessness, and carelessness of minor Defendant Andrew E. Visnofsky in that:

- a. He operated his vehicle at an excessive rate of speed under the circumstances;
- b. He failed to have his vehicle under proper and reasonable control;
- c. He operated his vehicle in such a manner as to cause it to leave the roadway and strike the utility pole.
- d. He failed to pay proper and reasonable attention to road hazards, traffic signs and road configuration as he proceeded down Bigler Township Route 555;
- e. He operated his vehicle without due regard for the rights and safety of his passengers in striking the utility pole;
- f. He failed to operate his vehicle in a safe and proper manner in striking the utility pole; and
- g. He failed to comply with the laws, rules and regulations of the Pennsylvania Motor Vehicle Code, specifically 75 Pa.C.S.A. Section 3732 (Homicide by Motor Vehicle); 75 Pa.C.S.A. Section 3719 (Careless Driving) and 75

Pa.C.S.A. Section 3361 (Driving Vehicle at Safe Speed).

WHEREFORE, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long demand judgment against minor Defendant Andrew E. Visnofsky in an amount in excess of \$30,000.00, plus interest and costs of suit.

Count II

Kenneth J. Long and Kathie M. Long as parents and natural guardians of Alison M. Long v. Victoria L. Visnofsky

16. Plaintiffs hereby incorporate by reference paragraphs 1 through 15 of this Complaint as though fully set forth herein below in their entirety.

17. That the provisions of the Pennsylvania Motor Vehicle Code provide that no person shall authorize or permit a motor vehicle owned by them or under their control to be driven upon any highway by any person who is not authorized under the vehicle code or who is not licensed for the type or class of vehicle to be driven, 75 Pa.C.S.A. §1574(a).

18. That the provisions of the Pennsylvania Motor Vehicle Code provide that any person violating the provisions of Section 1574(a) is guilty of a summary offense and shall be jointly and severally liable with the driver for any damages caused by the negligence of such driver in the operation of the vehicle, 75 Pa.C.S.A. §1574(b).

19. That Defendant Victoria L. Visnofsky knew or had reason to know that her son, minor Defendant Andrew E. Visnofsky, was not licensed to operate a motor vehicle and as such is jointly and severally liable for the damages caused by his negligence as more fully set forth herein before.

WHEREFORE, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long demand judgment against Defendant Victoria L. Visnofsky in an amount in excess of \$30,000.00, plus interest and costs of suit.

Count III

Kenneth J. Long and Kathie M. Long as parents and natural guardians of
Alison M. Long v. Victoria L. Visnofsky

20. Plaintiffs hereby incorporate by reference paragraphs 1 through 15 of this Complaint as though fully set forth herein below in their entirety.

21. That under Pennsylvania law, a parent is under a duty to exercise reasonable care so as to control their minor child as to prevent them from so conducting themselves as to create an unreasonable risk of bodily harm to others, if the parent knows or has reason to know that they have the ability to control their child and knows or should know of the necessity and opportunity for exercising such control. Restatement of Torts, Second §316.

22. That Defendant Victoria L. Visnofsky knew or had reason to know that she had the ability to control her son, minor Defendant Andrew E. Visnofsky, and knew or should have known of the necessity and opportunity for exercising such control.

23. That Defendant Victoria L. Visnofsky breached her duty to exercise reasonable care so as to control her minor child, Defendant Andrew E. Visnofsky, so as to prevent him from so conducting himself as to create an unreasonable risk of harm to the minor Plaintiff for which she is liable for those injuries and damages resulting therefrom.

WHEREFORE, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long demand judgment against Defendant Victoria L. Visnofsky in an amount in excess of \$30,000.00, plus interest and costs of suit.

Count IV

Kenneth J. Long and Kathie M. Long as parents and natural guardians of
Alison M. Long v. Victoria L. Visnofsky

24. Plaintiffs hereby incorporate by reference paragraphs 1 through 15 of this Complaint as though fully set forth herein below in their entirety.

25. That Defendant Victoria L. Visnofsky negligently expressly and/or implicitly entrusted and/or permitted her registered vehicle to be possessed and operated by minor Defendant Andrew E. Visnofsky when she knew or should have known that he was incapable of safe driving.

26. That Defendant Victoria L. Visnofsky negligently expressly and/or implicitly entrusted and/or permitted operation of her registered motor vehicle by minor Defendant Andrew E. Visnofsky when she recognized or should have recognized the need to exercise control over minor Defendant Andrew E. Visnofsky's use of her personal property, having the ability to exercise such control, but failing to do so under Section 318 of the Restatement of Torts, Second and as such, is liable for the injuries and damages resulting therefrom.

WHEREFORE, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long demand judgment against Defendant Victoria L. Visnofsky in an amount in excess of \$30,000.00, plus interest and costs of suit.

Count V
Kenneth J. Long and Kathie M. Long as parents and natural guardians of
Alison M. Long v. John E. Visnofsky

27. Plaintiffs hereby incorporate by reference paragraphs 1 through 15 of this Complaint as though fully set forth herein below in their entirety.

28. That the provisions of the Pennsylvania Motor Vehicle Code provide that no person shall authorize or permit a motor vehicle owned by them or under their control to be driven upon any

highway by any person who is not authorized under the vehicle code or who is not licensed for the type or class of vehicle to be driven, 75 Pa.C.S.A. §1574(a).

29. That the provisions of the Pennsylvania Motor Vehicle Code provide that any person violating the provisions of Section 1574(a) is guilty of a summary offense and shall be jointly and severally liable with the driver for any damages caused by the negligence of such driver in the operation of the vehicle, 75 Pa.C.S.A. §1574(b).

30. That Defendant John E. Visnofsky had control over the motor vehicle owned by his wife, Defendant Victoria L. Visnofsky, and knew or had reason to know that his son, minor Defendant Andrew E. Visnofsky, was not licensed to operate a motor vehicle and as such is jointly and severally liable for the damages caused by his negligence as more fully set forth herein before.

WHEREFORE, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long demand judgment against Defendant John E. Visnofsky in an amount in excess of \$30,000.00, plus interest and costs of suit.

Count VI

Kenneth J. Long and Kathie M. Long as parents and natural guardians of Alison M. Long v. John E. Visnofsky

31. Plaintiffs hereby incorporate by reference paragraphs 1 through 15 of this Complaint as though fully set forth herein below in their entirety.

32. That under Pennsylvania law, a parent is under a duty to exercise reasonable care so as to control their minor child as to prevent them from so conducting themselves as to create an unreasonable risk of bodily harm to others, if the parent knows or has reason to know that they have the ability to control their child and knows or should know of the necessity and opportunity

for exercising such control. Restatement of Torts, Second §316.

33. That Defendant John E. Visnofsky knew or had reason to know that he had the ability to control his son, minor Defendant Andrew E. Visnofsky, and knew or should have known of the necessity and opportunity for exercising such control.

34. That Defendant John E. Visnofsky breached his duty to exercise reasonable care so as to control his minor child, Defendant Andrew E. Visnofsky, so as to prevent him from so conducting himself as to create an unreasonable risk of harm to the minor Plaintiff for which he is liable for those injuries and damages resulting there from.

WHEREFORE, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long demand judgment against Defendant John E. Visnofsky in an amount in excess of \$30,000.00, plus interest and costs of suit.

Count VII

Kenneth J. Long and Kathie M. Long as parents and natural guardians of Alison M. Long v. John E. Visnofsky

35. Plaintiffs hereby incorporate by reference paragraphs 1 through 15 of this Complaint as though fully set forth herein below in their entirety.

36. That Defendant John E. Visnofsky negligently expressly and/or implicitly entrusted and/or permitted minor Defendant Andrew E. Visnofsky to operate Defendant Victoria L. Visnofsky's vehicle when he knew or should have known that he was incapable of safe driving.

37. That Defendant John E. Visnofsky negligently expressly and/or implicitly entrusted and/or permitted operation of Defendant Victoria L. Visnofsky's motor vehicle by minor Defendant Andrew E. Visnofsky when he recognized or should have recognized the need to exercise control over minor Defendant Andrew E. Visnofsky's use of Defendant Victoria L.

Visnofsky's personal property, having the ability to exercise such control, but failing to do so under Section 318 of the Restatement of Torts, Second and as such, is liable for the injuries and damages resulting therefrom.

WHEREFORE, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long demand judgment against Defendant John E. Visnofsky in an amount in excess of \$30,000.00, plus interest and costs of suit.

Count VIII

Kenneth J. Long and Kathie Long as parents and natural guardians of Alison M. Long and in their own right v. Andrew E. Visnofsky, a minor, and Victoria L. Visnofsky and John E. Visnofsky

38. Plaintiffs hereby incorporate by reference paragraphs 1 through 37 of this Complaint as though fully set forth herein below in their entirety.

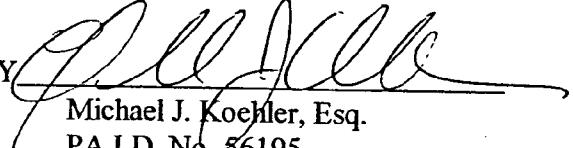
39. That as a direct and proximate result of the negligence of minor Defendant Andrew E. Visnofsky, and Defendant Victoria L. Visnofsky and Defendant John E. Visnofsky, individually, as hereinabove alleged, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long, have been obligated to expend various sums of money for doctors, nurses, hospitals, medicines and medical services in attempting to effectuate a cure for the injuries to their daughter, Alison M. Long, and will be obligated to continue making similar expenditures for the same purpose for an indefinite time in the future.

WHEREFORE, Plaintiffs Kenneth J. Long and Kathie M. Long as parents and natural guardians of minor Plaintiff Alison M. Long demand judgment against minor Defendant Andrew E. Visnofsky, and Victoria L. Visnofsky and John E. Visnofsky in an amount in excess of \$30,000.00, plus interest and costs of suit.

A JURY TRIAL OF TWELVE (12) IS DEMANDED

NICHOLAS, PEROT & STRAUSS, P.C.

BY


Michael J. Koehler, Esq.

PA I.D. No. 56195

Attorneys for Plaintiffs

2527 West 26th Street

Erie, Pennsylvania 16506

(814) 833-8851

Date: 11/15/00

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

KENNETH J. LONG and KATHIE	:	CIVIL ACTION - LAW
LONG, his wife, as parents and natural	:	
guardians of ALISON M. LONG, a minor,	:	No.
and in their own right,	:	
Plaintiffs	:	
	:	
v.	:	
	:	
ANDREW E. VISNOFSKY, a minor, and	:	
VICTORIA L. VISNOFSKY and JOHN E.	:	
VISNOFSKY,	:	
Defendants	:	

VERIFICATION

I, Kenneth J. Long, individually and as parent and natural guardian of minor Plaintiff Alison M. Long, verify that the statements made in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

Kenneth J. Long
Kenneth J. Long, individually and as
p/n/g of Alison M. Long, a minor.

Date: 11/13/00

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

KENNETH J. LONG and KATHIE	:	CIVIL ACTION - LAW
LONG, his wife, as parents and natural	:	
guardians of ALISON M. LONG, a minor,	:	No.
and in their own right,	:	
Plaintiffs	:	
v.	:	
ANDREW E. VISNOFSKY, a minor, and	:	
VICTORIA L. VISNOFSKY and JOHN E.	:	
VISNOFSKY,	:	
Defendants	:	

VERIFICATION

I, Kathie Long, individually and as parent and natural guardian of minor Plaintiff Alison M. Long, verify that the statements made in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

Kathie Long
Kathie Long, individually and as
p/n/g of Alison M. Long, a minor.

Date: November 13, 2000

VERIFICATION

I, KENNETH W. BOHN, of NEW HAMPSHIRE INDEMNITY INSURANCE COMPANY, have read the foregoing Complaint for Declaratory Judgment. The statements therein are correct to the best of my personal knowledge, information and belief.

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

Date: 2/15/01

Kenneth W. Bohn

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

**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,**

Plaintiff,

vs.

ANDREW E. VISNOFSKY, a minor, by and through his parent and natural guardian, VICTORIA L. VISNOFSKY and VICTORIA L. VISNOFSKY, in her own right; JOHN E. VISNOFSKY, KENNETH J. LONG and KATHIE M. LONG, his wife, as parents and natural guardians of ALISON M. LONG, a minor, and in their own right; SHERI HARASYMIW and CHRISTOPHER SMITH, as legal guardians of JUSTIN D. VICKERS, a minor, SHERI HARASYMIW and CHRISTOPHER SMITH in their own right; and the Estate of JAMES A. BLAYLOCK, deceased, by the representative of his Estate, PRISCILLA KEPHART,

Defendants.

CIVIL DIVISION

No. 01-657-CD

REPLY TO NEW MATTER

Filed on behalf of Plaintiff:

**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY**

Counsel of Record for this party:

JEFFREY A. RAMALEY, ESQUIRE
Pa. I.D. #41559

JOHN K. BRYAN, ESQUIRE
Pa. I.D. 62901

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm #920
3300 USX Tower
Pittsburgh, PA 15219

(412) 281-8000

FILED

11/11/01
11/11/23/nccc
William A. Shaw
Prothonotary

REPLY TO NEW MATTER

AND NOW, comes the Plaintiff, **NEW HAMPSHIRE INDEMNITY INSURANCE COMPANY**, by and through its Attorneys, **ZIMMER KUNZ, PROFESSIONAL LIMITED LIABILITY COMPANY and JOHN K. BRYAN, ESQUIRE**, and files the within Reply to New Matter filed on behalf of the Estate of James A. Blaylock, Deceased, whereof the following are statements:

17. In response hereto, the Plaintiff incorporates herein by reference the averments of its previously filed Complaint for Declaratory Judgment.
18. The averments of paragraph 18 state legal conclusions which require no response. Inasmuch as any response may be deemed to be required, however, the averments of this paragraph and each of its sub-paragraphs are denied generally pursuant to Pa.R.C.P. 1029(e).
19. The averments of this paragraph state legal conclusions which require no response. Inasmuch as any response may be deemed to be required, however, the averments of this paragraph are denied generally pursuant to Pa.R.C.P. 1029(e).

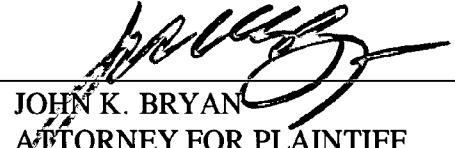
Court of Common Pleas
Of Clearfield County, PA
No 01-657-CD

WHEREFORE, the Plaintiff, **NEW HAMPSHIRE INDEMNITY INSURANCE COMPANY**, demands declaratory judgment in its favor and against all other parties.

Respectfully submitted,

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY**

BY


JOHN K. BRYAN
ATTORNEY FOR PLAINTIFF
NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY

VERIFICATION

I, JOHN K. BRYAN, ESQUIRE, Counsel of Record for the Plaintiff herein, NEW HAMPSHIRE INDEMNITY INSURANCE COMPANY, depose and say that I am counsel for said party in the above matter; that I am authorized to make this verification on behalf of said party; that the facts set forth in the foregoing are true and correct, not of my own knowledge, but from information supplied to me by said party; that the foregoing pleading includes conclusions of law and averments of fact averred by other parties to this action and not within the personal knowledge of the defendant; that the purpose of this verification is to expedite litigation; this verification is made pursuant to Rule 1024(c) of the Pennsylvania Rules of Civil Procedure; and that a verification by this party will be furnished if requested. This statement is made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.



JOHN K. BRYAN, ESQUIRE
ATTORNEY FOR PLAINTIFF

DATE: 3/2/01

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **REPLY TO NEW MATTER** was forwarded to counsel below named by U. S. Mail on the 3 day of July, 2001.

Mark Bennett, Esquire
BERGER & GREEN
Suite 200
5850 Ellsworth Avenue
Pittsburgh, PA 15232

Michael J. Koehler, Esquire
NICHOLAS, PEROT, STRAUSS & KOEHLER
2527 West 26th Street
Erie, PA 16506

Louis C. Schmitt, Jr., Esquire
PFAFF, McINTYRE, DUGAS, HARTYE & SCHMITT
P. O. Box 533
Hollidaysburg, PA 16648-0533

Respectfully submitted,

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY**

BY _____


JOHN K. BRYAN
ATTORNEY FOR PLAINTIFF
NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY INSURANCE COMPANY,	:	CIVIL ACTION - LAW
	:	No. 01-657-CD
Plaintiffs	:	DEFENDANTS' FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS
v.	:	
ANDREW E. VISNOFSKY, a minor, by and through his parents and natural guardian VICTORIA L. VISNOFSKY and VICTORIA L. VISNOFSKY, in her own right; JOHN E. VISNOFSKY, KENNETH J. LONG and KATHIE M. LONG, his wife, as parents and natural guardians of ALISON M. LONG, a minor, and in their own right; SHERI HARASYMIW and CHRISTOPHER SMITH, as legal guardians of JUSTIN D. VICKERS, a minor, SHERI HARASYMIW and CHRISTOPHER SMITH in their own right; and the Estate of JAMES A. BLAYLOCK, deceased, by the representative of his Estate, PRISCILLA KEPHART,	:	Filed on Behalf of Defendants: Kenneth J. Long and Kathie M. Long, his wife, as parents and natural guardians of Alison M. Long, a minor, and in their own right
	:	Counsel of Record for this party: Michael J. Koehler, Esquire Pa. I. D. #56195
	:	Nicholas, Perot, Strauss & Koehler, P. C. 2527 West 26th Street Erie, PA 16506 (814) 833-8851
Defendants	:	

NOTICE OF SERVICE OF REQUEST FOR PRODUCTION OF DOCUMENTS

I, Michael J. Koehler, Esquire, do hereby certify that on the 10 day of July, 2001,
the original First Set of Requests for Production of Documents directed to Plaintiff New Hampshire
Indemnity Insurance Company was served upon Plaintiff's counsel John K. Bryan, Esquire, Zimmer
& Kunz, 3300 USX Tower, Pittsburgh, Pennsylvania 15219 by United States First Class Mail,
postage pre-paid.

FILED

JUL 13 2001

William A. Shaw
Prothonotary

Respectfully submitted,

NICHOLAS, PEROT, STRAUSS & KOEHLER, P.C.

BY 

Michael J. Koehler, Esquire
2527 West 26th Street
Erie, PA 16506
(814) 833-8851
Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY : CIVIL ACTION - LAW
INSURANCE COMPANY, :

No. 01-657-CD

Plaintiffs :

v.

ANDREW E. VISNOFSKY, a minor, by :
and through his parents and natural :
guardian VICTORIA L. VISNOFSKY :
and VICTORIA L. VISNOFSKY, in her :
own right; JOHN E. VISNOFSKY, :
KENNETH J. LONG and KATHIE M. :
LONG, his wife, as parents :
and natural guardians of ALISON M. :
LONG, a minor, and in their own right; :
SHERI HARASYMIW and :
CHRISTOPHER SMITH, as legal :
guardians of JUSTIN D. VICKERS, a :
minor, SHERI HARASYMIW and :
CHRISTOPHER SMITH in their own :
right; and the Estate of JAMES A. :
BLAYLOCK, deceased, by the :
representative of his Estate, PRISCILLA :
KEPHART,

Defendants :

FILED

JUL 13 2001
M110:56 noc
William A. Shaw
Prothonotary

VERIFICATION

I, Kathie Long, individually and as parent and natural guardian of minor Plaintiff Alison M. Long, verify that the statements made in the foregoing Answer to Complaint for Declaratory Judgment are true and correct to the best of my knowledge, information and belief. I understand that false statements are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

Date: June 28, 2001

Kathie Long
Kathie Long, individually and as
p/n/g of Alison M. Long, a minor.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY : CIVIL ACTION - LAW
INSURANCE COMPANY, :
:

Plaintiffs : No. 01-657-CD

v. :

ANDREW E. VISNOFSKY, a minor, by :
and through his parents and natural :
guardian VICTORIA L. VISNOFSKY :
and VICTORIA L. VISNOFSKY, in her :
own right; JOHN E. VISNOFSKY, :
KENNETH J. LONG and KATHIE M. :
LONG, his wife, as parents :
and natural guardians of ALISON M. :
LONG, a minor, and in their own right; :
SHERI HARASYMIW and :
CHRISTOPHER SMITH, as legal :
guardians of JUSTIN D. VICKERS, a :
minor, SHERI HARASYMIW and :
CHRISTOPHER SMITH in their own :
right; and the Estate of JAMES A. :
BLAYLOCK, deceased, by the :
representative of his Estate, PRISCILLA :
KEPHART, :
:

Defendants :
:

FILED

2001 JUL 13 2001
1056 NOCC
William A. Shaw
Prothonotary

VERIFICATION

I, Kenneth J. Long, individually and as parent and natural guardian of minor Plaintiff Alison M. Long, verify that the statements made in the foregoing Answer to Complaint for Declaratory Judgment are true and correct to the best of my knowledge, information and belief. I understand that false statements are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

Date: June 28, 2001

Kenneth J. Long,
Kenneth J. Long, individually and as
p/n/g of Alison M. Long, a minor.

01-657-CO

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

SS.

ALISON M. LONG
IRREVOCABLE SPECIAL NEEDS TRUST

THIS AGREEMENT is entered into this 9th day of August, 2001, by and among Kenneth J. Long, as parent and natural guardian of Alison M. Long, a minor, with the approval of the Court of Common Pleas of Clearfield County, Pennsylvania hereinafter referred to as the "Settlor", and Clearfield Bank and Trust Company with offices in Clearfield, Pennsylvania, hereinafter referred to as the "Trustee."

WITNESSETH:

The Settlor hereby assigns, transfers and delivers to the Trustee, irrevocably and absolutely, all incidents of ownership and all right, title and interest, both present and future, in and to, the right to receive all benefit and proceeds from certain annuities funding a structured settlement, as well as cash, securities or other property, all as set forth in Schedule "A" attached hereto, and this property shall be referred to as the Trust Estate. No further property shall be received by the Trustee from any other source. The Trustee shall hold and administer the Trust Estate upon the terms and conditions which follow.

The express purpose of the ALISON M. LONG IRREVOCABLE SPECIAL NEEDS TRUST AGREEMENT is to provide for Alison M. Long's extra and supplemental care in addition to and over and above the benefits that she otherwise receives or shall receive as a result of her disability from any local, state or federal government, including but not limited to benefits from Pennsylvania Department of Public Welfare Access Medical, Medicare, Medicaid, Social

FILED

AUG 20 2001

William A. Shaw
Prothonotary

Security Disability, Social Security Supplemental Income or from any other private agency providing services or benefits to disabled persons.

The Trust Estate shall not be used to provide basic food, clothing and shelter, nor be available to the beneficiary for conversion for such items, unless all local, state and federal benefits have been fully expended for such purposes. It is the Settlor's express purpose to establish the Trust in accordance with Federal Law, Public Health and Welfare Act of 1993, 42 U.S.C. 1396 (p)(d)(4)(A) and any provisions herein shall be construed accordingly.

ARTICLE I

A. During the lifetime of Alison M. Long (hereinafter the "Beneficiary"), the Trustee may pay to the Beneficiary, or expend for her benefit, so much of the net income and, if necessary, principal of the Trust Estate to carry out the purposes set forth in the above recitals, as the Trustee, in its sole and absolute discretion, considers advisable, in view of other funds or benefits available from governmental or other sources, both public and private, of which it has knowledge.

By means of illustration and in no manner attempting to limit the Trustee's discretion, the Trustee may make distribution of the net income and, if necessary, principal of the Trust Estate, to or for the benefit of the Beneficiary, for such purposes as, but not limited to:

1. Supplemental medical, surgical, dental or health care procedures and treatments, and medications.
2. Rehabilitation services.
3. Recreation and vacations.
4. Traveling companions on vacations, if medically necessary.
5. Adaptive equipment for home or motor vehicle.

It is the Settlor's intention that distributions of income and/or principal from the Trust Estate shall be used only to supplement, not supplant, any benefits to which the Beneficiary may be entitled under any governmental program, and if the existence of this Trust should at any time be used by any governmental agency as an excuse for denying the Beneficiary such benefits, then the Trustee is authorized, in its sole and absolute discretion, to terminate the Trust Estate by distributing the then remaining principal and any accrued, accumulated or undistributed net income to Kenneth J. Long as Trustee for the benefit of Alison M. Long free and clear of this trust. The decision of the Trustee in this regard shall be final, binding and conclusive on all persons who might have an interest in the Trust Estate, including, by way of example and not limitation, the Settlor. The Trustee may accumulate and reinvest any income that is not paid out pursuant to this Section A.

B. Subject to the provisions of paragraph C of this Article I, upon the death of the Beneficiary, the Trust shall pay and distribute the remaining balance of the Trust Estate and any accrued, accumulated or undistributed net income thereon, outright and free of trust to Kenneth J. Long, father, or if predeceased, then to the Beneficiary's then living issue (including adopted children, if any), per stirpes; if none, then to the personal representative of the Estate of Alison M. Long.

C. Notwithstanding the provisions of paragraph B above, if the Beneficiary has received, or is receiving Medicaid or Medical Assistance benefits at the time of her death, then the Trustee shall pay back to the Commonwealth of Pennsylvania (or its designee) all amounts paid by the Commonwealth as Medicaid or Medical Assistance on behalf of the Beneficiary during her lifetime up to the total amount remaining in the Trust Estate. In order to determine the amount to be repaid, the Trustee shall request a written statement of the amount to be repaid ("Medical Assistance Repayment Amount"), if any, from the Clearfield County,

Pennsylvania Department of Social Services, or its successor, or other appropriate state or federal agency administering Medicaid or Medical Assistance, and the Trustee is specifically authorized to rely upon such written statement, absent manifest error, in paying the Medical Assistance Repayment Amount, and the Trustee shall not be liable to any person whomsoever for payment, in accordance with such statement.

D. Notwithstanding any other provision of the Article I, but in no manner attempting to limit the Trustee's discretion or to alter the intention and purpose of this Trust, the Trustee shall consult with Kenneth J. Long, Alison M. Long's father, at such times as he shall request, with regard to any of the Trustee's powers or duties under this Article I.

E. Notwithstanding any other provision of this Irrevocable Special Needs Trust Agreement, the Beneficiary, Alison M. Long, shall not and does not have the power to assign, encumber, direct, distribute or authorize distribution from the Trust established hereby.

ARTICLE II

A. No beneficiary shall have the power to sell, assign, encumber or in any manner to anticipate his or her interest in the Trust Estate, or in the income produced thereby.

B. If any beneficiary who is entitled to receive a share of the principal of the Trust Estate shall be a minor, the Trustee is hereby authorized and empowered to continue to hold and manage such share for the benefit of the minor during his or her minority as the minor's guardian and may use all of the income from the minor's share, together with such amounts of principal as the Trustee deems advisable for his or her health, education, maintenance and support. This shall be construed as a power only and shall not operate to suspend the absolute ownership thereof by the minor nor to prevent the absolute vesting thereof in the minor.

C. In the disbursement of funds directed to be paid to or for the use and benefit of any beneficiary who shall be a minor, the Trustee may make payment of the same to the parent, guardian, or such other person who may have custody of the person of that minor at the time such payments are made, to be used for the health, education, maintenance and support of the minor, but without liability on the part of the Trustee to see to the application of said payments by the payee. The receipt of any such person shall be a full acquittance of the Trustee as to any amounts so paid; or the Trustee may make payment of the same directly to or for the benefit of the minor beneficiary.

D. For purposes of interpretation of the Agreement, the word "minor" whenever used herein shall mean any person under the age of twenty-one (21) years, notwithstanding any law to the contrary.

ARTICLE III

In addition to the powers conferred by law, the Trustee shall have the following discretionary powers which may be exercised without approval of any court:

- A. To retain any and all property, real or personal without any duty of diversification.
- B. To sell any and all real estate held as a trust asset, at public or private sale, for such prices and upon such terms as the Trustee shall believe advisable and to make, execute and deliver any deed or deeds therefor, conveying title thereto in fee simple absolute or for any lesser estate to any purchaser or purchasers, freed and discharged of any and all trusts hereunder.
- C. To sell, grant options to purchase, exchange, and alter assets of any trust created hereunder or any part thereof, at any price and upon such terms which the Trustee shall deem proper.

D. To invest and reinvest in all forms of property, including common and preferred stocks, which shall specifically include the authority to invest and reinvest in the securities of Clearfield Bank and Trust Company, common trust funds operated by the Trustee, and any regulated investment company or mutual fund including those for which the Trustee or any affiliate provides services for additional compensation.

E. To invest the principal and/or income of any trust created hereunder in any assets or security including, but not limited to stocks, bonds, debentures, notes or other similar obligations issued, owned or underwritten by any corporate trustee or its affiliate which may be acting hereunder.

F. To invest such principal and/or income in any bond or other debt security secured, supported or otherwise enhanced by a letter of credit of any corporate trustee or its affiliate which may be acting hereunder.

G. To execute security transactions through the Trustee's or any affiliated discount brokerage service (and the payment of the usual commissions charged by such an affiliate brokerage operation shall in no way reduce or otherwise affect the Trustee's compensation as hereinafter provided for).

H. To purchase real property whether improved or not and to lease property on any terms and conditions and for any term of years, even though extending beyond the period of any trust created hereunder.

I. To insure, improve, repair, alter, abandon and partition real estate; erect or raze improvements; grant easement; subdivide and dedicate to public use.

J. To cause any of the investments which may be delivered or acquired by the Trustee to be issued, held, or registered in the name of the Trustee, in street name negotiable form, in the name of the nominee, or in any form in which title will pass delivery. Any

corporation or its transfer agent may presume conclusively that said nominee is the actual owner of the securities submitted for transfer.

K. To vote in person or by proxy any securities held in the Trust Estate and, in such connection, to delegate powers, discretionary or otherwise, for any purpose to one or more nominees or proxies with or without power of substitution and to make assignments to and deposits with committees, trustees, agents, depositories and other representatives; to retain any investments received in exchange in any reorganization or recapitalization; to subscribe for stocks and bonds; to grant, obtain or exercise options; and generally to exercise all rights of security holders.

L. To settle, compromise, contest or abandon claims or demand in favor of or against any trust created hereunder.

M. To borrow money, assume indebtedness, extend mortgages, and encumber by mortgage or pledge.

N. To distribute the principal of any trust created hereunder in kind or in cash, or partly in kind and partly in cash.

O. To allocate receipts and disbursements to principal or income, or partly to each as the Trustee deems proper.

P. To retain a consultant knowledgeable in the subject of Medical Assistance and/or Medicare benefits or other public or private benefits available to the Beneficiary and to advise the Trustee concerning discretionary distributions of income or principal so that such distributions will be made in a manner consistent with the purpose of the Trust. The Trustee shall be entitled to rely on the advice and information obtained from such consultant, and shall not be liable for any act or omission on the part of the Trustee attributable thereto. The costs

and expenses of such consultant shall be payable by the Trustee first out of the Trust Estate's income and then out of principal.

Q. To deal in every way and without limitation with the representatives of any trust or estate in which the Beneficiary has any existing or future interest, even though the Trustee is acting as the representative of such other trust or estate, without liability for loss resulting from said transaction.

R. To employ such agents, attorneys, accountants, investment counsel and professional advisors as may be required in managing, protecting and investing the assets of the Trust Estate and to pay their reasonable compensation.

S. The Trustee may (but shall have no duty whatsoever), in the exercise of its judgment and sole discretion, seek support and maintenance for the Beneficiary from all available public resources. In seeking such support and maintenance, the Trustee shall take into consideration the applicable resource and income limitations of any public-assistance program for which the Beneficiary is eligible. The Trustee is hereby granted full and complete discretion (without being under any duty whatsoever) to initiate the process of rendering the Beneficiary eligible for any such program of public benefit and is hereby granted full and complete discretion to initiate either administrative or judicial proceedings, or both, for the purpose of determining eligibility. All costs relating thereto, including attorney fees, shall be a proper charge against the Trust Estate. It is the intention of the Grantor that no part of the corpus of the Trust Estate created herein shall be used to supplant or replace public-assistance benefits of any county, state, federal, or other government agency that has a legal responsibility to persons with disabilities that are the same or similar to those which the Beneficiary may be experiencing. For purposes of determining the Beneficiary's public-assistance eligibility, no part

of the principal or undistributed income of the Trust Estate shall be considered available to the Beneficiary.

In the event the Trustee is required to release principal or income of the Trust to or on behalf of the Beneficiary to pay for benefits or services that such public assistance is otherwise authorized to provide were it not for the existence of this Trust, or in the event the Trustee is requested to petition the court or any other administrative agency for the release of Trust principal or income for this purpose, the Trustee is authorized (but is not under any duty) to deny such request and is authorized (but is not under any duty), in the Trustee's discretion, to take whatever administrative or judicial steps may be necessary to continue the public-assistance program eligibility of the Beneficiary, including obtaining instructions from a court of competent jurisdiction ruling that the Trust corpus is not available for the Beneficiary for such eligibility purposes. Any expenses of the Trustee in this regard, including attorney fees, shall be a proper charge against the Trust Estate.

T. The Trustee is authorized to retain the services of a Professional Care Manager to assist in providing the required care for the Beneficiary. The purpose of the Care Manager would be to coordinate other agencies or professionals, home health aides or personal care providers, or homemakers or any other services that the Care Manager and the Trustee feel are in the best interests of the Beneficiary. The Trustee shall pay all costs in connection with the Care Manager.

ARTICLE IV

A. The Trustee may resign at any time by giving prior written notice to Kenneth J. Long, Alison M. Long's father.

B. Except as otherwise provided in Section E of this Article, if Clearfield Bank and Trust Company, or any successor Trustee appointed as hereinafter provided, ceases to act as Trustee hereunder for any reason, then Kenneth J. Long shall, by written instrument, appoint any bank or trust company, within or outside the Commonwealth of Pennsylvania, as successor Trustee.

C. The Trustee shall provide a written annual account of its activities on behalf of the Trust to Kenneth J. Long and a copy to the Clearfield County, Pennsylvania Department of Social Services or its successor or other appropriate state or federal agency administering Medicaid or Medical Assistance. Unless a recipient of such account shall deliver a written objection to the Trustee within ninety (90) days of receipt of the Trustee's account, the account shall be deemed settled and be final and conclusive with respect to transactions disclosed in the account as to the Beneficiary and to all other beneficiaries of the Trust. After settlement of the account by reason of the expiration of the ninety (90)-day period or by agreement of the parties, the Trustee shall no longer be liable to any person who has an interest in the Trust with respect to transactions disclosed in the account except for the Trustee's intentional wrongdoing or fraud.

D. In addition to the provisions contained in paragraph C of this Article IV, Kenneth J. Long may at any time, by written instrument, approve the accounts of the Trustee with the same effect as if the accounts had been approved by a court having jurisdiction of the subject matter and of all necessary parties.

E. Kenneth J. Long may at any time remove the incumbent Trustee by written notice delivered to that Trustee and a successor Trustee shall be appointed pursuant to Section B above.

F. If any Trustee designated to act or at any time acting hereunder is merged with or transfers substantially all of its assets to another corporation, or is in any other manner

reorganized or reincorporated, the resulting or transferee corporation shall become Trustee in place of its corporate predecessor.

G. Any successor Trustee shall have all of the title, powers, and discretion granted to the original Trustee, without court order or act of transfer. No successor Trustee shall be liable for any act or failure to act of a predecessor Trustee. With the approval of the person indicated in Section D of this Article, a successor Trustee may accept the account furnished, if any, and the property delivered by or from a predecessor Trustee without liability for so doing, and such acceptance shall be a full and complete discharge to the predecessor Trustee.

H. Any Trustee which may be acting hereunder shall be entitled to deduct each year as compensation reasonable fees, which fees shall be in accordance with the then prevailing rate of compensation charged by the Trustee for like services at the time such services are rendered. In addition to the Trustee's normal compensation, the Trustee shall also be entitled to deduct such fees as shall reasonably compensate the Trustee for such additional services which the Trustee may be required to perform.

I. No bond shall be required in any jurisdiction of any Trustee or of any successor Trustee or, if a bond is required by law, no surety on such bond shall be required.

J. The Trustee shall not liable to any person or entity which has an interest in this Trust for any act or failure to act with respect to this Trust or the Trust Estate except for the Trustee's gross negligence or intentional misconduct.

ARTICLE V

In the event Kenneth J. Long is deceased, or otherwise unable or unwilling to perform the powers set forth in this Agreement, then those powers shall be assumed by a natural person

appointed by Kenneth J. Long in his Will or other duly executed and acknowledged written instrument.

ARTICLE VI

This Trust is established under the jurisdiction of the Court of Common Pleas of Clearfield County, Pennsylvania as part of a comprehensive settlement of a personal injury action pending before it at Docket No. 2000-1487-CD.

ARTICLE VII

This Trust Agreement has been delivered to and accepted by the Trustee in the Commonwealth of Pennsylvania, and all questions pertaining to the validity and interpretation of this Trust Agreement and to the management and distribution of the Trust Estate hereunder shall be determined in accordance with the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF, the Settlor has hereunto set his hand and seal and the Trustee has caused this Agreement to be executed by its duly authorized officers and its corporate seal to be hereunto affixed, as of the day and year first above written.

SETTLOR: Kenneth J. Long, as p/n/g of
Alison M. Long, a minor

Kenneth J. Long (SEAL)

ATTEST:

William C. Shiner
Title: SR. VICE PRESIDENT & SECRETARY

Clearfield Bank and Trust Company,
Trustee

By: John W. McDaniel
Title: Vice President & Trust Officer

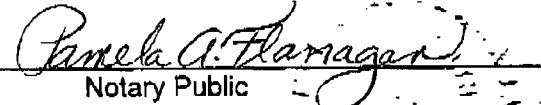
COMMONWEALTH OF PENNSYLVANIA

ss.

COUNTY OF CLEARFIELD

On this, the 10th day of August, 2001, before me, a Notary Public, personally appeared KENNETH J. LONG known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument as Settlor and acknowledged that he executed the same of the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.


Pamela A. Flanagan
Notary Public
(Notarial Seal)
NOTARIAL SEAL
PAMELA A. FLANAGAN, NOTARY PUBLIC
CLEARFIELD BORO, CLEARFIELD COUNTY
MY COMMISSION EXPIRES MARCH 21, 2005

BE:145335.2

IRREVOCABLE SPECIAL NEEDS TRUST
SCHEDULE "A"

The Settlor hereby assigns, transfer and delivers to the Trustee, irrevocably and absolutely, all incidents of ownership and all right, title and interest, both present and future, in and to:

1. Cash in the amount of \$ 134,459.26, payable out of the lump sum proceeds under the terms of a Settlement Agreement approved by the Clearfield County Court of Common Pleas by Court Order dated 7/19/01, a copy of which is attached as "Exhibit 1".

END OF DOCUMENT.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

KENNETH J. LONG and KATHIE M. : No. 2001 - 01119-CD
LONG, his wife, as parents and natural :
guardians of ALISON M. LONG, a minor, :
and in their own right, :
Plaintiffs :
:
v. :
ERIE INSURANCE EXCHANGE, :
Defendant :
:

O R D E R

AND NOW, to-wit this 19 day of July, 2001, it is hereby ORDERED,
ADJUDGED and DECREED as follows:

1. The parties may compromise these claims upon the terms of the proposed compromise set forth in the Petition filed by Kenneth J. Long and Kathie M. Long.
2. Kenneth J. Long and Kathie M. Long, parents and natural guardians of Alison M. Long, a minor, are authorized to pay the following counsel fees and expenses from the amount said minor is entitled to receive in this action: \$60,000.00 to Nicholas, Perot, Strauss & Koehler for counsel fees; \$944.76 to Nicholas, Perot, Strauss & Koehler for expenses; \$4,595.98 to Nicholas. Perot, Strauss & Koehler for liens.
3. The sum of \$134,459.26 to be deposited in the Alison M. Long Irrevocable Special Needs Trust at Clearfield Bank and Trust Company. Counsel for Petitioners will provide proof of ^{, hereby certify this to be a true} deposit within thirty (30) days of ^{and attested copy of the original} statement filed in this case.

BY THE COURT,

JUL 19 2001

Attest:

William J. Koehler
Prothonotary

/s/ JOHN K. REILLY, JR.

cc: Michael J. Koehler, Esquire
Barry Warner, Erie Insurance

Judge

FILED

AUG 20 2001

127110-3120CC

William A. Shaw

Prothonotary

[Signature]

NICHOLAS, PEROT, STRAUSS & KOEHLER

JOHN E. NICHOLAS *+
LAWRENCE A. PEROT*
LAWRENCE J. STRAUSS*
MICHAEL J. KOEHLER+

JAMES M. MALOY*
SANTO A. CAMPANELLA*
DANIEL T. SMITH*
ALAN P. McCRAKEN*
KRIS E. LAWRENCE*
MICHAEL J. WELCH*
ERIC P. SMITH*
THOMAS P. WALL, II+
BRYAN D. FIFE+
JEFFREY K. MONCHER*
EDWARD J. DINKI*
MICHAEL R. ZOSH*
CRAIG H. BERNHARDT*
DANIEL E. DYER*
JESSE P. RYDER*
DENISE M. CUNEO+

RONALD R. GILBERT+
of Counsel

SAL ALESSI
Claims Specialist

A PROFESSIONAL CORPORATION
ATTORNEYS & COUNSELORS AT LAW
2527 WEST 26TH STREET
ERIE, PENNSYLVANIA 16506
141 833-8851 FAX (814) 835-4632

(814) 833-8851 FAX (814) 835-4632

MICHAEL J. KOEHLER
MANAGING PARTNER
THOMAS P. WALL, II
BRYAN D. FIFE
DENISE M. CUNEO
ERIE OFFICE

OFFICES:
ERIE, WARREN, BRADFORD
CORY & NORTH EAST

NEW YORK OFFICES:
BUFFALO, ROCHESTER
SYRACUSE

August 15, 2001

**Admitted in NY*

+Admitted in PA

[^]Admitted in MI

~Admitted in MA

Prothonotary's Office
Clearfield County Courthouse
P. O. Box 549
Clearfield, PA 16830

**RE: New Hampshire Indemnity Insurance Company
v. Andrew E. Visnofsky, a minor, et. al.
No.: 01-657-CD - Clearfield County, PA**

Dear Sir/Madam:

Enclosed please find an executed Irrevocable Special Needs Trust Agreement for deposit of minor settlement proceeds in the above caption matter. This documentation is being filed in accordance with Judge John K. Riley, Jr.'s Order of July 19, 2001. If you have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,



Michael J. Koehler, Esquire

MJK/am

Enclosure

cc. Ka

cc. Katie and Kenneth Long
Barry Warner, Erie Insurance

Court of Common Pleas
Of Clearfield County, PA
No 01-657-CD

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

**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,
Plaintiff,**

vs.

**ANDREW E. VISNOFSKY, a minor, by and
through his parent and natural guardian,
VICTORIA L. VISNOFSKY and VICTORIA
L. VISNOFSKY, in her own right; JOHN E.
VISNOFSKY, KENNETH J. LONG and
KATHIE M. LONG, his wife, as parents and
natural guardians of ALISON M. LONG, a
minor, and in their own right; SHERI
HARASYMIW and CHRISTOPHER SMITH,
as legal guardians of JUSTIN D. VICKERS, a
minor, SHERI HARASYMIW and
CHRISTOPHER SMITH in their own right;
and the Estate of JAMES A. BLAYLOCK,
deceased, by the representative of his Estate,
PRISCILLA KEPHART,**

Defendants.

CIVIL DIVISION

No. 01-657-CD

**PRAECIPE TO REINSTATE
COMPLAINT**

Filed on behalf of Plaintiff:
**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY**

Counsel of Record for this party:
JEFFREY A. RAMALEY, ESQUIRE
Pa. I.D. #41559
JOHN K. BRYAN, ESQUIRE
Pa. I.D. 62901

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm #920
3300 USX Tower
Pittsburgh, PA 15219

(412) 281-8000

FILED

AUG 27 2001

William A. Shaw
Prothonotary

Court of Common Pleas
Of Clearfield County, PA
No 01-657-CD

PRAECIPE TO REINSTATE COMPLAINT

TO: PROTHONOTARY OF CLEARFIELD COUNTY

Kindly reinstate the Complaint in the within matter.

ZIMMER KUNZ PLLC

BY: 

JOHN K. BRYAN, ESQUIRE
Counsel for Plaintiff

Court of Common Pleas
Of Clearfield County, PA
No 01-657-CD

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **PRAECIPE**
TO REINSTATE COMPLAINT was forwarded to counsel below named by U. S. Mail on the
17 day of Aug, 2001.

Mark Bennett, Esquire
BERGER & GREEN
Suite 200
5850 Ellsworth Avenue
Pittsburgh, PA 15232

Michael J. Koehler, Esquire
NICHOLAS, PEROT, STRAUSS & KOEHLER
2527 West 26th Street
Erie, PA 16506

Louis C. Schmitt, Jr., Esquire
PFAFF, McINTYRE, DUGAS, HARTYE & SCHMITT
P. O. Box 533
Hollidaysburg, PA 16648-0533

Respectfully submitted,

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY

BY


JOHN K. BRYAN
ATTORNEY FOR PLAINTIFF
NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY

FILED

AUG 27 2001
M 12-2142-1
Lattice Kamalay
William A. Shaw
Prothonotary
Pd \$7.00

no cc

(1) Comp. Encl. to atty.

8.27.01 Document
Reinstated/Researched-Shaw/H/AN/AM
for service.

Deputy Prothonotary

J. Kendrick

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,
Plaintiff,

vs.

ANDREW E. VISNOFSKY, a minor, by and
through his parent and natural guardian,
VICTORIA L. VISNOFSKY and VICTORIA
L. VISNOFSKY, in her own right; JOHN E.
VISNOFSKY, KENNETH J. LONG and
KATHIE M. LONG, his wife, as parents and
natural guardians of ALISON M. LONG, a
minor, and in their own right; SHERI
HARASYMIW and CHRISTOPHER SMITH,
as legal guardians of JUSTIN D. VICKERS, a
minor, SHERI HARASYMIW and
CHRISTOPHER SMITH in their own right;
and the Estate of JAMES A. BLAYLOCK,
deceased, by the representative of his Estate,
PRISCILLA KEPHART,

Defendants.

CIVIL DIVISION

No. 01-657-CD

AFFIDAVIT OF SERVICE

Filed on behalf of Plaintiff:
**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY**

Counsel of Record for this party:
JEFFREY A. RAMALEY, ESQUIRE
Pa. I.D. #41559
JOHN K. BRYAN, ESQUIRE
Pa. I.D. 62901

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm #920
3300 USX Tower
Pittsburgh, PA 15219

(412) 281-8000

FILED

SEP 1 2001

William A. Shaw
Prothonotary

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ALLEGHENY)

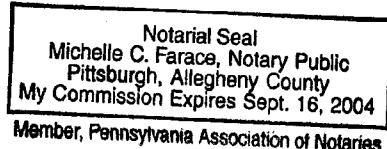
I hereby swear and affirm that I served a true and correct copy of the Complaint for Declaratory Judgment upon Defendants, Christopher Smith and Sheri Harasymiw, on the 23rd day of September, 2001 by certified mail, return receipt requested. The original receipt is attached hereto and marked as Exhibit "A". A copy of the letter serving the Complaint on both Defendants is attached hereto and marked as Exhibit "B".

~~JOHN K. BRYAN, ESQUIRE~~
Attorney for Defendant

Sworn to and subscribed before
me this 6th day
of September, 2001.

Michelle C. Farace
NOTARY PUBLIC

My commission expires:



SENDER/COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Christopher Smith
24 Dunham Avenue
Claymont, Delaware 19103

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

Chris Smith

B. Date of Delivery

6/23/91

C. Signature

Chris Smith Agent Addressee

D. Is delivery address different from item 1?

 Yes

If YES, enter delivery address below:

 No

3. Service type

<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input checked="" type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

2. Article Number (Copy from service lab

7001 1140 0002 1701 2102

PS Form 3811 July 1999

Domestic Return Receipt

102595-00-M-0952

ZIMMER KUNZ

PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

HARRY J. ZIMMER
JOHN E. KUNZ
RAYMOND H. CONAWAY (PA & WV)
GEORGE N. STEWART (PA & WV)
JONI M. MANGINO (PA & WV)
JOSEPH W. SELEP (PA & WV)
RAYMOND J. CONLON
EDWARD K. DIXON
MARK R. HAMILTON
ALEXANDER P. BICKET (PA & WV)
JOHN W. ZOTTER (PA & OH)
JEFFREY A. RAMALEY (PA & OH)
THOMAS P. MCGINNIS (PA & WV)

DARA A. DECOURCY (PA & WV)
DANIEL E. KRAUTH
ROBERT W. MURDOCH
ANTHONY C. CARONE (PA & WV)
MEGHAN F. WISE
GEORGE R. FARNEHILL II
JOHN K. BRYAN
MARK T. CALOYER
CHRISTOPHER T. YOSKOSKY
CARMEN A. MARTUCCI
JOHN W. BRUNI (PA & OH)
MAELE E. RHODES (WV ONLY)
CLAIRE A. CONAWAY

REBECCA A. SEMBER
JEFFREY S. TARKER
HILARY C. BONENBERGER (PA & WV)
ALAN G. STAHL (PA & TX)
JOSEPH F. BUTCHER
ROBERT W. GALBRAITH
OF COUNSEL
ANDREW J. BANYAS, III
THOMAS A. LAZAROFF

3300 USX TOWER
PITTSBURGH, PA 15219-2702
(412) 281-8000
FAX (412) 281-1765

MORGANTOWN OFFICE:
206 SPRUCE STREET
MORGANTOWN, WV 26505
(304) 292-8531
FAX (304) 292-7529

BUTLER OFFICE:
421 NORTH MAIN STREET
BUTLER, PA 16001
(724) 285-6677

GREENSBURG OFFICE
132 SOUTH MAIN STREET, SUITE B
GREENSBURG, PA 15601
(724) 836-5400
FAX (724) 836-5149

August 17, 2001

Via Certified Mail, Return Receipt Requested

Sherri Harasymiw
24 Denham Avenue
Claymont, Delaware 19103

Via Certified Mail, Return Receipt Requested

Christopher Smith
24 Denham Avenue
Claymont, Delaware 19103

*Re: New Hampshire Indemnity Insurance Company v.
Andrew E. Visnofsky, a minor, et al.
No. 01-657-CD – Clearfield County, PA*

Dear Ms. Harasymiw and Mr. Smith:

Enclosed please find a Complaint for Declaratory Judgment relative to the above-referenced case.

Service of this Complaint by certified mail requiring a return receipt satisfies the requirements for original service of process pursuant to Pennsylvania Rules of Civil Procedure 403 and 404.

EXHIBIT "B"

August 17, 2001

Page 2

Should you have any questions or comments, please feel free to contact me at your convenience.

Very truly yours,

JOHN K. BRYAN

JKB/sb

Enclosure

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **AFFIDAVIT OF SERVICE** was forwarded to counsel below named by U. S. Mail on the 6th day of September, 2001.

Mark Bennett, Esquire
BERGER & GREEN
Suite 200
5850 Ellsworth Avenue
Pittsburgh, PA 15232

Michael J. Koehler, Esquire
NICHOLAS, PEROT, STRAUSS & KOEHLER
2527 West 26th Street
Erie, PA 16506

Louis C. Schmitt, Jr., Esquire
PFAFF, McINTYRE, DUGAS, HARTYE & SCHMITT
P. O. Box 533
Hollidaysburg, PA 16648-0533

Respectfully submitted,

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY

BY 

JOHN K. BRYAN

ATTORNEY FOR PLAINTIFF
NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY

FILED

SEP 10 2001

William A. Shaw
Prothonotary

cc
6/25

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY : CIVIL ACTION - LAW
INSURANCE COMPANY, :

Plaintiffs : No. 01-657-CD

v. :

ANDREW E. VISNOFSKY, a minor, by : DEPOSITION NOTICE
and through his parents and natural :
guardian VICTORIA L. VISNOFSKY :
and VICTORIA L. VISNOFSKY, in her : Filed on Behalf of Defendants:
own right; JOHN E. VISNOFSKY, : Kenneth J. Long and Kathie M. Long,
KENNETH J. LONG and KATHIE M. : his wife, as parents and natural guardians
LONG, his wife, as parents : of Alison M. Long, a minor
and natural guardians of ALISON M. :
LONG, a minor, and in their own right; :
SHERI HARASYMIW and : Counsel of Record for this party:
CHRISTOPHER SMITH, as legal : Michael J. Koehler, Esquire
guardians of JUSTIN D. VICKERS, a : Pa. I. D. #56195
minor, SHERI HARASYMIW and :
CHRISTOPHER SMITH in their own : Nicholas, Perot, Strauss & Koehler
right; and the Estate of JAMES A. : 2527 West 26th Street
BLAYLOCK, deceased, by the : Erie, PA 16506
representative of his Estate, PRISCILLA : (814) 833-8851
KEPHART, :

Defendants :

NOTICE OF DEPOSITION UPON ORAL EXAMINATION

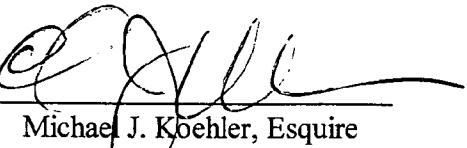
PLEASE TAKE NOTICE that the deposition upon oral examination of **Andrew E. Visnofsky** has been scheduled and will be taken on **Wednesday, November 14, 2001** at Sargent's Court Reporting, 106 North Second Street, First Floor, Clearfield, Pennsylvania 16830, beginning at **10:00 a.m.** The deposition will be taken pursuant to Pa.R.C.P. 4007.1 before a notary public or other person duly qualified by law to administer an oath.

FILED

SEP 28 2001
m 10:49 11/01
William A. Shaw
Prothonotary

Respectfully submitted,

NICHOLAS, PEROT, STRAUSS, & KOEHLER

By 

Michael J. Koehler, Esquire
PA ID 56195
2527 West 26th Street
Erie, PA 16506
(814) 833-8851
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,

CIVIL ACTION - LAW

Plaintiffs

No. 01-657-CD

v.

ANDREW E. VISNOFSKY, a minor, by
and through his parents and natural
guardian VICTORIA L. VISNOFSKY
and VICTORIA L. VISNOFSKY, in her
own right; JOHN E. VISNOFSKY,
KENNETH J. LONG and KATHIE M.
LONG, his wife, as parents
and natural guardians of ALISON M.
LONG, a minor, and in their own right;
SHERI HARASYMIW and
CHRISTOPHER SMITH, as legal
guardians of JUSTIN D. VICKERS, a
minor, SHERI HARASYMIW and
CHRISTOPHER SMITH in their own
right; and the Estate of JAMES A.
BLAYLOCK, deceased, by the
representative of his Estate, PRISCILLA
KEPHART,

DEPOSITION NOTICE

Filed on Behalf of Defendants:
Kenneth J. Long and Kathie M. Long,
his wife, as parents and natural guardians
of Alison M. Long, a minor

Counsel of Record for this party:
Michael J. Koehler, Esquire
Pa. I. D. #56195

Nicholas, Perot, Strauss & Koehler
2527 West 26th Street
Erie, PA 16506
(814) 833-8851

Defendants

:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 24 day of September, 2001, a copy of the
foregoing Notice of Deposition were served by First Class United States Mail, postage pre-paid to
the following parties:

John Bryan, Esquire
3300 USX Tower
Pittsburgh, PA 15219

Daniel McGee, Esquire
300 South Allen Street, Ste 300
State College, PA 16801

Mark Bennett, Esquire
5850 Ellsworth, Ste 200
Pittsburgh, PA 15232

Louis Schmitt, Esquire
P.O. Box 533
Hollidaysburg, PA 16648

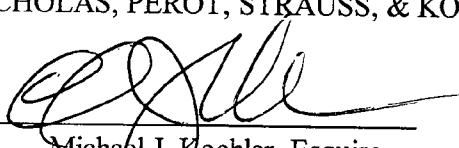
Dennis Stofko, Esquire
P.O. Box 5500
Johnstown, PA 15904

Jeffrey Rosenbaum, Esq.
1818 Market Street
Philadelphia, PA 19103

Sargent's Court Reporting
106 North Second Street, 1st Floor
Clearfield, PA 16830

Respectfully submitted,

NICHOLAS, PEROT, STRAUSS, & KOEHLER

By 

Michael J. Koehler, Esquire
PA ID 56195
2527 West 26th Street
Erie, PA 16506
(814) 833-8851
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY : CIVIL ACTION - LAW
INSURANCE COMPANY, :
Plaintiffs : No. 01-657-CD
v. :
ANDREW E. VISNOFSKY, a minor, by :
and through his parents and natural :
guardian VICTORIA L. VISNOFSKY :
and VICTORIA L. VISNOFSKY, in her :
own right; JOHN E. VISNOFSKY, :
KENNETH J. LONG and KATHIE M. :
LONG, his wife, as parents :
and natural guardians of ALISON M. :
LONG, a minor, and in their own right; :
SHERI HARASYMIW and :
CHRISTOPHER SMITH, as legal :
guardians of JUSTIN D. VICKERS, a :
minor, SHERI HARASYMIW and :
CHRISTOPHER SMITH in their own :
right; and the Estate of JAMES A. :
BLAYLOCK, deceased, by the :
representative of his Estate, PRISCILLA :
KEPHART, :
Defendants :
DEPOSITION NOTICE
Filed on Behalf of Defendants:
Kenneth J. Long and Kathie M. Long,
his wife, as parents and natural guardians
of Alison M. Long, a minor
Counsel of Record for this party:
Michael J. Koehler, Esquire
Pa. I. D. #56195
Nicholas, Perot, Strauss & Koehler
2527 West 26th Street
Erie, PA 16506
(814) 833-8851

NOTICE OF DEPOSITION UPON ORAL EXAMINATION

PLEASE TAKE NOTICE that the deposition upon oral examination of **Victoria L. Visnofsky** has been scheduled and will be taken on **Wednesday, November 14, 2001** at Sargent's Court Reporting, 106 North Second Street, First Floor, Clearfield, Pennsylvania 16830, beginning at **12:00 p.m.** The deposition will be taken pursuant to Pa.R.C.P. 4007.1 before a notary public or other person duly qualified by law to administer an oath.

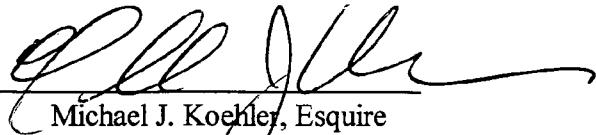
FILED

SEP 28 2001
M110491105/C
William A. Shaw
Prothonotary

Respectfully submitted,

NICHOLAS, PEROT, STRAUSS, & KOEHLER

By



Michael J. Koehler, Esquire
PA ID 56195
2527 West 26th Street
Erie, PA 16506
(814) 833-8851
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY : CIVIL ACTION - LAW
INSURANCE COMPANY, :
Plaintiffs : No. 01-657-CD
v. :
ANDREW E. VISNOFSKY, a minor, by :
and through his parents and natural :
guardian VICTORIA L. VISNOFSKY :
and VICTORIA L. VISNOFSKY, in her :
own right; JOHN E. VISNOFSKY, :
KENNETH J. LONG and KATHIE M. :
LONG, his wife, as parents :
and natural guardians of ALISON M. :
LONG, a minor, and in their own right; :
SHERI HARASYMIW and :
CHRISTOPHER SMITH, as legal :
guardians of JUSTIN D. VICKERS, a :
minor, SHERI HARASYMIW and :
CHRISTOPHER SMITH in their own :
right; and the Estate of JAMES A. :
BLAYLOCK, deceased, by the :
representative of his Estate, PRISCILLA :
KEPHART, :
Defendants :
DEPOSITION NOTICE
Filed on Behalf of Defendants:
Kenneth J. Long and Kathie M. Long,
his wife, as parents and natural guardians
of Alison M. Long, a minor
Counsel of Record for this party:
Michael J. Koehler, Esquire
Pa. I. D. #56195
Nicholas, Perot, Strauss & Koehler
2527 West 26th Street
Erie, PA 16506
(814) 833-8851

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 24 day of September, 2001, a copy of the foregoing Notice of Deposition were served by First Class United States Mail, postage pre-paid to the following parties:

John Bryan, Esquire
3300 USX Tower
Pittsburgh, PA 15219

Daniel McGee, Esquire
300 South Allen Street, Ste 300
State College, PA 16801

Mark Bennett, Esquire
5850 Ellsworth, Ste 200
Pittsburgh, PA 15232

Louis Schmitt, Esquire
P.O. Box 533
Hollidaysburg, PA 16648

Dennis Stofko, Esquire
P.O. Box 5500
Johnstown, PA 15904

Jeffrey Rosenbaum, Esq.
1818 Market Street
Philadelphia, PA 19103

Sargent's Court Reporting
106 North Second Street, 1st Floor
Clearfield, PA 16830

Respectfully submitted,

NICHOLAS, PEROT, STRAUSS, & KOEHLER

By 

Michael J. Koehler, Esquire
PA ID 56195
2527 West 26th Street
Erie, PA 16506
(814) 833-8851
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY INSURANCE COMPANY,	:	CIVIL ACTION - LAW
Plaintiffs	:	No. 01-657-CD
v.	:	
ANDREW E. VISNOFSKY, a minor, by and through his parents and natural guardian VICTORIA L. VISNOFSKY and VICTORIA L. VISNOFSKY, in her own right; JOHN E. VISNOFSKY, KENNETH J. LONG and KATHIE M. LONG, his wife, as parents and natural guardians of ALISON M. LONG, a minor, and in their own right; SHERI HARASYMIW and CHRISTOPHER SMITH, as legal guardians of JUSTIN D. VICKERS, a minor, SHERI HARASYMIW and CHRISTOPHER SMITH in their own right; and the Estate of JAMES A. BLAYLOCK, deceased, by the representative of his Estate, PRISCILLA KEPHART,	:	DEPOSITION NOTICE
Defendants	:	Filed on Behalf of Defendants: Kenneth J. Long and Kathie M. Long, his wife, as parents and natural guardians of Alison M. Long, a minor
	:	Counsel of Record for this party: Michael J. Koehler, Esquire Pa. I. D. #56195
	:	Nicholas, Perot, Strauss & Koehler 2527 West 26th Street Erie, PA 16506 (814) 833-8851
	:	

NOTICE OF DEPOSITION UPON ORAL EXAMINATION

PLEASE TAKE NOTICE that the deposition upon oral examination of **John E. Visnofsky** has been scheduled and will be taken on **Wednesday, November 14, 2001** at Sargent's Court Reporting, 106 North Second Street, First Floor, Clearfield, Pennsylvania 16830, beginning at **2:00 p.m.** The deposition will be taken pursuant to Pa.R.C.P. 4007.1 before a notary public or other person duly qualified by law to administer an oath.

FILED

SEP 28 2001

**William A. Shaw
Prothonotary**

Respectfully submitted,

NICHOLAS, PEROT, STRAUSS, & KOEHLER

By 

Michael J. Koehler, Esquire
PA ID 56195
2527 West 26th Street
Erie, PA 16506
(814) 833-8851
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY : CIVIL ACTION - LAW
INSURANCE COMPANY, :
Plaintiffs : No. 01-657-CD
v. :
ANDREW E. VISNOFSKY, a minor, by :
and through his parents and natural :
guardian VICTORIA L. VISNOFSKY :
and VICTORIA L. VISNOFSKY, in her :
own right; JOHN E. VISNOFSKY, :
KENNETH J. LONG and KATHIE M. :
LONG, his wife, as parents :
and natural guardians of ALISON M. :
LONG, a minor, and in their own right; :
SHERI HARASYMIW and :
CHRISTOPHER SMITH, as legal :
guardians of JUSTIN D. VICKERS, a :
minor, SHERI HARASYMIW and :
CHRISTOPHER SMITH in their own :
right; and the Estate of JAMES A. :
BLAYLOCK, deceased, by the :
representative of his Estate, PRISCILLA :
KEPHART, :
Defendants :
DEPOSITION NOTICE
Filed on Behalf of Defendants:
Kenneth J. Long and Kathie M. Long,
his wife, as parents and natural guardians
of Alison M. Long, a minor
Counsel of Record for this party:
Michael J. Koehler, Esquire
Pa. I. D. #56195
Nicholas, Perot, Strauss & Koehler
2527 West 26th Street
Erie, PA 16506
(814) 833-8851

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 24 day of September, 2001, a copy of the foregoing Notice of Deposition were served by First Class United States Mail, postage pre-paid to the following parties:

John Bryan, Esquire
3300 USX Tower
Pittsburgh, PA 15219

Daniel McGee, Esquire
300 South Allen Street, Ste 300
State College, PA 16801

Mark Bennett, Esquire
5850 Ellsworth, Ste 200
Pittsburgh, PA 15232

Louis Schmitt, Esquire
P.O. Box 533
Hollidaysburg, PA 16648

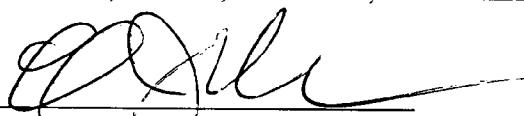
Dennis Stofko, Esquire
P.O. Box 5500
Johnstown, PA 15904

Jeffrey Rosenbaum, Esq.
1818 Market Street
Philadelphia, PA 19103

Sargent's Court Reporting
106 North Second Street, 1st Floor
Clearfield, PA 16830

Respectfully submitted,

NICHOLAS, PEROT, STRAUSS, & KOEHLER

By 

Michael J. Koehler, Esquire
PA ID 56195
2527 West 26th Street
Erie, PA 16506
(814) 833-8851
Attorneys for Plaintiff

FILED

SEP 28 2001
M 1049 1/20
William A. Shaw
Prothonotary
FEC

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

**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,
Plaintiff,**

vs.

ANDREW E. VISNOFSKY, a minor, by and through his parent and natural guardian, VICTORIA L. VISNOFSKY and VICTORIA L. VISNOFSKY, in her own right; JOHN E. VISNOFSKY, KENNETH J. LONG and KATHIE M. LONG, his wife, as parents and natural guardians of ALISON M. LONG, a minor, and in their own right; SHERI HARASYMIW and CHRISTOPHER SMITH, as legal guardians of JUSTIN D. VICKERS, a minor, SHERI HARASYMIW and CHRISTOPHER SMITH in their own right; and the Estate of JAMES A. BLAYLOCK, deceased, by the representative of his Estate, PRISCILLA KEPHART,

Defendants.

CIVIL DIVISION

No. 01-657-CD

**NOTICE OF SERVICE OF RESPONSE TO
REQUEST FOR PRODUCTION OF
DOCUMENTS**

Filed on behalf of Plaintiff:
**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY**

Counsel of Record for this party:
JEFFREY A. RAMALEY, ESQUIRE
Pa. I.D. #41559
JOHN K. BRYAN, ESQUIRE
Pa. I.D. 62901

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm #920
3300 USX Tower
Pittsburgh, PA 15219

(412) 281-8000

FILED

OCT 05 2001

William A. Shaw
Prothonotary

NOTICE OF SERVICE OF RESPONSE TO PRODUCTION OF DOCUMENTS

TO: PROTHONOTARY

Kindly take notice that the Plaintiff has served the Defendants, Kenneth J. Long and Kathie M. Long, his wife, as parents and natural guardians of Alison M. Long, a minor, and in their own right, by United States Mail with Responses to Request for Production of Documents on the 3 day of Oct., 2001 in the above captioned matter.

Respectfully submitted,

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY**

BY 

JOHN K. BRYAN
ATTORNEY FOR PLAINTIFF
NEW HAMPSHIRE INDEMNITY INSURANCE
COMPANY

FILED

OCT 05 2001
071105
William A. Shaw
Prothonotary
SASA

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

**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,**

Plaintiff,

CIVIL DIVISION

No. 01-657-CD

vs.

ANDREW E. VISNOFSKY, a minor, by and through his parent and natural guardian, VICTORIA L. VISNOFSKY and VICTORIA L. VISNOFSKY, in her own right; JOHN E. VISNOFSKY, KENNETH J. LONG and KATHIE M. LONG, his wife, as parents and natural guardians of ALISON M. LONG, a minor, and in their own right; SHERI HARASYMIW and CHRISTOPHER SMITH, as legal guardians of JUSTIN D. VICKERS, a minor, SHERI HARASYMIW and CHRISTOPHER SMITH in their own right; and the Estate of JAMES A. BLAYLOCK, deceased, by the representative of his Estate, PRISCILLA KEPHART,

Defendants.

**PETITION FOR THE APPOINTMENT OF
A GUARDIAN FOR A MINOR
DEFENDANT**

Filed on behalf of Plaintiff:
**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY**

Counsel of Record for this party:
JEFFREY A. RAMALEY, ESQUIRE
Pa. I.D. #41559
JOHN K. BRYAN, ESQUIRE
Pa. I.D. 62901

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm #920
3300 USX Tower
Pittsburgh, PA 15219

(412) 281-8000

FILED

NOV 21 2002

Court of Common Pleas
Clearfield County, PA
No. 01-657-CD

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION**

**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,**

Plaintiff,

vs.

No. 01-657-CD

ANDREW E. VISNOFSKY, a minor, et al.

Defendants.

**PETITION FOR THE APPOINTMENT
OF A GUARDIAN FOR A MINOR DEFENDANT**

**AND NOW, comes the Plaintiff, NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY, by and through its Attorneys, ZIMMER KUNZ,
PROFESSIONAL LIMITED LIABILITY COMPANY and JOHN K. BRYAN, ESQUIRE,
and files the within Petition for the Appointment of a Guardian for a Minor Defendant, wherein
the following are statements:**

1. This declaratory judgment action arises out of an automobile accident which occurred July 9, 2000.
2. One of the Defendants in this action, Andrew Visnofsky, is a minor, having been born June 17, 1986.
3. The minor lives with his father, John Visnofsky, who is also a defendant in this action.

4. There is pending in this court at Docket No. 2000-01487-CD a civil action arising from the automobile accident in which the minor, Andrew Visnofsky, is also a defendant.

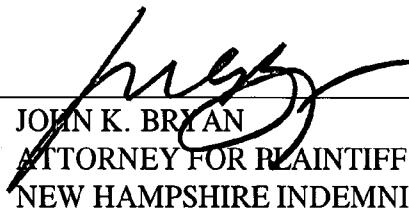
5. In the companion civil litigation, John Carter III consented to and was appointed guardian ad litem of the minor by Order of Court dated April 30, 2002. A copy of the docket entries evidencing this is attached hereto as Exhibit A.

6. The minor is not currently represented by a guardian in the within declaratory judgment action.

WHEREFORE, the Plaintiff, New Hampshire Indemnity Insurance Company, respectfully requests that this Honorable Court appoint a competent and responsible person to be guardian of Andrew Visnosfky, a minor, in the within action.

Respectfully submitted,

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY**

BY 

JOHN K. BRYAN
ATTORNEY FOR PLAINTIFF
NEW HAMPSHIRE INDEMNITY INSURANCE
COMPANY

Date: 05/23/2002

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 10:57 AM

ROA Report

Page 1 of 2

Case: 2000-01487-CD

Current Judge: John K. Reilly Jr.

eth J. Long, Kathie M. Long, Alison M. Long vs. Andrew E. Visnofsky, John A. Carter III, Victoria L. Visnofsky, John E. Visnofsky

Civil Other

COPY

Date		Judge
11/29/2000	New Case Filed. Filing: Civil Complaint Paid by: Nicholas, Perot & Strauss Receipt number: 0052055 Dated: 11/29/2000 Amount: \$80.00 (Check) Three Certified Copies to Sheriff One Certified Copy to Attorney	No Judge
12/22/2000	Praecipe for Entry of Appearance, on behalf of Andrew E. Visnofsky ONLY. S/Daniel McGee, Esq. no cc	No Judge
12/26/2000	Entry of Appearance, for John E. Visnofsky ONLY, filed by s/DENNIS J. STOKFO, ESQ. no cc	No Judge
01/09/2001	Answer, New Matter, and New Matter under 2252(d). Filed by s/Dennis J. Stofko, Esq. no cc	No Judge
01/10/2001	Sheriff Return, Complaint upon John E., Victoria L. and Andrew E. Visnofsky. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
01/18/2001	Reply to New Matter of Defendant John E. Visnofsky and New Matter under 2252(d). filed by s/Michael J. Koehler, Esq. no cc	No Judge
01/29/2001	Praecipe for Appearance, on behalf of Defendants. Filed by s/Louis C. Schmitt, Jr., Esq. no cc	No Judge
02/07/2001	Verification, s/Kenneth J. Long no cc Verification, s/Kathie M. Long no cc	No Judge
03/15/2001	Praecipe For Withdrawal of Appearance, on behalf of Andrew E. Visnofsky. Filed by s/Louis C. Schmitt, Jr., Esq. no cc	No Judge
08/20/2001	Notice of Service of Plaintiff's First Set of Interrogatories and Request for Production of Documents Directed to John E. Visnofsky. s/Michael J.Koehler, Esq. no cc Notice of Service of Plaintiff's First Set of Interrogatories and Request for Production of Documents Directed to Andrew E. Visnofsky. filed by s/Michael J. Koehler, Esq. no cc Notice of Service of Plaintiff's First Set of Interrogatories and Request for Production of Documents Directed to Victoria L. Visnofsky. Filed by s/Michael J. Koehler, Esq. no cc	No Judge
09/27/2001	Notice of Service of Interrogatories and Request for Production of Documents Directed to Plaintiffs Dated Sept. 25, 2001. Filed by s/Louis C. Schmitt, Jr., Esq. no cc Answer, New Matter, New Matter Pursuant to Pa. R.C.P. 2252(d). Filed by s/Louis C. Schmitt, Jr., Esq. no cc	No Judge
09/28/2001	Notice of Deposition Upon Oral Examination of Andrew E. Visnofsky, Nov. 14, 2001, at 10:00a.m. Filed by s/Michael J. Koehler, Esq. Certificate of Service no cc Notice of Deposition Upon Oral Examination of Victoria L. Visnofsky, Nov. 14, 2001, at 12:00 p.m. Filed by s/Michael J. Koehler, Esq. Certificate of Service no cc Notice of Deposition Upon Oral Examination of John E. Visnofsky, Nov. 14, 2001, at 2:00 p.m. Filed by s/Michael J. Koehler, Esq. Certificate of Service no cc	No Judge
10/03/2001	Reply to New Matter Under 2252(d). Filed by s/Dennis J. Stofko, Esq. Verification. s/Dennis J. Stofko, Esq. no cc	No Judge
10/05/2001	Reply to New Matter of Defendant Victoria L.Visnofsky and New Matter under 2252(d). Filed by s/Michael J. Koehler, Esq. Verification. s/Michael J. Koehler, Esq. Cert. of Svc. Michael J. Koehler, Esq. no cc	No Judge
10/08/2001	Reply of Victoria L. Visnofsky to New Matter Under 2252(d) Asserted on Behalf of Defendant John E. Visnofsky, filed by s/Louis C. Schmitt, Jr., Esq. No CC Supplemental Verification (in support of the Answer, New Matter and New Matter Pursuant to 2252(d)), filed by s/Louis C. Schmitt, Jr., Esq. No CC	No Judge



Current Judge: John K. Reilly Jr.

eth J. Long, Kathie M. Long, Alison M. Long vs. Andrew E. Visnofsky, John A. Carter III, Victoria L. Visnofsky, John E. Visnofsky
Civil Other

Date	Judge	
02/12/2002	Motion to Compel. Filed by s/Louis C. Schmitt, Jr., Esq. no cc Praeclipe to list for argument. s/Louis C. Schmitt, Jr., Esq. no cc Copy to No Judge CA	No Judge
02/25/2002	ORDER, AND NOW, this 25th day of Feb. 2002, Rule issued upon Plaintiff's, returnable the 18th day of April, 2002, at 9:30 a.m. by the Court, s/JKR,JR., P.J. 2 cc to Atty Schmitt	John K. Reilly Jr.
03/04/2002	Affidavit of Service, Feb. 25, 2002 Rule to Show Cause upon all counsel. Filed by s/Louis C. Schmitt, Jr., Esquire no cc	John K. Reilly Jr.
04/01/2002	Petition of Minor Defendant for Appointment of a Guardian Ad Litem. Filed by s/Daniel McGee, Esq. Consent s/John A. Carter, III Verification s/Andrew E. Visnofsky Certificate of Service no cc	John K. Reilly Jr.
04/03/2002	Rule to Show Cause, AND NOW, to wit, this 3rd day of April, 2002, Rule granted. Rule returnable for argument of hearing the 26 day of April, 2002, at 9:00 a.m. in Courtroom No. 1. BY THE COURT: /s/John K. Reilly, Jr., P.J. One CC Attorney McGee	John K. Reilly Jr.
04/04/2002	Notice of Serving Plaintiff's Response to First Set of Interrogatories and Request for Production of Documents Directed to Plaintiff upon Defendant's counsel. Filed by s/Michael J. Koehler, Esq. no cc	John K. Reilly Jr.
04/30/2002	Order, AND NOW, this 26 day of April, 2002, upon consideration of Petition of Minor defendant for Appointment of a Guardian Ad Litem, Ordered that John A. Carter, III, appointed to serve as Andrew E. Visnofsky's guardian ad litem in this action. Further ordered that caption of this case is amended in pertinent part to reflect that the Defendants are "Andrew E. Visnofsky, a minor, by John A. Carter, III, his guardian ad litem, and Victoria L. Visnofsky and John E. Visnofsky." BY THE COURT: /s/John K. Reilly, Jr., P.J. One CC Attorney McGee One CC Attorney Koehler	John K. Reilly Jr.
09/11/2002	Answer, New Matter, and New Matter Pursuant to Pennsylvania Rule of Civil Procedure 2252(d) of Defendant Andrew E. Visnofsky, a Minor. filed by s/Daniel McGee, Esquire Verification s/John A. Carter, III Certificate of Service no cc	John K. Reilly Jr.
09/13/2002	Reply to New Matter under 2252(d) filed by s/Dennis J. Stofko, Esq. Verification s/Dennis J. Stofko, Esq. no cc	John K. Reilly Jr.
09/19/2002	Filing: Reply to New Matter on behalf of Defendant by Atty. Schmitt. No cc.	John K. Reilly Jr.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **PETITION**
FOR THE APPOINTMENT OF A GUARDIAN FOR A MINOR DEFENDANT was
forwarded to counsel below named by U. S. Mail on the 19 day of November, 2002.

Mark Bennett, Esquire
BERGER & GREEN
Suite 200
5850 Ellsworth Avenue
Pittsburgh, PA 15232

Michael J. Koehler, Esquire
NICHOLAS, PEROT, STRAUSS &
KOEHLER
2527 West 26th Street
Erie, PA 16506

Dennis J. Stofko, Esquire
969 Eisenhower Boulevard
P. O. Box 550
Johnstown, PA 15904

Daniel McGee, Esquire
DELAFIELD, McGEE, JONES &
KAUFFMAN
300 South Allen Street
State College, PA 16801-4841

Louis C. Schmitt, Jr., Esquire
PFAFF, McINTYRE, DUGAS, HARTYE &
SCHMITT
P. O. Box 533
Hollidaysburg, PA 16648-0533

Respectfully submitted,

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY

BY


JOHN K. BRYAN
ATTORNEY FOR PLAINTIFF
NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY

FILED

NO
cc

NOV 11 2002

6:00 PM
FBI

William A. Shaw
Prothonotary

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

**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,**

Plaintiff,

vs.

ANDREW E. VISNOFSKY, a minor, by and through his parent and natural guardian, VICTORIA L. VISNOFSKY and VICTORIA L. VISNOFSKY, in her own right; JOHN E. VISNOFSKY, KENNETH J. LONG and KATHIE M. LONG, his wife, as parents and natural guardians of ALISON M. LONG, a minor, and in their own right; SHERI HARASYMIW and CHRISTOPHER SMITH, as legal guardians of JUSTIN D. VICKERS, a minor, SHERI HARASYMIW and CHRISTOPHER SMITH in their own right; and the Estate of JAMES A. BLAYLOCK, deceased, by the representative of his Estate, PRISCILLA KEPHART,

Defendants.

CIVIL DIVISION

No. 01-657-CD

PRAECIPE FOR ARGUMENT

Filed on behalf of Plaintiff:
**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY**

Counsel of Record for this party:
JEFFREY A. RAMALEY, ESQUIRE
Pa. I.D. #41559
JOHN K. BRYAN, ESQUIRE
Pa. I.D. 62901

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm #920
3300 USX Tower
Pittsburgh, PA 15219

(412) 281-8000

FILED

NOV 21 2002

William A. Shaw
Prothonotary

Court of Common Pleas
Clearfield County, PA
No. 01-657-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,

Plaintiff,

vs.

No. 01-657-CD

ANDREW E. VISNOFSKY, a minor, et al.

Defendants.

PRAECIPE FOR ARGUMENT

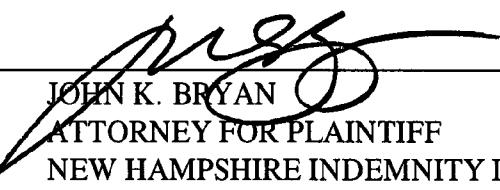
TO: PROTHONOTARY:

Kindly place Plaintiff's Petition For The Appointment Of A Guardian For A Minor Defendant on the next available argument list.

Respectfully submitted,

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY**

BY


JOHN K. BRYAN
ATTORNEY FOR PLAINTIFF
NEW HAMPSHIRE INDEMNITY INSURANCE
COMPANY

Court of Common Pleas
Clearfield County, PA
No. 01-657-CD

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within PRAECIPE
FOR ARGUMENT was forwarded to counsel below named by U. S. Mail on the 19 day of
November, 2002.

Mark Bennett, Esquire
BERGER & GREEN
Suite 200
5850 Ellsworth Avenue
Pittsburgh, PA 15232

Michael J. Koehler, Esquire
NICHOLAS, PEROT, STRAUSS &
KOEHLER
2527 West 26th Street
Erie, PA 16506

Dennis J. Stofko, Esquire
969 Eisenhower Boulevard
P. O. Box 550
Johnstown, PA 15904

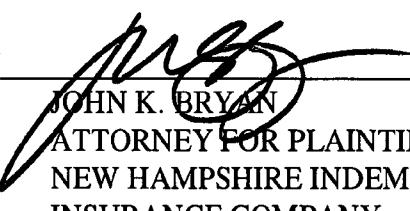
Daniel McGee, Esquire
DELAFIELD, McGEE, JONES &
KAUFFMAN
300 South Allen Street
State College, PA 16801-4841

Louis C. Schmitt, Jr., Esquire
PFAFF, McINTYRE, DUGAS, HARTYE &
SCHMITT
P. O. Box 533
Hollidaysburg, PA 16648-0533

Respectfully submitted,

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY

BY


JOHN K. BRYAN
ATTORNEY FOR PLAINTIFF
NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY

FILED NO
NOV 21 2002 cc
E
FEB

William A. Shaw
Prothonotary

JP

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

**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,**

CIVIL DIVISION

Plaintiff,

No. 01-657-CD

vs.

ANDREW E. VISNOFSKY, a minor, by and through his parent and natural guardian, VICTORIA L. VISNOFSKY and VICTORIA L. VISNOFSKY, in her own right; JOHN E. VISNOFSKY, KENNETH J. LONG and KATHIE M. LONG, his wife, as parents and natural guardians of ALISON M. LONG, a minor, and in their own right; SHERI HARASYMIW and CHRISTOPHER SMITH, as legal guardians of JUSTIN D. VICKERS, a minor, SHERI HARASYMIW and CHRISTOPHER SMITH in their own right; and the Estate of JAMES A. BLAYLOCK, deceased, by the representative of his Estate, PRISCILLA KEPHART,

Defendants.

PRAECIPE FOR ARGUMENT

Filed on behalf of Plaintiff:

**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY**

Counsel of Record for this party:

JEFFREY A. RAMALEY, ESQUIRE

Pa. I.D. #41559

JOHN K. BRYAN, ESQUIRE

Pa. I.D. 62901

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**

Firm #920

3300 USX Tower

Pittsburgh, PA 15219

(412) 281-8000

FILED

JUL 14 2003

William A. Shaw
Prothonotary

Court of Common Pleas
Clearfield County, PA
No. 01-657-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,

Plaintiff,

vs.

No. 01-657-CD

ANDREW E. VISNOFSKY, a minor, et al.

Defendants.

PRAECIPE FOR ARGUMENT

TO: PROTHONOTARY:

Kindly place Plaintiff's Motion for Summary Judgment on the next available argument list.

Respectfully submitted,

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY**

BY


JOHN K. BRYAN
ATTORNEY FOR PLAINTIFF
NEW HAMPSHIRE INDEMNITY INSURANCE
COMPANY

Court of Common Pleas
Clearfield County, PA
No. 01-657-CD

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within PRAECIPE
FOR ARGUMENT was forwarded to counsel below named by U. S. Mail on the 9 day of
July, 2003.

Mark Bennett, Esquire
BERGER & GREEN
Suite 200
5850 Ellsworth Avenue
Pittsburgh, PA 15232

Michael J. Koehler, Esquire
**NICHOLAS, PEROT, STRAUSS &
KOEHLER**
2527 West 26th Street
Erie, PA 16506

Dennis J. Stofko, Esquire
969 Eisenhower Boulevard
P. O. Box 550
Johnstown, PA 15904

Daniel McGee, Esquire
**DELAFIELD, McGEE, JONES &
KAUFFMAN**
300 South Allen Street
State College, PA 16801-4841

Louis C. Schmitt, Jr., Esquire
**PFAFF, McINTYRE, DUGAS, HARTYE &
SCHMITT**
P. O. Box 533
Hollidaysburg, PA 16648-0533

Respectfully submitted,

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY**

BY


JOHN K. BRYAN
ATTORNEY FOR PLAINTIFF
NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY

FILED

NO
cc

JUL 19 1964

205

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,**

Plaintiff,

vs.

ANDREW E. VISNOFSKY, a minor, by and through his parent and natural guardian, VICTORIA L. VISNOFSKY and VICTORIA L. VISNOFSKY, in her own right; JOHN E. VISNOFSKY, KENNETH J. LONG and KATHIE M. LONG, his wife, as parents and natural guardians of ALISON M. LONG, a minor, and in their own right; SHERI HARASYMIW and CHRISTOPHER SMITH, as legal guardians of JUSTIN D. VICKERS, a minor, SHERI HARASYMIW and CHRISTOPHER SMITH in their own right; and the Estate of JAMES A. BLAYLOCK, deceased, by the representative of his Estate, PRISCILLA KEPHART,

Defendants.

CIVIL DIVISION

No. 01-657-CD

MOTION FOR SUMMARY JUDGMENT

Filed on behalf of Plaintiff:

**NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY**

Counsel of Record for this party:

JEFFREY A. RAMALEY, ESQUIRE

Pa. I.D. #41559

JOHN K. BRYAN, ESQUIRE

Pa. I.D. 62901

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**

Firm #920

3300 USX Tower

Pittsburgh, PA 15219

(412) 281-8000

FILED

JUL 14 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,

Plaintiff,

vs.

No. 01-657-CD

ANDREW E. VISNOFSKY, a minor, et al.

Defendants.

MOTION FOR SUMMARY JUDGMENT

AND NOW, comes the Plaintiff, NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY, by and through its Attorneys, **ZIMMER KUNZ,**
PROFESSIONAL LIMITED LIABILITY COMPANY and **JOHN K. BRYAN, ESQUIRE,**
and moves the Court as follows to enter summary judgment in its favor:

1. The Plaintiff is a corporation authorized to sell automobile insurance policies in the Commonwealth of Pennsylvania.
2. Andrew Visnofsky is a minor whose parents and natural guardians are Victoria and John Visnofsky.
3. Prior to July 9, 2000, Plaintiff sold a policy of automobile insurance to Victoria Visnofsky. A copy of the declarations page to that policy and relevant portions of the policy are attached hereto as Exhibit "A".

4. On or about July 9, 2000, Andrew Visnofsky was operating a 1990 Mazda automobile bearing Pennsylvania title or out-of-state vehicle identification number 51582210 when he was involved in a single vehicle accident.

5. At the time of the accident, Alison Long, Justin Vickers and James Blaylock (deceased) were passengers of the vehicle. They allegedly suffered injuries and damages as a result of the accident.

6. The subject vehicle was owned by Victoria Visnofsky, but was not insured by Plaintiff. The vehicle is not shown in the declarations page of the policy issued by Plaintiff to Victoria Visnofsky.

7. Moreover, Victoria Visnofsky did not ask the Plaintiff to insure the subject vehicle within thirty days after she became the owner of the vehicle and the subject vehicle was not a replacement for any vehicle shown in the declarations page of the policy.

8. In addition to the foregoing, it is clear that Andrew Visnofsky was operating the vehicle without a reasonable belief that he was entitled to do so.

9. Victoria Visnofsky did not give Andrew Visnofsky explicit permission to operate the vehicle.

10. Victoria Visnofsky did not engage in any course of conduct from which Andrew Visnofsky could reasonably infer that he had permission to operate the vehicle.

11. Andrew Visnofsky knew that he did not have Victoria Visnofsky's permission to operate the vehicle.

12. Andrew Visnofsky was under the legal age to operate a vehicle at the time of the accident and did not have a license to operate a motor vehicle.

13. The vehicle was not registered at the time of the accident and did not have a registration plate.

14. Victoria Visnofsky was deposed November 14, 2001. She testified that she would permit Andrew to operate her vehicles on occasion, in order to teach him how to drive, but that she was not aware of him operating any vehicle on his own without her present. Moreover, she was unaware of Andrew operating the subject vehicle prior to the accident occurring. See relevant portions of November 14, 2001 deposition of Victoria Visnofsky, pp. 48-51, attached hereto as Exhibit "B".

15. Victoria further testified that Andrew had never asked permission to use any of her vehicles on his own and that she had not previously caught him doing so or trying to do so, nor did she ever explicitly give him permission to do so. Exhibit "B", pp. 51, 83. Moreover, following the accident, Victoria made it known to the police that the vehicle had been taken without her permission. Exhibit "B", p. 92.

16. Andrew Visnofsky testified by deposition on November 14, 2001. Andrew testified that, except for the day before the accident and the day of the accident he had never driven a vehicle without an adult present to supervise. See relevant portions of November 14, 2001 deposition of Andrew Visnofsky, p. 91, attached hereto as Exhibit "C".

17. Andrew further testified that he did not inform Victoria that he was going to take the car either the day prior to the accident or the day of the accident, and did not inform her of his use of the vehicle until after the accident had occurred. He had never requested permission from Victoria to use the vehicle and, on the day of the accident, did not believe that

he had permission to use the subject vehicle. Exhibit "C", pp. 91-93. Nor had Victoria ever informed him that he had permission to use the vehicle. Exhibit "C", p. 94.

18. Finally, Andrew Visnofsky testified that he pled guilty to a charge of unauthorized use of a motor vehicle. Exhibit "C", p. 74.

19. For all of the foregoing reasons, it is clear that Andrew Visnofsky did not have any reasonable belief that he was entitled or permitted to use the vehicle on the day of the accident.

20. As exhibited by the declarations page to the policy of insurance, attached hereto as part of Exhibit "A", a Renault automobile owned by Victoria Visnofsky was insured by Plaintiff.

21. At the time of the accident, Victoria Visnofsky owned the subject Mazda, as well as the Renault. Exhibit "B", p. 25. Following purchase of the Renault, Victoria parked the Mazda at her mother's house, from whence Andrew took it. She intended to sell the vehicle. Exhibit "B", pp. 30-31.

22. When Victoria purchased the Renault, she insured it and dropped the Mazda from her insurance coverage. She did not drive the Mazda again after dropping the insurance on it. Exhibit "B", pp. 36-40.

23. Victoria believes that Allstate was the last company to insure the Mazda prior to the accident. Exhibit "B", p. 85. It was Victoria's belief and understanding that in the days leading up to the accident and on the date of the accident itself that the subject Mazda was uninsured and she had no intention of driving it on the roadway. She simply wanted to sell the vehicle. Exhibit "B", p. 93.

24. Victoria Visnofsky further testified that she had no recollection of ever trying to insure the subject Mazda with Plaintiff. Exhibit "B", p. 87. Moreover, as noted previously, the subject Mazda was not listed as a covered auto on the policy of insurance issued by Plaintiff. See Exhibit "A".

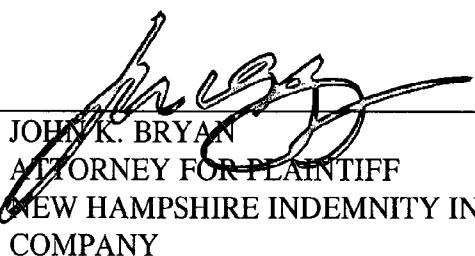
25. For the foregoing reasons, it is clear that the involved vehicle was not a covered auto under the policy of insurance issued by Plaintiff and that, therefore, Plaintiff owes no duty of defense or indemnification to the Visnofskys as a result of the automobile accident which occurred on or about July 9, 2000.

WHEREFORE, the Plaintiff, NEW HAMPSHIRE INDEMNITY INSURANCE COMPANY, respectfully requests that this Honorable Court enter an Order declaring that New Hampshire Indemnity Insurance Company has no duty to provide a defense or indemnification to the Visnofskys, or to make payment on any claim brought by the remaining defendants in the within action for declaratory judgment.

Respectfully submitted,

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY**

BY


JOHN K. BRYAN
ATTORNEY FOR PLAINTIFF
NEW HAMPSHIRE INDEMNITY INSURANCE
COMPANY

Court of Common Pleas
Clearfield County, PA
No. 01-657-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,

Plaintiff,

vs.

No. 01-657-CD

ANDREW E. VISNOFSKY, a minor, et al.

Defendants.

ORDER OF COURT

AND NOW, this _____ day of _____, 2003, upon
consideration of Plaintiff's Motion for Summary Judgment, it is hereby ORDERED that
judgment is granted in favor of Plaintiff. Plaintiff owes no duty of defense or indemnification to
Andrew E. Visnofsky, Victoria L. Visnofsky or John E. Visnofsky with regard to any alleged
injuries or damages arising from the auto accident of July 9, 2000, referenced in the within
lawsuit, pursuant to the policy of insurance issued by New Hampshire Indemnity Company
bearing the policy number AIG 9809487.

BY THE COURT:

J.



AIGDEC 8/96

REGIONAL OFFICE

P.O. BOX 1802

ALPHARETTA, GA 30023

COMPANY COPY

PERSONAL AUTO POLICY

NEW DECLARATION * * * * * EFFECTIVE 05/19/00

POLICY NUMBER	POLICY FROM	POLICY PERIOD TO	COVERAGE IS PROVIDED IN THE	AGENCY
AIG 9809487	05/19/00	11/19/00	NEW HAMPSHIRE INDEMNITY CO	3737421
NAMED INSURED AND ADDRESS				AGENT
VICTORIA VISNOFSKY PO BOX 257 MADERA, PA				SIMLER INSURANCE AGENCY 118 E. PRESQUEISLE STREET PHILIPSBURG, PA.

DOMICILED ADDRESS IS: NEW HAMPSHIRE INDEMNITY COMPANY, INC.
2005 MARKET ST.
PHILADELPHIA, PA. 19103

FOR PROMPT SERVICE ALL CORRESPONDENCE SHOULD BE SENT TO OUR REGIONAL OFFICE AT
P.O. BOX 8215, CORAOPOLIS, PA 15108

VEHICLES COVERED

UNIT ST TER YR MAKE-DESCRIPTION SERIAL NUMBER AGE SYM CLASS CST NEW CHG DATE
001 PA 049 86 RENA ENCORE S 1XMAC9332GK121919 6 10 3N-00 05/19/00
INSURANCE IS PROVIDED WHERE A PREMIUM IS SHOWN FOR THE COVERAGE.

THIS POLICY AFFORDS COLLISION COVERAGE TO RENTAL VEHICLES IF YOU HAVE SELECTED
PHYSICAL DAMAGE COVERAGES. THE SAME DEDUCTIBLE OPTIONS LISTED BELOW WILL APPLY.

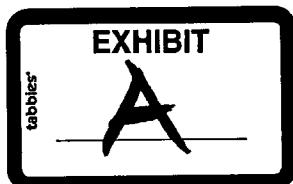
COVERAGES LISTED BELOW ARE PROVIDED ON A LIMITED TORT BASIS PER YOUR SELECTION

COVERAGE	LIMITS OF LIABILITY	UNIT	PREMIUMS
A BODILY INJURY \$25,000 EA PERSON \$50,000 EA ACCIDENT	48.00	1	
A PROPERTY DAMAGE \$10,000 EACH ACCIDENT	75.00		
MEDICAL BENEFITS \$5,000	50.00		
	TOTAL BY UNIT 173.00		
	TOTAL TERM PREMIUM \$173.00		

DISCOUNTS/SURCHARGES APPLIED TO APPLICABLE COVERAGES
UNIT 01 30% TRANSFER DISCOUNT

DRIVER ID	DRIVER NAME	LICENSE NUMBER	BIRTH DATE
01	VICTORIA CISNOFSKY	22344863	09/18/67

CONTINUED ON NEXT PAGE



PERSONAL AUTO POLICY

AGREEMENT

In return for payment of the premium and subject to all the terms of this policy, we agree with you as follows:

DEFINITIONS

- A. Throughout this policy, "you" and "your" refer to:
 1. The "named insured" shown in the Declarations; and
 2. The spouse if a resident of the same household.
- B. "We", "us" and "our" refer to the Company providing this insurance.
- C. For purposes of this policy, a private passenger type auto shall be deemed to be owned by a person if leased:
 1. Under a written agreement to that person; and
 2. For a continuous period of at least 6 months.
- D. "Bodily injury" means bodily harm, sickness or disease, including death that results.
- E. "Business" includes trade, profession or occupation.
- F. "Family member" means a person related to you by blood, marriage or adoption who is a resident of your household. This includes a ward or foster child.
- G. "Occupying" means in, upon, getting in, on, out or off.
- H. "Property damage" means physical injury to, destruction of or loss of use of tangible property.
- I. "Trailer" means a vehicle designed to be pulled by:
 1. Private passenger auto; or
 2. Pickup or van.

It also means a farm wagon or farm implement while towed by a vehicle listed in 1. or 2. above.
- J. "Your covered auto" means:
 1. Any vehicle shown in the Declarations.
 2. Any of the following types of vehicles on the date you become the owner:
 - a. a private passenger auto; or
 - b. a pickup or van that:
 - (1) has a Gross Vehicle Weight of less than 10,000 lbs.; and
 - (2) is not used for the delivery or transportation of goods and materials unless such use is:
 - (a) incidental to your "business" of installing, maintaining or repairing furnishings or equipment; or
 - (b) for farming or ranching.

This provision (J.2.) applies only if:

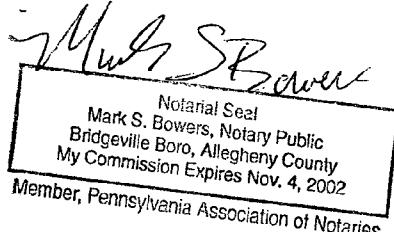
- a. you acquire the vehicle during the policy period;
- b. you ask us to insure it within 30 days after you become the owner; and
- c. with respect to a pickup or van, no other insurance policy provides coverage for that vehicle.

If the vehicle you acquire replaces one shown in the Declarations, it will have the same coverage as the vehicle it replaced. You must ask us to insure a replacement vehicle within 30 days only if you wish to add or continue Coverage for Damage to Your Auto.

If the vehicle you acquire is in addition to any shown in the Declarations, it will have the broadest coverage we now provide for any vehicle shown in the Declarations.

- 3. Any "trailer" you own.
- 4. Any auto or "trailer" you do not own while used as a temporary substitute for any other vehicle described in this definition which is out of normal use because of its:
 - a. breakdown;
 - b. repair;
 - c. servicing;
 - d. loss; or
 - e. destruction.

This provision (J.4.) does not apply to Coverage for Damage to Your Auto.



This exclusion (5.) does not apply to the interests of Loss Payees in "your covered auto".

6. Loss to a camper body or "trailer" you own which is not shown in the Declarations. This exclusion (6.) does not apply to a camper body or "trailer" you:
 - a. acquire during the policy period; and
 - b. ask us to insure within 30 days after you become the owner.
7. Loss to any "non-owned auto" when used by you or any "family member" without a reasonable belief that you or that "family member" are entitled to do so.
8. Loss to:
 - a. awnings or cabanas; or
 - b. equipment designed to create additional living facilities.
9. Loss to equipment designed or used for the detection or location of radar or laser.
10. Loss to any custom furnishings or equipment in or upon any pickup or van. Custom furnishings or equipment include but are not limited to:
 - a. special carpeting and insulation, furniture or bars;
 - b. facilities for cooking and sleeping;
 - c. height-extending roofs; or
 - d. custom murals, paintings or other decals or graphics.
11. Loss to any "non-owned auto" being maintained or used by any person while employed or otherwise engaged in the "business" of:
 - a. selling; d. storing; or
 - b. repairing; e. parking;
 - c. servicing;
 vehicles designed for use on public highways. This includes road testing and delivery.
12. Loss to any "non-owned auto" being maintained or used by any person while employed or otherwise engaged in any "business" not described in exclusion 11. This exclusion (12.) does not apply to the maintenance or use by you or any "family member" of a "non-owned auto" which is a private passenger auto or "trailer."
13. Loss to "your covered auto" or any "non-owned auto", located inside a facility designed for racing, for the purpose of:
 - a. Competing in; or
 - b. Practicing or preparing for;
 any prearranged or organized racing or speed contest.
14. Loss to, or loss of use of, a "non-owned auto" rented by:
 - a. You; or
 - b. Any "family member";
 if a rental vehicle company is precluded from recovering such loss or loss of use, from you or that "family member", pursuant to the provisions of any applicable rental agreement or state law.

LIMIT OF LIABILITY

- A. Our limit of liability for loss will be the lesser of the:
 1. Actual cash value of the stolen or damaged property; or
 2. Amount necessary to repair or replace the property with other property of like kind and quality.
 However, the most we will pay for loss to any "non-owned auto" which is a trailer is \$500.
- B. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total loss.
- C. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

PAYMENT OF LOSS

We may pay for loss in money or repair or replace the damaged or stolen property. We may, at our expense, return any stolen property to:

1. You; or
2. The address shown in this policy.

If we return stolen property we will pay for any damage resulting from the theft. We may keep all or part of the property at an agreed or appraised value.

If we pay for loss in money, our payment will include the applicable sales tax for the damaged or stolen property.

NO BENEFIT TO BAILEE

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

OTHER SOURCES OF RECOVERY

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

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

APPRAISAL

- A. If we and you do not agree on the amount of loss, either may demand an appraisal of the loss. In this event, each party will select a competent appraiser. The two appraisers will select an umpire. The appraisers will state separately the actual cash value and the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:
 1. Pay its chosen appraiser; and
 2. Bear the expenses of the appraisal and umpire equally.
- B. We do not waive any of our rights under this policy by agreeing to an appraisal.

PART E—DUTIES AFTER AN ACCIDENT OR LOSS

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

- A. We must be notified promptly of how, when and where the accident or loss happened. Notice should also include the names and addresses of any injured persons and of any witnesses.
- B. A person seeking any coverage must:
 1. Cooperate with us in the investigation, settlement or defense of any claim or suit.
 2. Promptly send us copies of any notices or legal papers received in connection with the accident or loss.
 3. Submit as often as we reasonably require:
 - a. to physical exams by physicians we select. We will pay for these exams.
 - b. to examinations under oath and subscribe the same.
 4. Authorize us to obtain:
 - a. medical reports; and
 - b. other pertinent records.
- C. A person seeking Uninsured Motorist Coverage must also:
 1. Promptly notify the police if a hit-and-run driver is involved.
 2. Promptly send us copies of the legal papers if a suit is brought.
- D. A person seeking Coverage for Damage to Your Auto must also:
 1. Take reasonable steps after loss to protect "your covered auto" or any "non-owned auto" and their equipment from further loss. We will pay reasonable expenses incurred to do this.
 2. Promptly notify the police if "your covered auto" or any "non-owned auto" is stolen.
 3. Permit us to inspect and appraise the damaged property before its repair or disposal.

PART F—GENERAL PROVISIONS

BANKRUPTCY

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

CHANGES

- A. This policy contains all the agreements between you and us. Its terms may not be changed or waived except by endorsement issued by us.
- B. If there is a change to the information used to develop the policy premiums, we may adjust your premium. Changes during the policy term that may result in a premium increase or decrease include, but are not limited to, changes in:
 1. The number, type or use classifications of insured vehicles;
 2. Operators using insured vehicles;
 3. The place of principal garaging of insured vehicles;
 4. Coverage, deductible or limits.

If a change resulting from A. or B. requires a premium adjustment, we will make the premium adjustment in accordance with our manual rules.

- C. If we make a change which broadens coverage under this edition of your policy without additional premium charge, that change will automatically apply to your policy as of the date we implement the change in your state. This paragraph (C.) does not apply to changes implemented with a general program revision that includes both broadenings and restrictions in coverage, whether that general program revision is implemented through introduction of:
 1. A subsequent edition of your policy; or
 2. An Amendatory Endorsement.

FRAUD

We do not provide coverage for any "insured" who has made fraudulent statements or engaged in fraudulent conduct in connection with any accident or loss for which coverage is sought under this policy.

LEGAL ACTION AGAINST US

- A. No legal action may be brought against us until there has been full compliance with all the terms of this policy. In addition, under Part A, no legal action may be brought against us until:
 1. We agree in writing that the "insured" has an obligation to pay; or

2. The amount of that obligation has been finally determined by judgment after trial.
- B. No person or organization has any right under this policy to bring us into any action to determine the liability of an "insured."

OUR RIGHT TO RECOVER PAYMENT

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

However, our rights in this paragraph (A.) do not apply under Part D, against any person using "your covered auto" with a reasonable belief that that person is entitled to do so.

- B. If we make a payment under this policy and the person to or from whom payment is made recovers damages from another, that person shall:
 1. Hold in trust for us the proceeds of the recovery; and
 2. Reimburse us to the extent of our payment.

POLICY PERIOD AND TERRITORY

- A. This policy applies only to accidents and losses which occur:
 1. During the policy period as shown in the Declarations; and
 2. Within the policy territory.
- B. The policy territory is:
 1. The United States of America, its territories or possessions;
 2. Puerto Rico; or
 3. Canada.

This policy also applies to loss to, or accidents involving, "your covered auto" while being transported between their ports.

TERMINATION

- A. Cancellation. This policy may be cancelled during the policy period as follows:
 1. The named insured shown in the Declarations may cancel by:
 - a. returning this policy to us; or
 - b. giving us advance written notice of the date cancellation is to take effect.

2. We may cancel by mailing to the named insured shown in the Declarations at the address shown in this policy:
 - a. at least 10 days notice:
 - (1) if cancellation is for nonpayment of premium; or
 - (2) if notice is mailed during the first 60 days this policy is in effect and this is not a renewal or continuation policy; or
 - b. at least 20 days notice in all other cases.
3. After this policy is in effect for 60 days, or if this is a renewal or continuation policy, we will cancel only:
 - a. for nonpayment of premium; or
 - b. if your driver's license or that of:
 - (1) any driver who lives with you; or
 - (2) any driver who customarily uses "your covered auto,"has been suspended or revoked. This must have occurred:
 - (1) during the policy period; or
 - (2) since the last anniversary of the original effective date if the policy period is other than 1 year; or
 - c. if the policy was obtained through material misrepresentation.

- B. Nonrenewal. If we decide not to renew or continue this policy, we will mail notice to the named insured shown in the Declarations at the address shown in this policy. Notice will be mailed at least 20 days before the end of the policy period. If the policy period is:
 1. Less than 6 months, we will have the right not to renew or continue this policy every 6 months, beginning 6 months after its original effective date.
 2. 1 year or longer, we will have the right not to renew or continue this policy at each anniversary of its original effective date.
- C. Automatic Termination. If we offer to renew or continue and you or your representative do not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that you have not accepted our offer.

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

D. Other Termination Provisions.

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

TRANSFER OF YOUR INTEREST IN THIS POLICY

- A. Your rights and duties under this policy may not be assigned without our written consent. However, if a named insured shown in the Declarations dies, coverage will be provided for:
 1. The surviving spouse if resident in the same household at the time of death. Coverage applies to the spouse as if a named insured shown in the Declarations; and
 2. The legal representative of the deceased person as if a named insured shown in the Declarations. This applies only with respect to the representative's legal responsibility to maintain or use "your covered auto."
- B. Coverage will only be provided until the end of the policy period.

TWO OR MORE AUTO POLICIES

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

PENNSYLVANIA NOTICE

IL 09 10/H0 291
(Ed. 01 81)

- * An Insurance Company, its agents, employees, or service contractors acting on its behalf, may provide services to reduce the likelihood of injury, death or loss. These services may include any of the following or related services incident to the application for, issuance, renewal or continuation of, a policy of insurance:

1. surveys;
2. consultation or advice; or
3. inspections.

The "Insurance Consultation Services Exemption Act" of Pennsylvania provides that the Insurance Company, its agents, employees or service contractors acting on its behalf, is not liable for damages from injury, death or loss occurring as a result of any act or omission by any person in the furnishing of or the failure to furnish these services.

The Act does not apply:

1. if the injury, death or loss occurred during the actual performance of the services and was caused by the negligence of the Insurance Company, its agents, employees or service contractors;
2. to consultation services required to be performed under a written service contract not related to a policy of insurance; or
3. if any acts or omissions of the Insurance Company, its agents, employees or service contractors are judicially determined to constitute a crime, actual malice, or gross negligence.

Instruction to Policy Writers

Attach the Pennsylvania Notice to all new and renewal policies and renewal certificates insuring risks located in Pennsylvania.

- THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE - PENNSYLVANIA

With respect to coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

THIS ENDORSEMENT PROVIDES PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE ONLY FOR AN "INSURED" INJURED BY A MOTORCYCLE, MOPED OR SIMILAR-TYPE VEHICLE OR RECREATIONAL-TYPE VEHICLE.

SCHEDULE

Description of Vehicle	Pedestrian Basic First Party Benefit Coverage Limit of Liability
	\$5,000
	\$5,000
	\$5,000

I: DEFINITIONS

The Definitions section is amended as follows:

- A. "The Act" refers to the Pennsylvania Motor Vehicle Financial Responsibility Law.
- B. The definition of "bodily injury" is replaced by the following:
"Bodily injury" means accidental bodily harm to a person, and that person's resulting illness, disease or death.
- C. The following definitions are added:
 1. "Insured motor vehicle" means a:
 - a. Motorcycle, moped or similar-type vehicle; or
 - b. Recreational-type vehicle; shown in the Schedule or Declarations to which Part A of this policy applies.
 2. "Motor vehicle" means a self-propelled vehicle operated or designed for use upon public roads. However, "motor vehicle" does not include a vehicle operated:
 - a. By muscular power; or
 - b. On rails or tracks.
- D. As used in this endorsement, "insured" means any person not:
 1. "Occupying" a "motor vehicle"; and
 2. Provided first party benefits under any automobile insurance policy as a named insured or family member.

II. PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE

INSURING AGREEMENT

A. We will pay, in accordance with the Act, the Pedestrian Basic First Party Benefit to or for an "insured" who sustains "bodily injury". The "bodily injury" must be caused by an accident arising out of the maintenance or use of an "insured motor vehicle".

B. Subject to the limit shown in the Schedule or Declarations, the Pedestrian Basic First Party Benefit consists of:

Medical expenses. Reasonable and necessary medical expenses incurred for an "insured's":

1. Care;
2. Recovery; or
3. Rehabilitation.

This includes remedial care and treatment rendered in accordance with a recognized religious method of healing.

Medical expenses will be paid if incurred within 18 months from the date of the accident causing "bodily injury". However, if within 18 months from the date of the accident, it can be determined with reasonable medical probability that additional expenses may be incurred after this period, the 18 month time limit will not apply to the payment of the additional medical expenses.

EXCLUSIONS

- A. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury" sustained by any "insured":
 1. While "occupying" a:
 - a. Recreational-type vehicle designed for use off public roads; or
 - b. Motorcycle, moped or similar-type vehicle.
 2. While intentionally causing or attempting to cause "bodily injury" to himself or any other person.
 3. While committing a felony.
 4. Seeking to elude lawful apprehension or arrest by a law enforcement official.
 5. While maintaining or using a "motor vehicle" knowingly converted by that "insured". This exclusion (A.5.) does not apply to:
 - a. You; or
 - b. Any "family member".
 6. Who, at the time of the accident, is the owner of one or more registered "motor vehicles", none of which have in effect the financial responsibility required by the Act.
 7. Maintaining or using a "motor vehicle" while located for use as a residence or premises.
- B. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury":
 1. Sustained by a pedestrian if the accident occurs outside of Pennsylvania. This exclusion (B.1.) does not apply to:
 - a. You; or
 - b. Any "family member".
 2. Caused by or as a consequence of:
 - a. Discharge of a nuclear weapon (even if accidental);
 - b. War (declared or undeclared);
 - c. Civil war;
 - d. Insurrection; or
 - e. Rebellion or revolution.
 3. From or as a consequence of the following, whether controlled or uncontrolled or however caused:
 - a. Nuclear reaction;
 - b. Radiation; or
 - c. Radioactive contamination.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

LIMIT OF LIABILITY

- A. The limit of liability shown in the Schedule or Declarations for Pedestrian Basic First Party Benefit Coverage is the most we will pay to or for each "insured" as the result of any one accident, regardless of the number of:
 1. Claims made;
 2. Vehicles or premiums shown in the Declarations;
 3. Vehicles involved in the accident; or
 4. Insurers providing first party benefits.
- B. Any amounts payable under this coverage shall be excess over any amounts:
 1. Paid;
 2. Payable; or
 3. Required to be provided; to an "insured" under any workers' compensation law or similar law.

OTHER INSURANCE

If 2 or more policies providing Pedestrian Basic First Party Benefit Coverage are applicable to an "insured":

- A. The insurer against whom the claim is first made shall process and pay the claim as if wholly responsible. The insurer is then entitled to recover contribution pro rata from any other insurer for the benefits paid and the costs of processing the claim. Such contribution shall be based on the number of involved motor vehicles.
- B. If we are the insurer against whom the claim is first made, our payment to or for an "insured" will not exceed the limit of liability for Pedestrian Basic First Party Benefit Coverage shown in the Schedule or Declarations.
- C. The maximum recovery under all policies will not exceed the amount payable under the policy with the highest limit of liability.

NON-DUPLICATION OF BENEFITS

No one will be entitled to recover duplicate payments for the same elements of loss under this insurance or any automobile insurance including self-insurance.

III. PART F - GENERAL PROVISIONS

Part F is amended as follows:

The Our Right To Recover Payment provision does not apply.

- THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE - PENNSYLVANIA

With respect to coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

THIS ENDORSEMENT PROVIDES PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE ONLY FOR AN "INSURED" INJURED BY A MOTORCYCLE, MOPED OR SIMILAR-TYPE VEHICLE OR RECREATIONAL-TYPE VEHICLE.

SCHEDULE

Description of Vehicle	Pedestrian Basic First Party Benefit
	Coverage Limit of Liability
_____	\$5,000
_____	\$5,000
_____	\$5,000

I: DEFINITIONS

The Definitions section is amended as follows:

- A. "The Act" refers to the Pennsylvania Motor Vehicle Financial Responsibility Law.
- B. The definition of "bodily injury" is replaced by the following:
"Bodily injury" means accidental bodily harm to a person, and that person's resulting illness, disease or death.
- C. The following definitions are added:
 1. "Insured motor vehicle" means a:
 - a. Motorcycle, moped or similar-type vehicle; or
 - b. Recreational-type vehicle:
shown in the Schedule or Declarations to which Part A of this policy applies.
 2. "Motor vehicle" means a self-propelled vehicle operated or designed for use upon public roads. However, "motor vehicle" does not include a vehicle operated:
 - a. By muscular power; or
 - b. On rails or tracks.
- D. As used in this endorsement, "insured" means any person not:
 1. "Occupying" a "motor vehicle"; and
 2. Provided first party benefits under any automobile insurance policy as a named insured or family member.

II. PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE

INSURING AGREEMENT

- A. We will pay, in accordance with the Act, the Pedestrian Basic First Party Benefit to or for an "insured" who sustains "bodily injury". The "bodily injury" must be caused by an accident arising out of the maintenance or use of an "insured motor vehicle".
- B. Subject to the limit shown in the Schedule or Declarations, the Pedestrian Basic First Party Benefit consists of:
Medical expenses. Reasonable and necessary medical expenses incurred for an "insured's":
 1. Care;
 2. Recovery; or
 3. Rehabilitation.This includes remedial care and treatment rendered in accordance with a recognized religious method of healing.
Medical expenses will be paid if incurred within 18 months from the date of the accident causing "bodily injury". However, if within 18 months from the date of the accident, it can be determined with reasonable medical probability that additional expenses may be incurred after this period, the 18 month time limit will not apply to the payment of the additional medical expenses.

EXCLUSIONS

- A. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury" sustained by any "insured":
 1. While "occupying" a:
 - a. Recreational-type vehicle designed for use off public roads; or
 - b. Motorcycle, moped or similar-type vehicle.
 2. While intentionally causing or attempting to cause "bodily injury" to himself or any other person.
 3. While committing a felony.
 4. Seeking to elude lawful apprehension or arrest by a law enforcement official.
 5. While maintaining or using a "motor vehicle" knowingly converted by that "insured". This exclusion (A.5.) does not apply to:
 - a. You; or
 - b. Any "family member".
 6. Who, at the time of the accident, is the owner of one or more registered "motor vehicles", none of which have in effect the financial responsibility required by the Act.
 7. Maintaining or using a "motor vehicle" while located for use as a residence or premises.
- B. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury":
 1. Sustained by a pedestrian if the accident occurs outside of Pennsylvania. This exclusion (B.1.) does not apply to:
 - a. You; or
 - b. Any "family member".
 2. Caused by or as a consequence of:
 - a. Discharge of a nuclear weapon (even if accidental);
 - b. War (declared or undeclared);
 - c. Civil war;
 - d. Insurrection; or
 - e. Rebellion or revolution.
 3. From or as a consequence of the following, whether controlled or uncontrolled or however caused:
 - a. Nuclear reaction;
 - b. Radiation; or
 - c. Radioactive contamination.

LIMIT OF LIABILITY

- A. The limit of liability shown in the Schedule or Declarations for Pedestrian Basic First Party Benefit Coverage is the most we will pay to or for each "insured" as the result of any one accident, regardless of the number of:
 1. Claims made;
 2. Vehicles or premiums shown in the Declarations;
 3. Vehicles involved in the accident; or
 4. Insurers providing first party benefits.
- B. Any amounts payable under this coverage shall be excess over any amounts:
 1. Paid;
 2. Payable; or
 3. Required to be provided; to an "insured" under any workers' compensation law or similar law.

OTHER INSURANCE

If 2 or more policies providing Pedestrian Basic First Party Benefit Coverage are applicable to an "insured":

- A. The insurer against whom the claim is first made shall process and pay the claim as if wholly responsible. The insurer is then entitled to recover contribution pro rata from any other insurer for the benefits paid and the costs of processing the claim. Such contribution shall be based on the number of involved motor vehicles.
- B. If we are the insurer against whom the claim is first made, our payment to or for an "insured" will not exceed the limit of liability for Pedestrian Basic First Party Benefit Coverage shown in the Schedule or Declarations.
- C. The maximum recovery under all policies will not exceed the amount payable under the policy with the highest limit of liability.

NON-DUPLICATION OF BENEFITS

No one will be entitled to recover duplicate payments for the same elements of loss under this insurance or any automobile insurance including self-insurance.

III. PART F - GENERAL PROVISIONS

Part F is amended as follows:

The Our Right To Recover Payment provision does not apply.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

AIG Specialty Auto

Important Notice Regarding Uninsured / Underinsured Motorists

On April 13, 1978, The Superior Court of Pennsylvania declared void an exclusion which denies Uninsured Motorists coverage when an insured is injured while occupying an uninsured motor vehicle owned by that insured. Accordingly, insurers cannot deny coverage solely by reason of that exclusion for claims made or pending on or after April 13, 1978. Contact your agent if you think you are entitled to payment as a result of this change to your policy as of April 13, 1978.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY..

PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE - PENNSYLVANIA

With respect to coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

THIS ENDORSEMENT PROVIDES PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE ONLY FOR A "INSURED" INJURED BY A MOTORCYCLE, MOPED OR SIMILAR-TYPE VEHICLE OR RECREATIONAL-TYPE VEHICLE.

SCHEDULE

Description of Vehicle	Pedestrian Basic First Party Benefit Coverage Limit of Liability
	\$5,000
	\$5,000
	\$5,000

I. DEFINITIONS

The Definitions section is amended as follows:

- A. "The Act" refers to the Pennsylvania Motor Vehicle Financial Responsibility Law.
- B. The definition of "bodily injury" is replaced by the following:
"Bodily injury" means accidental bodily harm to a person, and that person's resulting illness, disease or death.
- C. The following definitions are added:
 1. "Insured motor vehicle" means a:
 - a. Motorcycle, moped or similar-type vehicle; or
 - b. Recreational-type vehicle;
 shown in the Schedule or Declarations to which Part A of this policy applies.
 2. "Motor vehicle" means a self-propelled vehicle operated or designed for use upon public roads. However, "motor vehicle" does not include a vehicle operated:
 - a. By muscular power; or
 - b. On rails or tracks.
- D. As used in this endorsement, "insured" means any person not:
 1. "Occupying" a "motor vehicle"; and
 2. Provided first party benefits under any automobile insurance policy as a named insured or family member.

II. PEDESTRIAN BASIC FIRST PARTY BENEFIT COVERAGE

INSURING AGREEMENT

A. We will pay, in accordance with the Act, the Pedestrian Basic First Party Benefit to or for an "insured" who sustains "bodily injury". The "bodily injury" must be caused by an accident arising out of the maintenance or use of a "insured motor vehicle".

B. Subject to the limit shown in the Schedule or Declarations, the Pedestrian Basic First Party Benefit consists of:

Medical expenses. Reasonable and necessary medical expenses incurred for an "insured's":

1. Care;
2. Recovery; or
3. Rehabilitation.

This includes remedial care and treatment rendered in accordance with a recognized religious method of healing.

Medical expenses will be paid if incurred within 18 months from the date of the accident causing "bodily injury". However, within 18 months from the date of the accident, it can be determined with reasonable medical probability that additional expense may be incurred after this period, the 18 month time limit will not apply to the payment of the additional medical expenses.

EXCLUSIONS

- A. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury" sustained by any "insured":
 - 1. While "occupying" a:
 - a. Recreational-type vehicle designed for use off public roads; or
 - b. Motorcycle, moped or similar-type vehicle.
 - 2. While intentionally causing or attempting to cause "bodily injury" to himself or any other person.
 - 3. While committing a felony.
 - 4. Seeking to elude lawful apprehension or arrest by a law enforcement official.
 - 5. While maintaining or using a "motor vehicle" knowingly converted by that "insured". This exclusion (A.5.) does not apply to:
 - a. You; or
 - b. Any "family member".
 - 6. Who, at the time of the accident, is the owner of one or more registered "motor vehicles", none of which have in effect the financial responsibility required by the Act.
 - 7. Maintaining or using a "motor vehicle" while located for use as a residence or premises.
- B. We do not provide Pedestrian Basic First Party Benefit Coverage for "bodily injury":
 - 1. Sustained by a pedestrian if the accident occurs outside of Pennsylvania. This exclusion (B.1.) does not apply to:
 - a. You; or
 - b. Any "family member".
 - 2. Caused by or as a consequence of:
 - a. Discharge of a nuclear weapon (even if accidental);
 - b. War (declared or undeclared);
 - c. Civil war;
 - d. Insurrection; or
 - e. Rebellion or revolution.
 - 3. From or as a consequence of the following, whether controlled or uncontrolled or however caused:
 - a. Nuclear reaction;
 - b. Radiation; or
 - c. Radioactive contamination.

LIMIT OF LIABILITY

- A. The limit of liability shown in the Schedule or Declarations for Pedestrian Basic First Party Benefit Coverage is the most we will pay to or for each "insured" as the result of any one accident, regardless of the number of:
 - 1. Claims made;
 - 2. Vehicles or premiums shown in the Declarations;
 - 3. Vehicles involved in the accident; or
 - 4. Insurers providing first party benefits.
- B. Any amounts payable under this coverage shall be excess over any amounts:
 - 1. Paid;
 - 2. Payable; or
 - 3. Required to be provided to an "insured" under any workers' compensation law or similar law.

OTHER INSURANCE

If 2 or more policies providing Pedestrian Basic First Party Benefit Coverage are applicable to an "insured":

- A. The insurer against whom the claim is first made shall process and pay the claim as if wholly responsible. The insurer is then entitled to recover contribution pro rata from any other insurer for the benefits paid and the costs of processing the claim. Such contribution shall be based on the number of involved motor vehicles.
- B. If we are the insurer against whom the claim is first made, our payment to or for an "insured" will not exceed the limit of liability for Pedestrian Basic First Party Benefit Coverage shown in the Schedule or Declarations.
- C. The maximum recovery under all policies will not exceed the amount payable under the policy with the highest limit of liability.

NON-DUPLICATION OF BENEFITS

No one will be entitled to recover duplicate payments for the same elements of loss under this insurance or any automobile insurance including self-insurance.

III. PART F - GENERAL PROVISIONS

Part F is amended as follows:

The Our Right To Recover Payment provision does not apply.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COVERAGE FOR DAMAGE TO YOUR AUTO EXCLUSION ENDORSEMENT

With respect to the coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

I. Definitions

The following definition is added:

"Diminution in value" means the actual or perceived loss in market or resale value which results from a direct and accidental loss.

II. Part D – Coverage For Damage To Your Auto

The following exclusion is added:

We will not pay for:

Loss to "your covered auto" or any "non-owned auto" due to "diminution in value".

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

LIMITED TORT ALTERNATIVE INFORMATION NOTICE - PENNSYLVANIA

Each person who elects the limited tort alternative remains eligible to seek compensation for economic loss sustained in a motor vehicle accident as the consequence of the fault of another person pursuant to applicable tort law. Unless the injury sustained is a serious injury, each person who is bound by the limited tort election shall be precluded from maintaining an action for noneconomic loss, except that:

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

1. Is convicted, or accepts Accelerated Rehabilitative Disposition for driving under the influence of alcohol or a controlled substance in that accident;
2. Is operating a motor vehicle registered in another state;
3. Intends to injure himself or another person, provided that an individual does not intentionally injure himself or another person merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of causing injury if the act or omission causing the injury is for the purpose of averting bodily harm to himself or another person; or

4. Has not maintained financial responsibility as required by the Pennsylvania Motor Vehicle Financial Responsibility Law:

provided that nothing in Paragraphs 1. through 4. shall affect the limitation of a person, precluded from maintaining an action for noneconomic damages under the limited tort alternative, to recover noneconomic damages under Uninsured Motorists Coverage or Underinsured Motorists Coverage.

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

PERSONAL AUTO POLICY

AGREEMENT

In return for payment of the premium and subject to all the terms of this policy, we agree with you as follows:

DEFINITIONS

- A. Throughout this policy, "you" and "your" refer to:
 - 1. The "named insured" shown in the Declarations; and
 - 2. The spouse if a resident of the same household.
- B. "We", "us" and "our" refer to the Company providing this insurance.
- C. For purposes of this policy, a private passenger type auto shall be deemed to be owned by a person if leased:
 - 1. Under a written agreement to that person; and
 - 2. For a continuous period of at least 6 months.
- Other words and phrases are defined. They are in quotation marks when used.
- D. "Bodily injury" means bodily harm, sickness or disease, including death that results.
- E. "Business" includes trade, profession or occupation.
- F. "Family member" means a person related to you by blood, marriage or adoption who is a resident of your household. This includes a ward or foster child.
- G. "Occupying" means in, upon, getting in, on, out or off.
- H. "Property damage" means physical injury to, destruction of or loss of use of tangible property.
- I. "Trailer" means a vehicle designed to be pulled by:
 - 1. Private passenger auto; or
 - 2. Pickup or van.

It also means a farm wagon or farm implement while towed by a vehicle listed in 1. or 2. above.
- J. "Your covered auto" means:
 - 1. Any vehicle shown in the Declarations.
 - 2. Any of the following types of vehicles on the date you become the owner:
 - a. a private passenger auto; or
 - b. a pickup or van that:
 - (1) has a Gross Vehicle Weight of less than 10,000 lbs.; and
 - (2) is not used for the delivery or transportation of goods and materials unless such use is:
 - (a) incidental to your "business" of installing, maintaining or repairing furnishings or equipment; or
 - (b) for farming or ranching.

This provision (J.2.) applies only if:

- a. you acquire the vehicle during the policy period;
- b. you ask us to insure it within 30 days after you become the owner; and
- c. with respect to a pickup or van, no other insurance policy provides coverage for that vehicle.

If the vehicle you acquire replaces one shown in the Declarations, it will have the same coverage as the vehicle it replaced. You must ask us to insure a replacement vehicle within 30 days only if you wish to add or continue Coverage for Damage to Your Auto.

If the vehicle you acquire is in addition to any shown in the Declarations, it will have the broadest coverage we now provide for any vehicle shown in the Declarations.

- 3. Any "trailer" you own.
- 4. Any auto or "trailer" you do not own while used as a temporary substitute for any other vehicle described in this definition which is out of normal use because of its:
 - a. breakdown; d. loss; or
 - b. repair; e. destruction.
 - c. servicing;

This provision (J.4.) does not apply to Coverage for Damage to Your Auto.

This exclusion (5.) does not apply to the interests of Loss Payees in "your covered auto".

6. Loss to a camper body or "trailer" you own which is not shown in the Declarations. This exclusion (6.) does not apply to a camper body or "trailer" you:
 - a. acquire during the policy period; and
 - b. ask us to insure within 30 days after you become the owner.
7. Loss to any "non-owned auto" when used by you or any "family member" without a reasonable belief that you or that "family member" are entitled to do so.
8. Loss to:
 - a. awnings or cabanas; or
 - b. equipment designed to create additional living facilities.
9. Loss to equipment designed or used for the detection or location of radar or laser.
10. Loss to any custom furnishings or equipment in or upon any pickup or van. Custom furnishings or equipment include but are not limited to:
 - a. special carpeting and insulation, furniture or bars;
 - b. facilities for cooking and sleeping;
 - c. height-extending roofs; or
 - d. custom murals, paintings or other decals or graphics.
11. Loss to any "non-owned auto" being maintained or used by any person while employed or otherwise engaged in the "business" of:
 - a. selling; d. storing; or
 - b. repairing; e. parking;
 - c. servicing;
 vehicles designed for use on public highways. This includes road testing and delivery.
12. Loss to any "non-owned auto" being maintained or used by any person while employed or otherwise engaged in any "business" not described in exclusion 11. This exclusion (12.) does not apply to the maintenance or use by you or any "family member" of a "non-owned auto" which is a private passenger auto or "trailer."
13. Loss to "your covered auto" or any "non-owned auto", located inside a facility designed for racing, for the purpose of:
 - a. Competing in; or
 - b. Practicing or preparing for;
 any prearranged or organized racing or speed contest.
14. Loss to, or loss of use of, a "non-owned auto" rented by:
 - a. You; or
 - b. Any "family member";
 if a rental vehicle company is precluded from recovering such loss or loss of use, from you or that "family member", pursuant to the provisions of any applicable rental agreement or state law.

LIMIT OF LIABILITY

- A. Our limit of liability for loss will be the lesser of the:
 1. Actual cash value of the stolen or damaged property; or
 2. Amount necessary to repair or replace the property with other property of like kind and quality.

However, the most we will pay for loss to any "non-owned auto" which is a trailer is \$500.

- B. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total loss.
- C. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

PAYMENT OF LOSS

We may pay for loss in money or repair or replace the damaged or stolen property. We may, at our expense, return any stolen property to:

1. You; or
2. The address shown in this policy.

If we return stolen property we will pay for any damage resulting from the theft. We may keep all or part of the property at an agreed or appraised value.

If we pay for loss in money, our payment will include the applicable sales tax for the damaged or stolen property.

NO BENEFIT TO BAILEE

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

OTHER SOURCES OF RECOVERY

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

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

APPRAISAL

- A. If we and you do not agree on the amount of loss, either may demand an appraisal of the loss. In this event, each party will select a competent appraiser. The two appraisers will select an umpire. The appraisers will state separately the actual cash value and the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:
 1. Pay its chosen appraiser; and
 2. Bear the expenses of the appraisal and umpire equally.
- B. We do not waive any of our rights under this policy by agreeing to an appraisal.

PART E—DUTIES AFTER AN ACCIDENT OR LOSS

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

- A. We must be notified promptly of how, when and where the accident or loss happened. Notice should also include the names and addresses of any injured persons and of any witnesses.
- B. A person seeking any coverage must:
 1. Cooperate with us in the investigation, settlement or defense of any claim or suit.
 2. Promptly send us copies of any notices or legal papers received in connection with the accident or loss.
 3. Submit as often as we reasonably require:
 - a. to physical exams by physicians we select. We will pay for these exams.
 - b. to examinations under oath and subscribe the same.
 4. Authorize us to obtain:
 - a. medical reports; and
 - b. other pertinent records.

- 5. Submit a proof of loss when required by us.
- C. A person seeking Uninsured Motorist Coverage must also:
 1. Promptly notify the police if a hit-and-run driver is involved.
 2. Promptly send us copies of the legal papers if a suit is brought.
- D. A person seeking Coverage for Damage to Your Auto must also:
 1. Take reasonable steps after loss to protect "your covered auto" or any "non-owned auto" and their equipment from further loss. We will pay reasonable expenses incurred to do this.
 2. Promptly notify the police if "your covered auto" or any "non-owned auto" is stolen.
 3. Permit us to inspect and appraise the damaged property before its repair or disposal.

PART F—GENERAL PROVISIONS

BANKRUPTCY

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

CHANGES

- A. This policy contains all the agreements between you and us. Its terms may not be changed or waived except by endorsement issued by us.
- B. If there is a change to the information used to develop the policy premiums, we may adjust your premium. Changes during the policy term that may result in a premium increase or decrease include, but are not limited to, changes in:
 1. The number, type or use classifications of insured vehicles;
 2. Operators using insured vehicles;
 3. The place of principal garaging of insured vehicles;
 4. Coverage, deductible or limits.

If a change resulting from A. or B. requires a premium adjustment, we will make the premium adjustment in accordance with our manual rules.

- C. If we make a change which broadens coverage under this edition of your policy without additional premium charge, that change will automatically apply to your policy as of the date we implement the change in your state. This paragraph (C.) does not apply to changes implemented with a general program revision that includes both broadenings and restrictions in coverage, whether that general program revision is implemented through introduction of:
 1. A subsequent edition of your policy; or
 2. An Amendatory Endorsement.

FRAUD

We do not provide coverage for any "insured" who has made fraudulent statements or engaged in fraudulent conduct in connection with any accident or loss for which coverage is sought under this policy.

LEGAL ACTION AGAINST US

- A. No legal action may be brought against us until there has been full compliance with all the terms of this policy. In addition, under Part A, no legal action may be brought against us until:
 1. We agree in writing that the "insured" has an obligation to pay; or

2. The amount of that obligation has been finally determined by judgment after trial.
- B. No person or organization has any right under this policy to bring us into any action to determine the liability of an "insured."

OUR RIGHT TO RECOVER PAYMENT

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

However, our rights in this paragraph (A.) do not apply under Part D, against any person using "your covered auto" with a reasonable belief that that person is entitled to do so.
- B. If we make a payment under this policy and the person to or from whom payment is made recovers damages from another, that person shall:
 1. Hold in trust for us the proceeds of the recovery; and
 2. Reimburse us to the extent of our payment.

POLICY PERIOD AND TERRITORY

- A. This policy applies only to accidents and losses which occur:
 1. During the policy period as shown in the Declarations; and
 2. Within the policy territory.
- B. The policy territory is:
 1. The United States of America, its territories or possessions;
 2. Puerto Rico; or
 3. Canada.

This policy also applies to loss to, or accidents involving, "your covered auto" while being transported between their ports.

TERMINATION

- A. **Cancellation.** This policy may be cancelled during the policy period as follows:
 1. The named insured shown in the Declarations may cancel by:
 - a. returning this policy to us; or
 - b. giving us advance written notice of the date cancellation is to take effect.

2. We may cancel by mailing to the named insured shown in the Declarations at the address shown in this policy:
 - a. at least 10 days notice:
 - (1) if cancellation is for nonpayment of premium; or
 - (2) if notice is mailed during the first 60 days this policy is in effect and this is not a renewal or continuation policy; or
 - b. at least 20 days notice in all other cases.
3. After this policy is in effect for 60 days, or if this is a renewal or continuation policy, we will cancel only:
 - a. for nonpayment of premium; or
 - b. if your driver's license or that of:
 - (1) any driver who lives with you; or
 - (2) any driver who customarily uses "your covered auto;"

has been suspended or revoked. This must have occurred:

 - (1) during the policy period; or
 - (2) since the last anniversary of the original effective date if the policy period is other than 1 year; or
- c. if the policy was obtained through material misrepresentation.

- B. **Nonrenewal.** If we decide not to renew or continue this policy, we will mail notice to the named insured shown in the Declarations at the address shown in this policy. Notice will be mailed at least 20 days before the end of the policy period. If the policy period is:
 1. Less than 6 months, we will have the right not to renew or continue this policy every 6 months, beginning 6 months after its original effective date.
 2. 1 year or longer, we will have the right not to renew or continue this policy at each anniversary of its original effective date.

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

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

D. Other Termination Provisions.

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

TRANSFER OF YOUR INTEREST IN THIS POLICY

- A. Your rights and duties under this policy may not be assigned without our written consent. However, if a named insured shown in the Declarations dies, coverage will be provided for:
 1. The surviving spouse if resident in the same household at the time of death. Coverage applies to the spouse as if a named insured shown in the Declarations; and
 2. The legal representative of the deceased person as if a named insured shown in the Declarations. This applies only with respect to the representative's legal responsibility to maintain or use "your covered auto."
- B. Coverage will only be provided until the end of the policy period.

TWO OR MORE AUTO POLICIES

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

SPLIT LIABILITY LIMITS

PP 03 09 04 86

SCHEDULE

Bodily Injury Liability

\$ _____ each person

Property Damage Liability

\$ _____ each accident

\$ _____ each accident

The first paragraph of the Limit of Liability provision in Part A is replaced by the following:

LIMIT OF LIABILITY

The limit of liability shown in the Schedule or in the Declarations for each person for Bodily Injury Liability is our maximum limit of liability for all damages, including damages for care, loss of service or death, arising out of "bodily injury" sustained by any one person in any one auto accident. Subject to this limit for each person, the limit of liability shown in the Schedule or in the Declarations for each accident for Bodily Injury Liability is our maximum limit of liability for all damages for "bodily injury" resulting from any

one auto accident. The limit of liability shown in the Schedule or in the Declarations for each accident for Property Damage Liability is our maximum limit of liability for all "property damage" resulting from any one auto accident. This is the most we will pay regardless of the number of:

1. "Insureds";
2. Claims made;
3. Vehicles or premiums shown in the Declarations; or
4. Vehicles involved in the auto accident.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PA
CIVIL DIVISION

* * * * *

KENNETH L. LONG and *
KATHIE M. LONG, his *
wife, as parents and *
natural guardians of * Case No.
ALISON M. LONG, a * 2000-1487-CD
minor, and in their *
own right, *
Plaintiffs *
vs. *
ANDREW E. VISNOFSKY, a *
minor, and *
VICTORIA L. VISNOFSKY *
and JOHN E. VISNOFSKY, *
Defendants *

COPY

* * * * *

DEPOSITION OF

VICTORIA L. VISNOFSKY

November 14, 2001

Any reproduction of this transcript is
prohibited without authorization
by the certifying agency.



1 Q. In that time period has he
2 owned any motor vehicles to your
3 knowledge?

4 A. No.

5 Q. At the time of this motor
6 vehicle accident could you tell me
7 each and every vehicle that you owned
8 either in your name or joined with
9 someone else on the date of this
10 accident?

11 A. I got to think what it was. A
12 Renault.

13 Q. A Renault?

14 A. Yeah.

15 Q. Okay.

16 A. That's the only thing I had at
17 the time of the accident.

18 Q. Who was the Renault insured by
19 at the time of the accident?

20 A. I'm not sure.

21 Q. Do you have any idea?

22 A. I don't know if it was AIG or
23 I don't know. I'm not sure.

24 Q. Have you heard of AIG
25 Insurance before?

1 Q. Sometimes it wouldn't start or
2 take some time to start?

3 A. Yes.

4 Q. What did you do with the Mazda
5 after you bought the Renault?

6 A. Parked it my mom's.

7 Q. Why did you park it at your
8 mom's.

9 A. Because at the time I was
10 living in an apartment with my
11 boyfriend and his mom didn't want too
12 many cars there because there wasn't
13 much room where you had to park the
14 cars.

15 Q. Okay. There wasn't enough
16 space at the place that you were
17 living at?

18 A. Yeah. That's what I should
19 have said.

20 Q. Where did your mother live at
21 that time?

22 A. Up above my ex-husband.

23 Q. And you were here when your
24 son testified about where she lived
25 up the road from him?

1 A. Yes.

2 Q. And how long has your mother
3 lived at that location?

4 A. Let me think.

5 Q. Is it a number of years?

6 A. Yeah. I was going to count.

7 Q. Why did you keep the Mazda 323
8 at that time?

9 A. It was in the Ad Bargain and
10 we were going to try and sell it.

11 Q. Excuse me?

12 A. We were going to try and sell
13 it.

14 Q. When you say we, you and your
15 boyfriend?

16 A. Yeah.

17 Q. You had testified here that
18 you believe sometime in June of 2000
19 that your divorce became finalized
20 with John; correct?

21 A. '99.

22 Q. '99 you believe?

23 A. Yeah. It was either June 29
24 or 28th.

25 Q. Okay. When you say '99 you're

1 you bought the Renault; correct?

2 A. Yes.

3 Q. When you bought the Renault do
4 you recall going to an insurance
5 agency, whoever they may be, and
6 discussing putting that car on an
7 insurance policy?

8 A. Yes.

9 Q. Do you know who that would
10 have been that you went to see?

11 A. No.

12 Q. Do you know one way or the
13 other whether it was the Simler
14 Agency you went to see?

15 A. I'm not sure.

16 Q. Do you recall discussing with
17 any insurance agent taking the Mazda
18 323 off of an insurance policy?

19 A. Yes.

20 Q. Do you recall who that was
21 that you would have spoken to or what
22 agency you would have spoken to
23 regarding that?

24 A. No.

25 Q. Could you inform me what your

1 recollection is of that conversation
2 with the insurance agent in terms of
3 what you wanted to do with the Mazda
4 323?

5 A. I just asked them to take it
6 off. The insurance put the Renault
7 on.

8 Q. Do you know whether the taking
9 off the Mazda 323 was something that
10 you requested at the same time you
11 put the Renault on or was it that the
12 Renault was put on before or was it
13 always put on after or was it
14 simultaneously?

15 A. It was after.

16 Q. What was after? What came
17 first?

18 A. Sorry. I put the Renault on
19 after I dropped the insurance on the
20 Mazda.

21 Q. Was there a period of time
22 that you had no insurance on the ---
23 or you asked the insurance company to
24 cancel the policy on the Mazda and
25 then you purchased the Renault and

1 put insurance on the Renault. Was
2 there ever a period of time where you
3 had no vehicle with no insurance?

4 A. No.

5 Q. How close in time was it that
6 those two events occurred?

7 A. Probably like the same day.
8 Because I dropped it on the Mazda and
9 then put it on the Renault.

10 Q. So you think it was around the
11 same time?

12 A. Yeah.

13 Q. Do you recall what you told
14 the insurance agent about why you
15 wanted the Mazda removed from the
16 policy?

17 A. I just told him I got another
18 car.

19 Q. Did she tell them what became
20 of the Mazda, whether you were
21 selling the Mazda?

22 A. No.

23 Q. Do you recall speaking with a
24 man or a woman on that occasion?

25 A. I'm pretty sure it was a lady.

1 Q. Did you ask you any questions
2 about what you were doing with the
3 Mazda 323 at that time?

4 A. No.

5 Q. Did they ever discuss with you
6 the ramifications at all of owning a
7 vehicle that was not insured at that
8 time?

9 A. I'm not sure what you mean.

10 Q. Did anybody from --- this
11 woman from the insurance agency you
12 spoke with, did she indicate to you
13 that you might be subject to some
14 like a limited tort or some other
15 type of a ramification as a result of
16 actually maintaining ownership in the
17 vehicle but removing the insurance
18 from the vehicle? Did you ever have
19 any discussion like that?

20 A. I'm not sure.

21 Q. You don't remember any
22 discussion like that?

23 A. No.

24 Q. Now did you drive the Mazda
25 323 yourself after you had taken the

1 insurance off of the vehicle?

2 A. No.

3 Q. Okay. How did the vehicle end
4 up down at your mother's home?

5 A. I drove it up there.

6 Q. And what did you do with the
7 keys after you drove the vehicle up
8 there?

9 A. I had put them on the floor.

10 Q. Why did you put the keys on
11 the floor of the vehicle?

12 A. Because that way my mom or her
13 boyfriend could move it whenever they
14 were mowing grass.

15 Q. What was your understanding of
16 why it needed it to be moved?

17 A. Because of my mom's landlord.
18 She's really picky about the grass.

19 Q. Did you ever speak with your
20 mom's landlord about allowing that
21 vehicle to be on the grass at his
22 property?

23 A. No.

24 Q. Did you have a conversation
25 with your mother about the vehicle

1 drive in the vehicle with them; is
2 that correct?

3 A. No.

4 Q. Andrew also talked a little
5 bit about driving some of your
6 vehicles prior to the accident. Do
7 you remember his testimony?

8 A. I do.

9 Q. What vehicles did you let him
10 drive prior to the motor vehicle
11 accident?

12 A. The Renault and he had driven
13 the Omni.

14 Q. An Omni?

15 A. Yeah.

16 Q. Now the Renault is that a
17 standard transmission or a regular
18 transmission?

19 A. Regular.

20 Q. And do you know about how many
21 times he would have driven the
22 Renault prior to the motor vehicle
23 accident?

24 A. Maybe about five.

25 Q. On those occasions who was

1 with him on those occasions?

2 A. Me.

3 Q. And was there anybody else
4 with him besides you?

5 A. His sister and his brother and
6 my cousin.

7 Q. And who's your cousin?

8 A. Brenda.

9 Q. What's her last name?

10 A. Spencer.

11 Q. Now what was the purpose of
12 letting him drive on those occasions?

13 A. I guess just to see if he
14 could drive.

15 Q. Were you trying to teach him
16 how to drive or how did it come
17 about? Did he ask to drive?

18 A. I guess I was just trying to
19 teach him.

20 Q. And as far as Andrew was aware
21 you had encouraged him to learn how
22 to drive on those occasions?

23 A. Yeah, I guess.

24 Q. Now the Omni, did you own the
25 Omni prior to owning the Mazda?

1 A. Yeah. That was a long ---.

2 Q. What?

3 A. The Omni was a while ago.

4 Q. About how many times would he
5 have driven the Omni?

6 A. Maybe three, four times.

7 Q. Okay. Was it again with other
8 people in the vehicle?

9 A. Yes.

10 Q. Now during the time that you
11 owned the Mazda it appears that there
12 was a least a few month period that
13 you owned a Mazda, but you owned no
14 other vehicles; is that correct?

15 A. Yes.

16 Q. Did he drive in the Mazda at
17 all during that period of time?

18 A. No.

19 Q. Are you sure that he never
20 drove the Mazda during that period of
21 time?

22 A. Not to my knowledge.

23 Q. Not with you in your presence?

24 A. No.

25 Q. Is there any reason why or

1 could you explain to me why he would
2 have driven in the Omni several
3 occasions prior to owning the Mazda
4 and then in the Renault on at least
5 five occasions after you own the
6 Mazda, but you never actually drove
7 the Mazda? Is there a reason why he
8 didn't?

9 A. No. I don't really know.

10 Q. Do you know if the Omni was a
11 standard transmission?

12 A. Yes, it was.

13 Q. Was he able to operate the
14 standard transmission? Was it your
15 belief that he was able to?

16 A. A little bit.

17 Q. Prior to the motor vehicle
18 accident did he ever ask you to use
19 any vehicle on his own?

20 A. No.

21 Q. Did you ever catch him trying
22 to use a vehicle on his own when he
23 had asked you to and stopped him from
24 doing that?

25 A. No.

1 Q. And you had indicated that you
2 were always in the front passenger
3 seat when he was driving; correct?
4 Is that a yes.

5 A. I'm sorry, yes.

6 Q. And you were not aware prior
7 to the day of the accident that he
8 had ever driven any of your vehicles
9 by himself?

10 A. Not without me being in them.

11 Q. Okay. And did you ever give
12 him permission to drive any vehicles
13 by himself?

14 A. No.

15 Q. Did he ever ask you for
16 permission to do so?

17 A. No.

18 Q. This Mazda was not kept at
19 your residence at the time of this
20 accident, but at your mother's;
21 correct?

22 A. Yes.

23 Q. When in relation to the
24 purchase of the Renault did you start
25 parking the Mazda over at your

1 from the Allstate Insurance?

2 A. Yes.

3 Q. And then you put the Mazda on
4 the Allstate Insurance?

5 A. Yes.

6 Q. Do you believe that Allstate
7 was the last insurance company to
8 insure the Mazda prior to this
9 accident?

10 A. I think.

11 Q. When you got the Renault you
12 dropped the Mazda from the Allstate
13 policy; correct?

14 A. Yes.

15 Q. I'm going to show you a couple
16 of documents. I don't think I have
17 copies. We might have copies for
18 everyone. The document I had just
19 passed down to you that you and
20 counsel are reviewing simultaneously
21 it says up at the top, it says page
22 one of three AIG Specialty Auto
23 Pennsylvania Personal Auto
24 Application. Would you just take a
25 moment and just look through these

1 you purchased the Renault?

2 A. Yeah.

3 Q. In looking at the first page
4 of this document there is an
5 indication in the close to the top
6 right-hand corner that this was ---
7 this application was taken by the
8 Simler Insurance Agency. Does that
9 refresh your recollection as to whom
10 you might have purchased insurance
11 from for the Renault?

12 A. Yes.

13 Q. And the only vehicle listed on
14 here is the Renault and I have a
15 question for you. Do you recall ever
16 trying to list the Mazda with AIG
17 Specialty Auto or the New Hampshire
18 Indemnity Company? Do you have any
19 recollection of trying to do that?

20 A. No.

21 Q. This might just help us with
22 some of the time frames that we're
23 discussing for the ownership of some
24 of your vehicles anyhow. Before we
25 go to that, would you then pass that

1 identification.)

2 A . Yes .

3 BY ATTORNEY BRYAN:

4 Q. And on the second page and it
5 indicates a change from the 1988
6 Chrysler to a 1986 Ford Bronco. Did
7 you sell the Chrysler at or about the
8 time you purchased the Bronco?

9 A. Yes.

10 Q. You were asked if you had told
11 the police that your son had stolen
12 the vehicle. And you indicated you
13 couldn't remember one way or another
14 in that regard. Did you make it
15 known to the police though that he
16 had taken the vehicle without your
17 permission?

18 A. Yes.

19 Q. And you're aware that your son
20 pleaded guilty as he testified to
21 here today to unauthorized use of
22 that Mazda?

23 A Yes

24 Q. You continue to have joint
25 custody of Andy; correct?

1 A. Yes.

2 Q. Was it your belief as of the
3 time of this accident that the Mazda
4 was insured?

5 A. No.

6 Q. Okay. So it was your
7 understanding in the days leading up
8 to the accident and at the time of
9 the accident itself that the vehicle
10 was uninsured?

11 A. Yes.

12 Q. And you had no intention at
13 that time of driving it on the
14 roadway; correct?

15 A. No.

16 Q. And what you were intending to
17 do was simply to sell it; correct?

18 A. Yes.

19 Q. Correct me if I'm wrong, but
20 you dropped the insurance on it
21 because you didn't want to pay for
22 insurance on the vehicle you weren't
23 going to use?

24 A. Right.

25 ATTORNEY BRYAN:

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PA
CIVIL DIVISION

* * * * *

KENNETH L. LONG and *
KATHIE M. LONG, his *
wife, as parents and *
natural guardians of * Case No.
ALISON M. LONG, a * 2000-1487-CD
minor, and in their *
own right, *
Plaintiffs *
vs. * **COPY**
ANDREW E. VISNOFSKY, a *
minor, and *
VICTORIA L. VISNOFSKY *
and JOHN E. VISNOFSKY, *
Defendants *

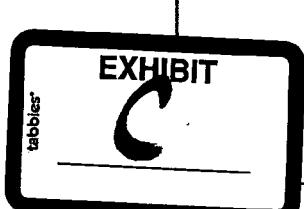
* * * * *

DEPOSITION OF

ANDREW E. VISNOFSKY

November 14, 2001

Any reproduction of this transcript is
prohibited without authorization
by the certifying agency.



1 Q. Did you have a jury trial or
2 did you plead guilty to serve the
3 sentence?

4 A. I plead guilty.

5 Q. Do you know what offenses you
6 plead guilty to?

7 A. All of them except for the
8 three counts of aggravated assault.

9 Q. So you pled guilty to homicide
10 by motor vehicle?

11 A. Yes.

12 Q. Unauthorized use of a motor
13 vehicle?

14 A. Yes.

15 Q. And various motor vehicle code
16 violations?

17 A. Yes.

18 Q. And in exchange they dropped
19 the aggravated assault charges?

20 A. Yes.

21 Q. Were you ever required to
22 testify under oath at any proceeding
23 involving your criminal matter?

24 A. No.

25 Q. Do you recall what Judge

1 I have nothing further.

2 EXAMINATION

3 BY ATTORNEY BRYAN:

4 Q. Andrew, my name is John Bryan.
5 You mentioned earlier that your mom
6 is sometimes with you and you would
7 drive short distances you, yourself;
8 correct?

9 A. Yes.

10 Q. Do you know if your mom was
11 aware that you drove her vehicles
12 without her being in the car?

13 A. What do you mean by that?

14 Q. Well, in other words, you
15 drove in your mother's vehicle
16 sometimes with your mother in the
17 car, right?

18 A. All times except for the day
19 of the accident and the day before.

20 Q. Okay. Other than that you had
21 never driven your mother's vehicles
22 by yourself?

23 A. No.

24 Q. Did you tell your mother that
25 you were going to take the 1990 Mazda

1 to the dump the day before the
2 accident?

3 A. No.

4 Q. After you took it to the dump
5 on the day before the accident and
6 returned safely, did you talk to your
7 mom and tell her that you had taken
8 the vehicle that day?

9 A. No.

10 Q. Did you tell her that you were
11 going to take the vehicle on the day
12 of the accident?

13 A. No.

14 Q. Was it your understanding that
15 you had permission from your mother
16 to drive that vehicle as you chose?

17 ATTORNEY KOEHLER:

18 I'm going to object to
19 the form of question. You're
20 asking him whether he --- I
21 think the form of the question
22 is confusing in terms of what
23 you're trying to ask him.

24 ATTORNEY BRYAN:

25 Do you want me to try

1 to rephrase it?

2 ATTORNEY KOEHLER:

3 I don't know if you're
4 asking whether he asked his
5 mother for permission or she
6 denied permission or whether
7 reasonably believed that he
8 could use the vehicle. You
9 know there's a bunch of ways
10 to answer that same question
11 unless if you break it down.

12 ATTORNEY BRYAN:

13 Let me try asking it
14 again and we'll see what
15 happens.

16 BY ATTORNEY BRYAN:

17 Q. Was it your belief on the day
18 that you --- on the day of the
19 accident that you had permission to
20 use the vehicle?

21 A. No.

22 Q. Okay. And had you ever
23 requested permission from your mother
24 to use the vehicle?

25 A. No.

1 Q. Had she ever come out and said
2 to you that you were allowed to use
3 the vehicle?

4 A. No.

5 Q. Are you still involved in a
6 joint custody arrangement between
7 your dad and mom?

8 A. Yes.

9 Q. On the day that you took the
10 --- the day before the accident when
11 you took the Mazda to the dump and
12 returned safely, did you have any
13 discussions with your father that you
14 had used the vehicle?

15 A. No.

16 Q. Did you tell him beforehand
17 that you were going to use the
18 vehicle?

19 A. No.

20 Q. How about the day of the
21 accident? Did you tell him
22 beforehand that you were going to use
23 the vehicle?

24 A. No.

25 ATTORNEY BRYAN:

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within MOTION FOR
SUMMARY JUDGMENT was forwarded to counsel below named by U. S. Mail on the 10
day of July, 2003.

Mark Bennett, Esquire
BERGER & GREEN
Suite 200
5850 Ellsworth Avenue
Pittsburgh, PA 15232

Michael J. Koehler, Esquire
NICHOLAS, PEROT, STRAUSS &
KOEHLER
2527 West 26th Street
Erie, PA 16506

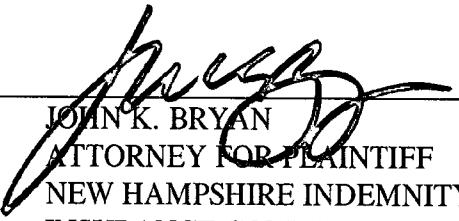
Dennis J. Stofko, Esquire
969 Eisenhower Boulevard
P. O. Box 550
Johnstown, PA 15904

Daniel McGee, Esquire
DELAFIELD, McGEE, JONES &
KAUFFMAN
300 South Allen Street
State College, PA 16801-4841

Louis C. Schmitt, Jr., Esquire
PFAFF, McINTYRE, DUGAS, HARTYE &
SCHMITT
P. O. Box 533
Hollidaysburg, PA 16648-0533

Respectfully submitted,

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY

BY 

JOHN K. BRYAN
ATTORNEY FOR PLAINTIFF
NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY

FILED
M 19:15 AM
JUL 14 2003
CC
RJD

William A. Shaw
Secretary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY : CIVIL ACTION - LAW
INSURANCE COMPANY, :
Plaintiffs : No. 01-657-CD
v. :
ANDREW E. VISNOFSKY, a minor, by :
and through his parents and natural :
guardian VICTORIA L. VISNOFSKY :
and VICTORIA L. VISNOFSKY, in her :
own right; JOHN E. VISNOFSKY, :
KENNETH J. LONG and KATHIE M. :
LONG, his wife, as parents :
and natural guardians of ALISON M. :
LONG, a minor, and in their own right; :
SHERI HARASYMIW and :
CHRISTOPHER SMITH, as legal :
guardians of JUSTIN D. VICKERS, a :
minor, SHERI HARASYMIW and :
CHRISTOPHER SMITH in their own :
right; and the Estate of JAMES A. :
BLAYLOCK, deceased, by the :
representative of his Estate, PRISCILLA :
KEPHART, :
Defendants :
: Filed on Behalf of Defendants:
: Kenneth J. Long and Kathie M. Long,
: his wife, as parents and natural guardians
: of Alison M. Long, a minor, and in their
: own right
: Counsel of Record for this party:
: Michael J. Koehler, Esquire
: Pa. I. D. #56195
: Nicholas, Perot, Strauss & Koehler, P. C.
: 2527 West 26th Street
: Erie, PA 16506
: (814) 833-8851

FILED

JUN 25 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY	:	CIVIL ACTION - LAW
INSURANCE COMPANY,	:	
	:	No. 01-657-CD
Plaintiffs	:	
	:	
v.	:	
ANDREW E. VISNOFSKY, a minor, by	:	
and through his parents and natural	:	
guardian VICTORIA L. VISNOFSKY	:	
and VICTORIA L. VISNOFSKY, in her	:	
own right; JOHN E. VISNOFSKY,	:	
KENNETH J. LONG and KATHIE M.	:	
LONG, his wife, as parents	:	
and natural guardians of ALISON M.	:	
LONG, a minor, and in their own right;	:	
SHERI HARASYMIW and	:	
CHRISTOPHER SMITH, as legal	:	
guardians of JUSTIN D. VICKERS, a	:	
minor, SHERI HARASYMIW and	:	
CHRISTOPHER SMITH in their own	:	
right; and the Estate of JAMES A.	:	
BLAYLOCK, deceased, by the	:	
representative of his Estate, PRISCILLA	:	
KEPHART,	:	
	:	
Defendants	:	

ANSWERS TO COMPLAINT FOR DECLARATORY JUDGMENT

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Defendants Kenneth J. Long and Kathie M. Long, his wife, as parents and natural

guardians of Alison M. Long, a minor, and in their own right, are without sufficient knowledge or information to form a belief as to the truth of the averments. As such the same is denied and strict proof is demanded at time of trial.

7. Defendants Kenneth J. Long and Kathie M. Long, his wife, as parents and natural guardians of Alison M. Long, a minor, and in their own right, are without sufficient knowledge or information to form a belief as to the truth of the averments. As such the same is denied and strict proof is demanded at time of trial.

8. Defendants Kenneth J. Long and Kathie M. Long, his wife, as parents and natural guardians of Alison M. Long, a minor, and in their own right, are without sufficient knowledge or information to form a belief as to the truth of the averments. As such the same is denied and strict proof is demanded at time of trial.

9. Admitted.

10. The averments in Paragraph 10 a-c and e-g are specifically denied and strict proof of same is demanded at time of trial. The averments in Paragraph 10 (d) is admitted.

11. Defendants Kenneth J. Long and Kathie M. Long, his wife, as parents and natural guardians of Alison M. Long, a minor, and in their own right, are without sufficient knowledge or information to form a belief as to the truth of the averments. As such the same is denied and strict proof is demanded at time of trial.

12. Defendants Kenneth J. Long and Kathie M. Long, his wife, as parents and natural guardians of Alison M. Long, a minor, and in their own right, are without sufficient knowledge or information to form a belief as to the truth of the averments. As such the same is denied and strict proof is demanded at time of trial.

13. Defendants Kenneth J. Long and Kathie M. Long, his wife, as parents and natural

guardians of Alison M. Long, a minor, and in their own right, are without sufficient knowledge or information to form a belief as to the truth of the averments. As such the same is denied and strict proof is demanded at time of trial.

14. Admitted.

15. Defendants Kenneth J. Long and Kathie M. Long, his wife, as parents and natural guardians of Alison M. Long, a minor, and in their own right, are without sufficient knowledge or information to form a belief as to the truth of the averments. As such the same is denied and strict proof is demanded at time of trial.

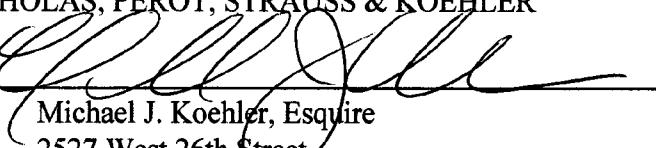
16. Allegations set forth in paragraph 16 of Plaintiff's Complaint are conclusions of law as to which no response is necessary. In a response necessary it is denied that Andrew E. Visnofsky and Victoria L. Visnofsky are not entitled to coverage under the aforementioned policy of insurance or that Andrew E. Visnofsky operated a motor vehicle without reasonable belief that he was entitled to do so or that said vehicle was owned by the named insured, Victoria L. Visnofsky, but was not a "covered auto" under the policy.

WHEREFORE, Kenneth J. Long and Kathie M. Long, his wife, as parents and natural guardians of Alison M. Long, a minor, and in their own right, respectfully request this Court enter a Declaration that New Hampshire Indemnity Insurance Company has a duty to defend and indemnify Andrew E. Visnofsky and Victoria L. Visnofsky in this civil action or any other civil actions to be filed as the result of the motor vehicle accident of July 9, 2000.

Respectfully submitted,

NICHOLAS, PEROT, STRAUSS & KOEHLER

BY

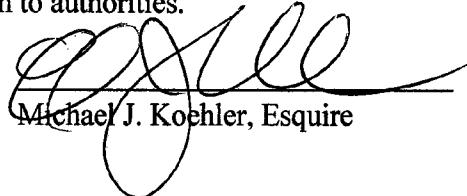

Michael J. Koehler, Esquire
2527 West 26th Street
Erie, PA 16506
(814) 833-8851

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY	:	CIVIL ACTION - LAW
INSURANCE COMPANY,	:	
	:	No. 01-657-CD
Plaintiffs	:	
	:	
v.	:	
	:	
ANDREW E. VISNOFSKY, a minor, by	:	
and through his parents and natural	:	
guardian VICTORIA L. VISNOFSKY	:	
and VICTORIA L. VISNOFSKY, in her	:	
own right; JOHN E. VISNOFSKY,	:	
KENNETH J. LONG and KATHIE M.	:	
LONG, his wife, as parents	:	
and natural guardians of ALISON M.	:	
LONG, a minor, and in their own right;	:	
SHERI HARASYMIW and	:	
CHRISTOPHER SMITH, as legal	:	
guardians of JUSTIN D. VICKERS, a	:	
minor, SHERI HARASYMIW and	:	
CHRISTOPHER SMITH in their own	:	
right; and the Estate of JAMES A.	:	
BLAYLOCK, deceased, by the	:	
representative of his Estate, PRISCILLA	:	
KEPHART,	:	
	:	
Defendants	:	

VERIFICATION

On this 22 day of June 2001, Michael J. Koehler, Esquire, the undersigned, hereby states that he is the attorney for the Plaintiff, Kenneth J. Long and Kathie M. Long, his wife, as parents and natural guardians of Alison M. Long, a minor, and in their own right, that he is authorized to make this verification on behalf of the plaintiff, that the facts set forth in the foregoing Answer to Complaint for Declaratory Judgment are true and correct, not of his own knowledge, but from information supplied to him by the Plaintiff, that the purpose of this verification is to expedite the litigation, that a verification of the Plaintiff will be supplied if demanded, all subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.



Michael J. Koehler, Esquire

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY : CIVIL ACTION - LAW
INSURANCE COMPANY, : No. 01-657-CD
Plaintiffs :
v. :
ANDREW E. VISNOFSKY, a minor, by : Filed on Behalf of Defendants:
and through his parents and natural : Kenneth J. Long and Kathie M. Long,
guardian VICTORIA L. VISNOFSKY : his wife, as parents and natural guardians
and VICTORIA L. VISNOFSKY, in her : of Alison M. Long, a minor, and in their
own right; JOHN E. VISNOFSKY, : own right
KENNETH J. LONG and KATHIE M. :
LONG, his wife, as parents :
and natural guardians of ALISON M. : Counsel of Record for this party:
LONG, a minor, and in their own right; : Michael J. Koehler, Esquire
SHERI HARASYMIW and : Pa. I. D. #56195
CHRISTOPHER SMITH, as legal :
guardians of JUSTIN D. VICKERS, a :
minor, SHERI HARASYMIW and :
CHRISTOPHER SMITH in their own :
right; and the Estate of JAMES A. :
BLAYLOCK, deceased, by the :
representative of his Estate, PRISCILLA :
KEPHART, :
Defendants :
:

CERTIFICATE OF SERVICE

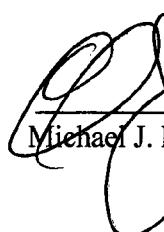
I hereby certify that on the 22 day of June, 2001 the foregoing Answer to Complaint for
Declaratory Judgment was served upon the following individuals in accordance with all applicable rules
of court:

Jeffrey A. Ramaley, Esquire
Zimmer Kunz
3300 USX Tower
Pittsburgh, PA 15219

Louis C. Schmitt, Jr., Esquire
Pfaff, McIntyre, Dugas, Hartye & Schmitt
P. O. Box 533
Hollidaysburg, PA 16648-0533

John K. Bryan, Esquire
Zimmer Kunz
3300 USX Tower
Pittsburgh, PA 15219

Mark Bennett, Esquire
Berger & Green
Suite 200
5850 Ellsworth Avenue
Pittsburgh, PA 15232



Michael J. Kochler, Esquire

FILED

JUN 25 2001

MHO:cc
William A. Shaw
Prothonotary
cc

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY,

Plaintiff,

vs.

ANDREW E. VISNOFSKY, a minor, by
and through his parent and
VICTORIA L. VISNOFSKY and
VICTORIA L. VISNOFSKY, in her
own right; JOHN E. VISNOFSKY,
KENNETH J. LONG and KATHIE M.
LONG, his wife, as parents and
natural guardians of ALISON M.
LONG, a minor, and in their own
right; SHERI HARASYMIW and
and CHRISTOPHER SMITH, as legal
guardians of JUSTIN D. VICKERS,
a minor, SHERI HARASYMIW and
CHRISTOPHER SMITH in their own
right; and the ESTATE OF JAMES
A. BLAYLOCK, deceased by the
representative of his Estate,
PRISCILLA KEPHART,

Defendants.

CIVIL DIVISION

No.: 01-657-CD

ANSWER AND NEW
MATTER TO COMPLAINT
FOR DECLARATORY JUDGMENT

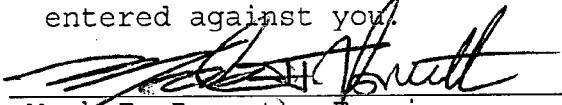
Filed on Behalf of
Defendant:
Estate of James A.
Blaylock, deceased

Counsel of Record for this
Party:

Mark F. Bennett, Esquire
PA I.D. #56644
BERGER AND GREEN
5850 Ellsworth Avenue
Suite 200
Pittsburgh, PA 15232
(412) 661-1400

To: Jeffrey A. Ramaley, Esquire

You are hereby notified to file a written
response to the enclosed Answer and New
Matter to Complaint for Declaratory
Judgment within twenty (20) days from
service hereof or a judgment may be
entered against you.



Mark F. Bennett, Esquire
Attorney for the Estate of James
A. Blaylock, deceased.

FILED

JUN 25 2001

31114a Inc

William A. Shaw

Prothonotary



ANSWER AND NEW MATTER TO COMPLAINT FOR DECLARATORY JUDGMENT

The Defendant, the Estate of James A. Blaylock, deceased, by the Personal Representative of his Estate Priscilla Kephart files the following Answer to the Complaint for Declaratory Judgment and states as follows:

1. The averments of paragraph one are denied since after reasonable investigation this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments and strict proof of the same is demanded at the time of trial.

2. The averments of paragraph two are denied since after reasonable investigation this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments and strict proof of the same is demanded at the time of trial.

3. The averments of paragraph three are denied since after reasonable investigation this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments and strict proof of the same is demanded at the time of trial.

4. The averments of paragraph four are denied since after reasonable investigation this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments and strict proof of the same is demanded at the time of trial.

5. The averments of paragraph five are denied since after reasonable investigation this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments and strict proof of the same is demanded at the time of trial.

6. The averments of paragraph six are denied since after reasonable investigation this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments and strict proof of the same is demanded at the time of trial.

7. The averments of paragraph seven are admitted.

8. The averments of paragraph eight are denied since after reasonable investigation this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments and strict proof of the same is demanded at the time of trial. It is admitted that what is purported to be a copy of the policy and the relevant portions of said policy are attached to the Complaint and marked as Exhibit "A."

9. The averments of paragraph nine are admitted.

10. The averments of paragraph ten are denied. It is specifically denied that the Defendant, Andrew E. Visnofsky was using the vehicle without a reasonable belief that he was entitled to do so and the following reasons are denied:

- (a) It is specifically denied that the Defendant, Victoria L. Visnofsky, did not give Defendant, Andrew E. Visnofsky permission to operate the vehicle;
- (b) It is specifically denied that the Defendant, Victoria L.

Visnofsky, did not engage in any course of conduct from which the Defendant, Andrew E. Visnofsky, could reasonably infer that he had permission to operate the vehicle;

- (c) It is specifically denied that the Defendant, Andrew E. Visnofsky, knew or should have known that he did not have Defendant, Victoria L. Visnofsky's permission to operate the vehicle;
- (d) It is specifically denied that the Defendant, Andrew E. Visnofsky, was under the legal age to operate a vehicle and did not have a license to operate a motor vehicle;
- (e) It is specifically denied that the vehicle did not have a registration plate;
- (f) It is specifically denied that the vehicle was not currently registered; and
- (g) It is specifically denied that because of the mechanical condition of the car, it was not to be driven.

11. The averments of paragraph eleven are denied since after reasonable investigation this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments and strict proof of the same is demanded at the time of trial.

12. The averments of paragraph twelve are denied since after reasonable investigation this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments and strict proof of the same is demanded at the time of trial.

13. The averments of paragraph thirteen are denied since after reasonable investigation this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments and strict proof of the same is demanded at the time of

trial.

14. The averments of paragraph fourteen are denied since after reasonable investigation this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments and strict proof of the same is demanded at the time of trial. It is admitted that what is purported to be a copy of said Complaint is attached to the Complaint and marked as Exhibit "B."

15. The averments of paragraph fifteen are denied since after reasonable investigation this Defendant is without sufficient information or knowledge to form a belief as to the truth of the averments and strict proof of the same is demanded at the time of trial.

16. The averments of paragraph sixteen are conclusions of law to which no response is deemed necessary. To the extent that a response is deemed necessary, it is specifically denied that Andrew E. Visnofsky and Victoria L. Visnofsky are not entitled to coverage under the aforementioned policy of insurance. Additionally, it is specifically denied that Andrew E. Visnofsky operated the motor vehicle without a reasonable belief that he was entitled to do so and that said vehicle owned by the named insured, Victoria L. Visnofsky, was not a "covered auto" under the policy.

§ NEW MATTER

By way of further response to the Plaintiff's Complaint, the Defendant, the Estate of James A. Blaylock, deceased, by the Personal Representative of his Estate Priscilla Kephart, sets forth the following New Matter:

17. The Defendant, the Estate of James A. Blaylock, deceased, by the Personal Representative of his Estate Priscilla Kephart, hereby incorporates Paragraph one through sixteen of its Answer the same as if set forth at length herein.

18. The Defendant, Andrew Visnofsky was using the vehicle with the reasonable belief that he was entitled to do so for the following reasons:

- (a) The Defendant, Andrew Visnofsky had operated the vehicle before;
- (b) The Defendant, Victoria Visnofsky was aware that her son had operated the vehicle before the motor vehicle accident of July 9, 2000;
- (c) The Defendant, Victoria Visnofsky had given her son permission to operate the vehicle;
- (d) The Defendant, Andrew Visnofsky knew that he had permission to operate the vehicle;
- (e) The Defendant, Victoria Visnofsky had in fact given the keys to the vehicle to her son;
- (f) The Defendant, Andrew Visnofsky had previously shown the keys to the vehicle to people and told them that his mother had given him the vehicle to use;
- (g) The Defendant, Victoria Visnofsky admitted that she left the keys to the vehicle on the floor of the vehicle where they were accessible to her son;

- (h) The Defendant, Andrew Visnofsky had express permission to operate the vehicle; and
- (i) In the alternative, the Defendant, Andrew Visnofsky had implied permission to operate the vehicle.

19. The 1990 Mazda was a "covered auto" under the policy of insurance sold by the Plaintiff to the Defendant, Victoria Visnofsky.

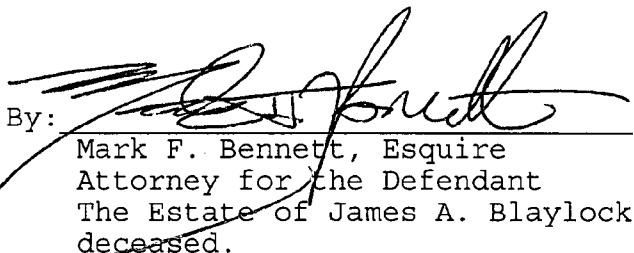
WHEREFORE, The Defendant, the Estate of James A. Blaylock, deceased, by the Personal Representative of his Estate Priscilla Kephart requests that this Court enter a declaration that the Plaintiff, New Hampshire Indemnity Insurance Company, has a duty to defend and indemnify Andrew E. Visnofsky and Victoria L. Visnofsky in any Civil Action to be filed as a result of the motor vehicle accident of July 9, 2000.

JURY TRIAL DEMANDED

Respectfully submitted,

BERGER AND GREEN

By:


Mark F. Bennett, Esquire
Attorney for the Defendant
The Estate of James A. Blaylock,
deceased.

V E R I F I C A T I O N

I, Priscilla Kephart, Administratrix of the Estate of James Blaylock, deceased, do hereby verify that the statements made herein are true and correct to the best of my knowledge, information and belief and that these statements are made subject to the penalties of 18 Pa. C.S.A., Section 4904 relating to unsworn falsification to authorities.

Priscilla Kephart
Priscilla Kephart, Administratrix
of the Estate of James Blaylock,
deceased.

DATE: ✓ 6-20-01

CERTIFICATE OF SERVICE

I, Mark F. Bennett, Esquire, hereby certify that a true and correct copy of the within Answer and New Matter to Complaint for Declaratory Judgment was served upon the following counsel of record by regular first class mail this 22th day of June, 2001.

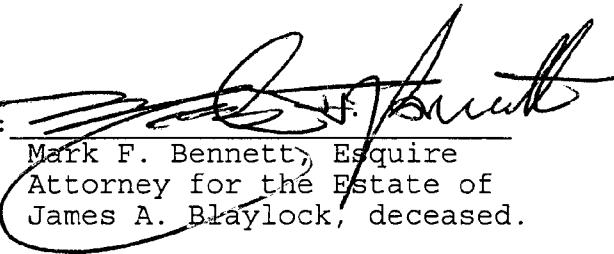
Jeffrey A. Ramaley, Esquire
Zimmer Kunz
3300 USX Tower
Pittsburgh, PA 15219

Michael J. Koehler, Esquire
Nicholas, Perot, Strauss & Koehler
2527 West 26th Street
Erie, PA 16506

Louis C. Schmitt, Jr., Esquire
Pfaff, McIntyre, Dugas, Hartye & Schmitt
P. O. Box 533
Hollidaysburg, PA 16648-0533

Respectfully submitted

BERGER AND GREEN

By: 

Mark F. Bennett, Esquire
Attorney for the Estate of
James A. Blaylock, deceased.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

NEW HAMPSHIRE INDEMNITY :
INSURANCE COMPANY :
: :
-vs- : No. 01 - 657 - CD
: :
ANDREW E. VISNOFSKY, a minor, by :
and through his parent and natural :
guardian, VICTORIA L. VISNOFSKY and :
VICTORIA L. VISNOFSKY, in her own :
right; JOHN E. VISNOFSKY, KENNETH J.:
LONG and KATHY M. LONG, his wife, as :
parents and natural guardians of ALISON M.:
LONG, a minor, and in their own right; :
SHERI HARASYMIW and CHRISTOPHER: :
SMITH, as legal guardians of JUSTIN D. :
VICKERS, a minor, SHERI HARASYMIW :
and CHRISTOPHER SMITH, in their own :
right; and the Estate of JAMES A. :
BLAYLOCK, deceased, by the :
representative of his Estate, PRISCILLA :
KEPHART :
:

FILED

OCT 08 2003

William A. Shaw
Prothonotary

OPINION AND ORDER

On July 9, 2000, Victoria Visnofsky was the owner of a 1990 Mazda automobile that had no Pennsylvania registration nor did it have a license plate. On that date, Andrew Visnofsky, Victoria's 14 year old son, took the vehicle from its parking place at Victoria's mother's house, and along with three friends proceeded to drive it on a highway. Unfortunately, a tragic accident occurred resulting in severe injuries to two of the three passengers and caused the death of the third. The New Hampshire Indemnity Insurance Company has filed this action for Declaratory Judgment seeking to have this Court declare that it has no obligation under Victoria Visnofsky's automobile insurance policy to provide a defense for Andrew or to be held liable for any of the claims of the three occupants.

From the record it is clear that the Mazda was not shown on the declaratory page of the policy issued to Victoria Visnofsky nor was it a substitute automobile for one previously owned by her. It is further clear that the declaratory page does not list Andrew Visnofsky as a named insured. According to Victoria's deposition, she did not drive the Mazda again after dropping the insurance coverage for it. On this basis Plaintiff seeks a Declaratory Judgment in its favor.

Defendants herein argue, however, that Andrew Visnofsky falls within the definition of a "family member" and that as such is entitled to a defense provided by Plaintiff. Defendants argue that Andrew resided at his mother's home on the date of the accident. Defendants rely on the following provision of the subject insurance policy:

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

1. Any vehicle which:
 - a. Has fewer than four wheels; or
 - b. Is designed mainly for use off public roads.

This exclusion (B.1.) does not apply;

 - a. While such vehicle is being used by an "insured" in a medical emergency; or
 - b. To any "trailer."
2. Any vehicle, other than "your covered auto" which is
 - a. Owned by you; or
 - b. Furnished or available for your regular use.
3. Any vehicle other than "your covered auto" which is:
 - a. Owned by any "family member" or
 - b. Furnished or available for the regular use of any "family member."

However, this exclusion (B.3.) does not apply to you while you are maintaining or "occupying" any vehicle which is:

- a. Owned by a "family member"; or
- b. Furnished or available for the regular use of a "family member."

Said Defendants argue that under the above policy provisions, specifically section B.3.a. coverage is excluded for any vehicle that is not a covered automobile if a "family member" owns it. However, argue the Defendants, this exclusion does not apply or does not exclude coverage under the following paragraph while "you" are maintaining or occupying a vehicle owned by a "family member."

They argue that Andrew is a member of the class defined by the word "you" above and therefore, was maintaining or occupying a vehicle owned by a "family member," specifically his mother, and therefore, Plaintiff should be responsible to provide insurance benefits.

However, as Plaintiff points out in its Supplemental Brief, that portion of the policy quoted above reasonably and logically applies only to the named insured and her spouse, if residents of the same household. To include Andrew as a member of the class defined by the word "you" is clearly not the intention of the policy and therefore, this court cannot hold that either the 1990 Mazda or Andrew Visnofsky were included in the provisions of the subject insurance policy.

Defendants further argue that the subject portions of the policy provided by Plaintiff to Ms. Visnofsky are vague, ambiguous, and subject to more than one construction and therefore should be interpreted most favorably to the insured. This Court does not read the subject policy as being of that nature and therefore, will not consider Defendants' argument here.

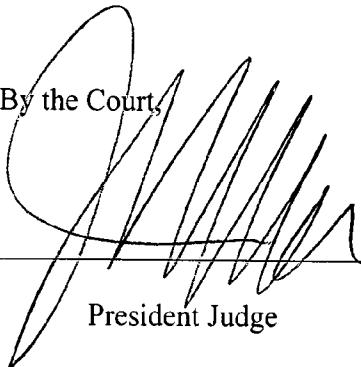
Plaintiff also suggests as a basis for its Motion for Summary Judgment that Andrew Visnofsky was operating the vehicle at the time of the accident without a reasonable belief that he was entitled to do so. While this Court believes that no other reasonable

conclusion can be reached based on the depositions of the parties, it will not discuss this issue further in light of the foregoing Opinion.

WHEREFORE, the Court enters the following:

ORDER

NOW, this 6th day of October, 2003, upon consideration of Plaintiff's Motion for Summary Judgment and argument and briefs thereon, it is the ORDER of this Court that said Motion be and is hereby granted and judgment entered in favor of the Plaintiff and against the Defendants.

By the Court,

President Judge

FILED

1.41 84
cc to attached list
OCT 08 2003

William A. Shaw
Prothonotary

No. 01-657-CD

NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY

vs.

ANDREW E. VISNOFSKY, a minor, by and
through his parent and natural guardian,

VICTORIA L. VISNOFSKY and VICTORIA
L. VISNOFSKY, in her own right:

JOHN L. VISKNFSKY,

KENNETH J. LONG and KATHIE M. LONG,
his wife, as parents and natural guardians of
ALISON M. LONG, a minor, and in their own right:

SHERI HARASYMIW and CHRISTOPHER SMITH,
as legal guardians of JUSTIN D. VICKERS, a minor,
SHERI HARASYMIW and CHRISTOPHER SMITH,
in their own right;
and the Estate of JAMES A BLAYLOCK, deceased,
by the representative of his Estate,
PRISCILLA KEPHART

✓ **JOHN K. BRYAN, ESQ.**, Zimmer
Kunz, 3300 USA Tower, PGH
15219 412-281-8000

✓ **DANIEL MCGEE, ESQ.**, Delafield,
McGee, Jones & Kauffman, 300 S.
Allen St., St. College 16801
237-6278

✓ **LOUIS C. SCHMITT, JR., ESQ.**,
McIntyre, Dugas, Hartye & Schmitt
PO Box 533, Hollidaysburg 16648-
0533 696-3581

✓ **DENNIS J. STOKO, ESQ.**, PO
Box 5500, Johnstown 15904
262-0064

✓ **MICHAEL J. KOEHLER, ESQ.**
Nicholas, Perot, Strauss & Keohler,
2527 W. 26th St., Erie 16506
833-8851

✓ **Pro Se**, 24 Dunham Ave., Claymont,
Delaware 19103

✓ **MARK F. BENNETT, ESQ.**, Berger
and Green, P.C. Ste. 200, 5850
Ellsworth Ave., PGH 15232
412-661-1400

Don Mikesell

WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830

FILED

10/12/03
OCT 15 2003

William A. Shaw
Prothonotary/Clerk of Courts

Re-mailed to Sheri Harasymiw and
Christopher Smith, same address

Incorrectly titled

PRO SE
24 Dunham Ave
Cl: A INSUFFICIENT ADDRESS
C ATTEMPTED NOT KNOWN OTHER
S NO SUCH NUMBER/STREET
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

RTS
RETURN TO SENDER

13703423435/0543

188
10/15/03

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

NEW HAMPSHIRE INDEMNITY
INSURANCE COMPANY

-vs-

No. 01-657-CD

ANDREW E. VISNOFSKY, a minor, by
and through his parent and natural
guardian, VICTORIA L. VISNOFSKY and
VICTORIA L. VISNOFSKY, in her own
right; JOHN E. VISNOFSKY, KENNETH J.
LONG and KATHY M. LONG, his wife, as
parents and natural guardians of ALISON M.
LONG, a minor, and in their own right;
SHERI HARASYMIW and CHRISTOPHER
SMITH, as legal guardians of JUSTIN D.
VICKERS, a minor, SHERI HARASYMIW
and CHRISTOPHER SMITH, in their own
right; and the Estate of JAMES A.
BLAYLOCK, deceased, by the
representative of his Estate, PRISCILLA
KEPHART

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

OCT 08 2003

Attest.

William B. Ober
Prothonotary/
Clerk of Courts

OPINION AND ORDER

On July 9, 2000, Victoria Visnofsky was the owner of a 1990 Mazda automobile that had no Pennsylvania registration nor did it have a license plate. On that date, Andrew Visnofsky, Victoria's 14 year old son, took the vehicle from its parking place at Victoria's mother's house, and along with three friends proceeded to drive it on a highway. Unfortunately, a tragic accident occurred resulting in severe injuries to two of the three passengers and caused the death of the third. The New Hampshire Indemnity Insurance Company has filed this action for Declaratory Judgment seeking to have this Court declare that it has no obligation under Victoria Visnofsky's automobile insurance policy to provide a defense for Andrew or to be held liable for any of the claims of the three occupants.

From the record it is clear that the Mazda was not shown on the declaratory page of the policy issued to Victoria Visnofsky nor was it a substitute automobile for one previously owned by her. It is further clear that the declaratory page does not list Andrew Visnofsky as a named insured. According to Victoria's deposition, she did not drive the Mazda again after dropping the insurance coverage for it. On this basis Plaintiff seeks a Declaratory Judgment in its favor.

Defendants herein argue, however, that Andrew Visnofsky falls within the definition of a "family member" and that as such is entitled to a defense provided by Plaintiff. Defendants argue that Andrew resided at his mother's home on the date of the accident. Defendants rely on the following provision of the subject insurance policy:

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

1. Any vehicle which:
 - a. Has fewer than four wheels; or
 - b. Is designed mainly for use off public roads.

This exclusion (B.1.) does not apply;

 - a. While such vehicle is being used by an "insured" in a medical emergency; or
 - b. To any "trailer."
2. Any vehicle, other than "your covered auto" which is
 - a. Owned by you; or
 - b. Furnished or available for your regular use.
3. Any vehicle other than "your covered auto" which is:
 - a. Owned by any "family member" or
 - b. Furnished or available for the regular use of any "family member."

However, this exclusion (B.3.) does not apply to you while you are maintaining or "occupying" any vehicle which is:

 - a. Owned by a "family member"; or
 - b. Furnished or available for the regular use of a "family member."

Said Defendants argue that under the above policy provisions, specifically section B.3.a. coverage is excluded for any vehicle that is not a covered automobile if a "family member" owns it. However, argue the Defendants, this exclusion does not apply or does not exclude coverage under the following paragraph while "you" are maintaining or occupying a vehicle owned by a "family member."

They argue that Andrew is a member of the class defined by the word "you" above and therefore, was maintaining or occupying a vehicle owned by a "family member," specifically his mother, and therefore, Plaintiff should be responsible to provide insurance benefits.

However, as Plaintiff points out in its Supplemental Brief, that portion of the policy quoted above reasonably and logically applies only to the named insured and her spouse, if residents of the same household. To include Andrew as a member of the class defined by the word "you" is clearly not the intention of the policy and therefore, this court cannot hold that either the 1990 Mazda or Andrew Visnofsky were included in the provisions of the subject insurance policy.

Defendants further argue that the subject portions of the policy provided by Plaintiff to Ms. Visnofsky are vague, ambiguous, and subject to more than one construction and therefore should be interpreted most favorably to the insured. This Court does not read the subject policy as being of that nature and therefore, will not consider Defendants' argument here.

Plaintiff also suggests as a basis for its Motion for Summary Judgment that Andrew Visnofsky was operating the vehicle at the time of the accident without a reasonable belief that he was entitled to do so. While this Court believes that no other reasonable

conclusion can be reached based on the depositions of the parties, it will not discuss this issue further in light of the foregoing Opinion.

WHEREFORE, the Court enters the following:

ORDER

NOW, this 6th day of October, 2003, upon consideration of Plaintiff's Motion for Summary Judgment and argument and briefs thereon, it is the ORDER of this Court that said Motion be and is hereby granted and judgment entered in favor of the Plaintiff and against the Defendants.

By the Court,

/s/ JOHN K. REILLY, JR.

President Judge