

Civil Other-COUNT

Date		Judge
2/23/2007	New Case Filed.	No Judge
	✓ Filing: Civil Complaint Paid by: Naddeo, James A. (attorney for Gathagan Investment Company) Receipt number: 1917771 Dated: 02/23/2007 Amount: \$85.00 (Check) 2 CC Atty.	No Judge
3/7/2007	✓ Affidavit of Service filed. That a certified copy of the Complaint filed in the above-captioned action was served upon the Defendant, Farmer's Insurance Group Safety Foundation on February 26, 2007 filed by s/ James A. Naddeo Esq. 1CC to Atty.	No Judge
3/15/2007	✓ Entry of Appearance, on behalf of Defendant, enter appearance of Charles Jay Bogdanoff, Esquire. Filed by s/ Atty. Bogdanoff. No CC	No Judge
3/16/2007	✓ Stipulation to Amend Caption, it is stipulated by and between the Plaintiff and Defendant that the defendant was misnamed in Plaintiff's Complaint. The parties agree that the caption is amended so that Truck Insurance Exchange is made the party defendant in lieu of Farmer's Insurance Group Safety Foundation. All claims against Farmer's Insurance Group Safety Foundation are hereby withdrawn. by The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Naddeo	No Judge
4/13/2007	✓ Defendant, Truck Insurance Exchange's (Misnamed in Complaint as Farmer's Insurance Group Safety Foundation) Answer to Plaintiff's Complaint With New Matter, filed by s/ Charles Jay Bogdanoff, Esquire. No CC	No Judge
4/30/2007	✓ Reply to New Matter, filed by s/ James A. Naddeo, Esquire. 1CC Atty. Naddeo	No Judge
7/30/2007	✓ Praecipe For Status Conference, filed by s/ James A. Naddeo, Esquire. No CC	No Judge
8/7/2007	✓ Order, this 6th day of August, 2007, it is Ordered that a Status Conference is scheduled for the 22nd day of August, 2007, at 11:30 a.m. in Courtroom 1. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Naddeo	Fredric Joseph Ammerman
	✓ Certificate of Service, filed. That a certified copy of Scheduling Order was served on Michael Bogdanoff Esq., on the 7th day of August 2007, filed by s/ James A. Naddeo Esq. No CC.	Fredric Joseph Ammerman
8/16/2007	✓ Defendant's Unopposed Motion for Continuance of Status Conference, filed by s/Charles Jay Bogdanoff, Esq. One CC Attorney Bogdanoff	Fredric Joseph Ammerman
8/20/2007	✓ Order, this 20th day of August, 2007, it is Ordered that a Status Conference is scheduled for 26th day of sept., 2007 at 3:00 p.m. in Courtroom 1. By The Court, /s/ Fredric J Ammerman, Pres. Judge. 1CC Atty. Bogdanoff	Fredric Joseph Ammerman
9/26/2007	✓ Entry of Appearance, on behalf of Defendant, enter appearance of Robert S. Stickley, Esquire. No CC	Fredric Joseph Ammerman
9/27/2007	✓ Order, this 26th day of Sept., 2007, following status conference, it is Ordered that the matter be scheduled for arbitration in approximately 6 months from the date of this Order. By The Court, /s/ Fredric J. Ammerman, pres. Judge. 1CC Attys: Naddeo, Bogdanoff	Fredric Joseph Ammerman
10/3/2007	✓ Withdrawal of Appearance, filed. Kindly withdraw my appearance on behalf of Defendant, Farmers Truck Insurance Exchange, in the above-captioned matter, filed by s/ Charles Jay Bogdanoff Esq. No CC., copy to C/A.	Fredric Joseph Ammerman
2/22/2008	✓ Motion for Partial Summary Judgment, filed by s/Trudy G. Lumadue, Esq. One CC Attorney Lumadue	Fredric Joseph Ammerman

Date: 3/4/2008

Clearfield County Court of Common Pleas

User: LMILLER

Time: 08:22 AM

ROA Report

Page 1 of 2

Case: 2007-00282-CD

Current Judge: Fredric Joseph Ammerman

Gathagan Investment Company LPvs.Truck Insurance Exchange

Civil Other-COUNT

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10-3-07 wjt		
2/22/2008	✓ Motion for Partial Summary Judgment, filed by s/Trudy G. Lumadue, Esq. One CC Attorney Lumadue	Fredric Joseph Ammerman
2/25/2008	Motion for Partial Summary Judgment, filed by Atty. Lumadue - 1 Cert. to Atty	Fredric Joseph Ammerman
3/3/2008	✓ Motion for Continuance of Arbitration Hearing, filed by s/Robert S. Stickley, Esq. No CC	Fredric Joseph Ammerman

Date: 3/4/2008
Time: 08:31 AM
Page 2 of 2

Clearfield County Court of Common Pleas

User: LMILLER

ROA Report

Case: 2007-00282-CD

Current Judge: Fredric Joseph Ammerman

Gathagan Investment Company LPvs.Truck Insurance Exchange

Civil Other-COUNT

Date		Judge
3/3/2008	✓ Motion for Continuance of Arbitration Hearing, filed by s/Robert S. Stickley, Esq. No CC	Fredric Joseph Ammerman
	✓ Rule 208.2 (d) Certification, filed by s/Robert S. Stickley, Esq. No CC	Fredric Joseph Ammerman
	✓ Order NOW, this 3rd day of February 2008, upon review of the Motion for Continuance, it is the ORDER of this Court taht argument on said Motion shall be held on the 6th day of March 2008 at 9:30 a.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Attys: Naddeo, Bogdanoff and Stickley. (Attys Bogdanoff and Stickley notified by telephone)	Fredric Joseph Ammerman

3-4-08 order, dated March 3, 2008 (Motion for Partial Summary Judgment)

Date: 3/4/2008
Time: 08:22 AM
Page 2 of 2

Clearfield County Court of Common Pleas

User: LMILLER

ROA Report

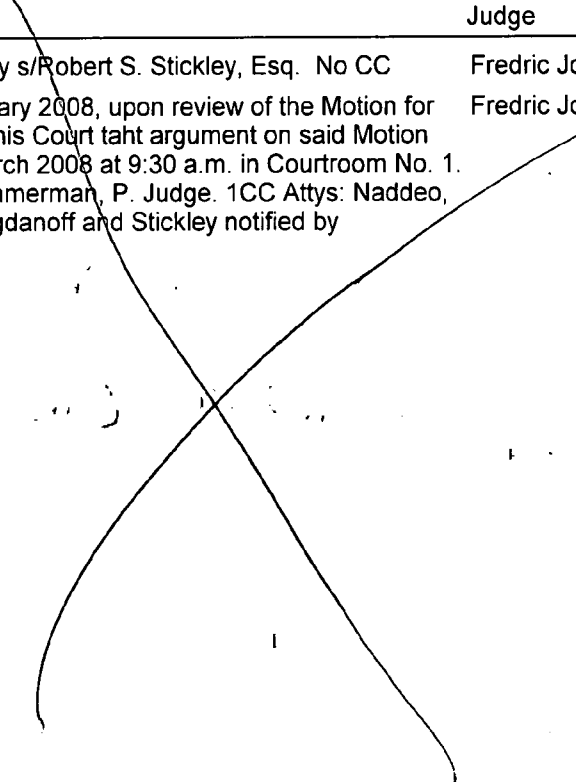
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

v.

FARMER'S INSURANCE GROUP SAFETY
FOUNDATION, a California
Corporation,
Defendant.

No. 07-282-CD

Type of Pleading:

COMPLAINT

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

&

Trudy G. Lumadue, Esq.
Pa I.D. 202049

NADDEO & LEWIS, LLC.
207 E. Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: February 23, 2007

FILED Atty pd. 85.00
0/3:33/61
FEB 23 2007
William A. Shaw
Prothonotary/Clerk of Courts

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

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

v.

FARMER'S INSURANCE GROUP SAFETY,
FOUNDATION, a California
Corporation,
Defendant.

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No. 07- -CD

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.

Court Administrator
Clearfield County Courthouse
Market and Second Streets
Clearfield, PA 16830

(814) 765-2641, ext. 5982

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

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

v.

FARMER'S INSURANCE GROUP SAFETY,
FOUNDATION, a California
Corporation,
Defendant.

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No. 07- -CD

COMPLAINT

NOW COMES the Plaintiff, Gathagan Investment Company, LP, and by its attorney, James A. Naddeo, Esquire, sets forth the following:

1. That the Plaintiff, Gathagan Investment Company, LP, is a Limited Partnership having its principal place of business located at 29 South Second Street, Clearfield, Pennsylvania 16830.

2. That the Defendant, Farmer's Insurance Group Safety Foundation, is a California corporation having its principal place of business located at 4680 Wilshire Boulevard, Los Angeles, California 90010.

3. That the Defendant was at all times mentioned herein, and still, is, qualified to transact business as an insurer within the Commonwealth of Pennsylvania and regularly

engages in the sale of insurance in Pennsylvania at the present time.

4. That Plaintiff is a business entity operating fast food restaurants, namely Burger King.

5. At all times referred to herein Plaintiff was insured by Defendant pursuant to a Commercial Business Owners General Liability Policy covering Plaintiff's Burger King restaurants, including its Burger King restaurant located in Brookville, Pennsylvania. A copy of said policy is attached hereto as Exhibit "A."

6. That the Commercial General Liability Policy issued by the defendant to the plaintiff for Commercial General Liability bears the policy number 26-0602981667.

7. That it was determined that sometime in 2005 (and continuing for approximately 18 months) an employee of the Burger King, Brookville location ("Employee A") began to steal funds from the restaurant and continued to steal funds until in or about November 2006.

8. That the total amount of funds stolen from the Burger King restaurant, Brookville location by Employee A is \$45,240.00.

9. That it was determined that in or about May of 2006 an employee of the Burger King, Brookville location ("Employee B") began stealing funds from the restaurant and

continued to steal funds until in or about October 2006 when Employee B was terminated.

10. That the total amount of funds stolen from the Burger King restaurant, Brookville location by Employee B is \$10,620.00.

11. That it was determined that in or about July of 2006 an employee of the Burger King, Brookville location ("Employee C") began stealing funds from the restaurant and continued to steal funds until in or about November 2006.

12. That the total amount of funds stolen from the Burger King restaurant, Brookville location by Employee C is \$5,144.00.

13. That on or about December 1, 2006, Plaintiff reported the loss to Defendant, its insurance carrier, for payment of the lost monies stolen by Employees A, B and C, with the total amount of loss reported by Plaintiff to the Defendant being \$61,004.00.

14. Pursuant to the Policy issued by the Defendant to the Plaintiff the following amounts are due and payable to the defendant for the incidents as follows, Employee A: \$10,000.00; Employee B: \$10,000.00, Employee C: \$5,144.00 with a total due and payable by defendant to plaintiff in the amount of \$25,144.00.

15. After receipt of Plaintiff's notice, Defendant claimed that it undertook an investigation of Plaintiff's claim.

16. Plaintiff cooperated with the Defendant by providing all relevant information requested by Defendant's representatives.

17. That by letter dated December 15, 2006, the Defendant denied the full amount of Plaintiff's claim and instead paid to Plaintiff a settlement for the loss submitted in the amount of \$10,000.00.

18. That Plaintiff asked for reconsideration of its claim and provided additional documentation and information to the Defendant as requested by the Defendant.

19. That after reconsideration, Defendant denied paying any additional amount to Plaintiff and to date has refused to pay any amount over and above \$10,000.00 to compensate Plaintiff's loss as reported to Defendant.

COUNT I

Breach of Contract

20. Plaintiff incorporates herein by reference the allegations set forth in Paragraphs 1 through 19.

21. Plaintiff has paid all premiums and otherwise satisfied all conditions and covenants and performed all things required of it under the insurance contract between Plaintiff and Defendant.

22. As a result of the monies stolen by Employees A, B and C Plaintiff has suffered a loss within the meaning of the insurance contract.

23. Defendant is obligated by the terms of the insurance contract to indemnify Plaintiff's loss.

24. That in particular Defendant is obligated to indemnify Plaintiff's loss at the amount of loss to Plaintiff or in the alternative, a maximum amount of \$10,000.00 payable as a result of each employee's dishonesty for a total amount due and payable to Plaintiff of \$25,144.00.

25. Defendant's refusal to indemnify Plaintiff's loss constitutes a breach of the insurance contract.

26. As a direct and proximate result of Defendant's breach, Plaintiff has suffered the following damage:

A. The difference between the amount due Plaintiff for each employee's dishonesty (\$10,000.00 maximum per each employee dishonestly for a total amount due to Plaintiff of \$25,144.00) and the amount paid by Defendant (\$10,000.00) with the loss to Plaintiff being \$15,144.00 with interest thereon.

WHEREFORE, Plaintiff, Gathagan Investment Company, LP, demands judgment against Defendant in an amount of Fifteen Thousand One Hundred Forty-four and 00/100 (\$15,144.00), together with costs, and attorney fees.

COUNT II

Bad Faith

27. Plaintiff incorporates herein by reference the allegations set forth in Paragraphs 1 through 26.

28. Defendant failed to adequately and properly investigate this claim to the extent of confirming that each employee acted independently of the other.

29. Defendant acted in bad faith when it failed to adequately and properly investigate this claim.

30. Upon information and belief, Defendant possesses no evidence that the damage did not occur as reported by Plaintiff.

31. Upon information and belief, Defendant possesses no justification for not paying the amount of loss or in the alternative a maximum of \$10,000.00 for each employee's dishonesty reported by Plaintiff to Defendant.

32. Defendant acted in bad faith toward Plaintiff when it denied Plaintiff's claim.

WHEREFORE Plaintiff requests that the Court take the following actions pursuant to 42 Pa. Cons. Stat. § 8371;

(1) award interest in the amount of Plaintiff's claim against Defendant from the date the claim was made at a rate equal to the prime rate plus two (2)%;

(2) award punitive damages against the
Defendant; and/or

(3) assess court costs and fees against the
Defendant.

NADDEO & LEWIS, LLC

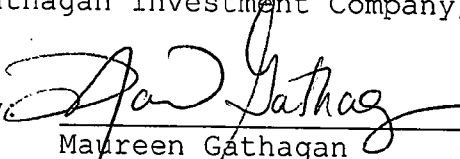
By James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

V E R I F I C A T I O N

I, Maureen Gathagan, verify that I am a member of Gathagan Investment Company, LP and that I am authorized to execute this verification and further that the statements made in the foregoing Complaint are true and correct upon my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Gathagan Investment Company, LP

By:


Maureen Gathagan
Plaintiff

Dated:

2/12/07

TRUCK INSURANCE EXCHANGE

MEMBERS OF THE FARMERS INSURANCE GROUP OF COMPANIES
HOME OFFICE: 4680 WILSHIRE BLVD., LOS ANGELES, CALIFORNIA 90010

COMMON POLICY DECLARATIONS
RESTAURANTS - PREMIER

1.	GATHAGAN INVESTMENT CO LP	TM22826	
Named	BURGER KING	EasyPay Acct. No.	Prod. Count
Insured	29 S 2ND ST	26-5G-180	60298-16-67
Mailing		Agent No.	Policy Number
Address	CLEARFIELD PA 16830-2355		

The named insured is an individual unless otherwise stated:

☒ Partnership ☐ Corporation ☐ Joint Venture ☐ Organization (Any other)

Type of Business **RESTAURANT**

2. Policy Period from 08/10/06 (not prior to time applied for) to 08/10/07 12:01 a.m. Standard Time

If this policy replaces other coverage that ends at noon standard time of the same day this policy begins, this policy will not take effect until the other coverage ends. **This policy will continue for successive policy periods as follows:** If we elect to continue this insurance, we will renew this policy if you pay the required renewal premium for each successive policy period subject to our premiums, rules and forms then in effect.

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS LISTED BELOW AND FOR WHICH A PREMIUM IS INDICATED. THIS PREMIUM MAY BE SUBJECT TO CHANGE.

	Premium After Applicable Discount and Modification
BUSINESSOWNERS POLICY	\$29,750.00
CERTIFIED ACTS OF TERRORISM - SEE DISCLOSURE ENDORSEMENT	INCLUDED
TOTAL	SEE INVOICE ATTACHED

Forms applicable to all Coverage Parts:

IL00030498 56-5166ED2 IL00171198 E0022-ED1

Countersigned _____

(Date)

By

Deborah West

(Authorized Representative)

Agent: **DEBORAH WEST**

Agent Phone: **814-765-5573**



FARMERS

Exhibit "A"

MONTHLY PAYMENT AGREEMENT

In consideration of the premium deposit, we agree to the following:

- (1) The policy period is amended to one Calendar month. It will commence with the effective date shown in the Declarations.
- (2) The policy shall continue in force for successive monthly periods if the premium is paid when due. The premium is due no later than on the expiration date of the then current monthly period.
- (3) The monthly premium shall be subject to future adjustment. Such adjustment will apply the then current rate on the semi-annual or annual anniversary of the policy whichever is indicated in the Declarations as applicable.

This endorsement is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all other terms of the policy.



FARMERS INSURANCE GROUP OF COMPANIES



Dear Valued Customer:

THIS POLICY DOES NOT PROVIDE WORKERS' COMPENSATION COVERAGE FOR JOB RELATED INJURIES TO YOUR EMPLOYEES.

State law may require such coverage. Be sure you are in compliance with the state law.

FARMERS INSURANCE GROUP OF COMPANIES

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONDITIONAL EXCLUSION OF TERRORISM (RELATING TO DISPOSITION OF FEDERAL TERRORISM RISK INSURANCE ACT OF 2002)

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS SPECIAL PROPERTY COVERAGE FORM
BUSINESSOWNERS LIABILITY COVERAGE FORM

SCHEDULE

The **Exception Covering Certain Fire Losses** (Paragraph B.2.) applies to property located in the following state(s):

State(s)				
Arizona California Connecticut	Iowa Idaho Illinois	Montana New Jersey North Carolina	North Dakota Oregon Pennsylvania	Virginia Washington Wisconsin
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.				

A. Coverage is amended as follows:

1. Applicability Of The Provisions Of This Endorsement

a. The provisions of this endorsement will become applicable commencing on the date when any one or more of the following first occurs:

(1) The federal Terrorism Risk Insurance Program ("Program"), established by the Terrorism Risk Insurance Act of 2002, has terminated with respect to the type of insurance provided under this Coverage Form; or

(2) A renewal, extension or continuation of the Program has become effective without a requirement to make terrorism coverage available to you and with revisions that:

(a) Increase our statutory percentage deductible under the Program for terrorism losses. (That deductible determines the amount of all certified terrorism losses we must pay in a calendar year, before the federal government shares in subsequent payment of certified terrorism losses.); or

(b) Decrease the federal government's statutory percentage share in potential terrorism losses above such deductible; or

(c) Redefine terrorism or make insurance coverage for terrorism subject to provisions or requirements that differ from those that apply to other types of events or occurrences under this policy.

The Program is scheduled to terminate at the end of December 31, 2005 unless renewed, extended or otherwise continued by the federal government.

b. If the provisions of this endorsement become applicable, such provisions:

(1) Supersede any terrorism endorsement already endorsed to this policy that addresses "certified acts of terrorism" and/or "other acts of terrorism", but only with respect to loss or injury or damage from an incident(s) of terrorism (however defined) that occurs on or after the date when the provisions of this endorsement become applicable; and

(2) Remain applicable unless we notify you of changes in these provisions, in response to federal law.

- c. If the provisions of this endorsement do NOT become applicable, any terrorism endorsement already endorsed to this policy, that addresses "certified acts of terrorism" and/or "other acts of terrorism", will continue in effect unless we notify you of changes to that endorsement in response to federal law.
2. The following definition is added and applies under this endorsement wherever the term terrorism is enclosed in quotation marks.
- "Terrorism" means activities against persons, organizations or property of any nature:
- a. That involve the following or preparation for the following:
 - (1) Use or threat of force or violence; or
 - (2) Commission or threat of a dangerous act; or
 - (3) Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
 - b. When one or both of the following applies:
 - (1) The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
 - (2) It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.
- B. The Businessowners Special Property Coverage Form is amended as follows:**
1. The following exclusion is added:

EXCLUSION OF TERRORISM

We will not pay for loss or damage caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":

 - a. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
 - b. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or
 - c. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
 - d. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or
 - e. The total of insured damage to all types of property in the United States, its territories and possessions, Puerto Rico and Canada exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions. Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the threshold is exceeded.

With respect to this item 1.e., the immediately preceding paragraph describes the threshold used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this Exclusion will apply to that incident. When the Exclusion applies to an incident of "terrorism", there is no coverage under this Coverage Form
 2. **Exception Covering Certain Fire Losses** The following exception to the Exclusion Of Terrorism applies only if indicated and as indicated in the Schedule of this endorsement. If "terrorism" results in fire, we will pay for the loss or damage caused by that fire, subject to all applicable policy provisions including the Limit of Insurance on the affected property. Such coverage for fire applies only to direct loss or damage by fire to Covered Property. Therefore, for example, the coverage does not apply to insurance

provided under Business Income and/or Extra Expense coverages or endorsements that apply to those coverages.

3. Application Of Other Exclusions

- a. When the Exclusion Of Terrorism applies in accordance with the terms of 1.a. or 1.b., such exclusion applies without regard to the Nuclear Hazard Exclusion in this Coverage Form.
- b. The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any loss or damage which would otherwise be excluded under this Coverage Form as losses excluded by the Nuclear Hazard Exclusion or the War And Military Action Exclusion.

C. The Businessowners Liability Coverage Form is amended as follows:

1. The following definition is added and applies under this endorsement wherever the phrase any injury or damage, is enclosed in quotation marks:

"Any injury or damage" means any injury or damage covered under this Coverage Form or any applicable endorsement, and includes but is not limited to "bodily injury", "property damage" or "personal and advertising injury", as may be defined under this Coverage Form or any applicable endorsement.

2. The following exclusion is added:

EXCLUSION OF TERRORISM

We will not pay for "any injury or damage" caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". "Any injury or damage" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such injury or damage. But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":

- a. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
- b. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or

c. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or

d. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or

e. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or

f. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:

- (1) Physical injury that involves a substantial risk of death; or
- (2) Protracted and obvious physical disfigurement; or
- (3) Protracted loss of or impairment of the function of a bodily member or organ.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the thresholds in Paragraphs 2.e. or 2.f. are exceeded.

With respect to this Exclusion, Paragraphs 2.e. and 2.f. describe the threshold used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this Exclusion will apply to that incident. When the Exclusion applies to an incident of "terrorism", there is no coverage under this Coverage Form.

In the event of any incident of "terrorism" that is not subject to this Exclusion, coverage does not apply to "any injury or damage" that is otherwise excluded under this Coverage Form.

THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT OF 2002. THIS ENDORSEMENT DOES NOT GRANT ANY COVERAGE OR CHANGE THE TERMS AND CONDITIONS OF ANY COVERAGE UNDER THE POLICY.

**DISCLOSURE OF PREMIUM AND ESTIMATED PREMIUM
FOR CERTIFIED ACTS OF TERRORISM COVERAGE
(PURSUANT TO TERRORISM RISK
INSURANCE ACT OF 2002)**

SCHEDULE

Terrorism Premium (Certified Acts)

(A) Premium through 12/31/05 \$ NOT APPLICABLE

(B) Estimated Premium beyond 12/31/05 (refer to Paragraph C. below) \$ 295.00

Additional information, if any, concerning the terrorism premium:

The following are excluded from the provisions of the TRIA extension:

Commercial Auto Coverage Part

Garage Coverage Part

Truckers Coverage Part

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Disclosure Of Premium

In accordance with the federal Terrorism Risk Insurance Act of 2002, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to coverage for terrorist acts certified under that Act. The portion of your premium attributable to such coverage is shown in the Schedule of this endorsement or in the policy Declarations.

B. Disclosure Of Federal Participation In Payment Of Terrorism Losses

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals 90% of that portion of the amount of such insured losses that exceeds the applicable insurer retention.

C. Possibility Of Additional Or Return Premium

The premium for certified acts of terrorism coverage is calculated based in part on the federal participation in payment of terrorism losses as set forth in the Terrorism Risk Insurance Act of 2002. The federal program established by the Act is scheduled to terminate at the end of 12/31/05 unless extended by the federal government. If the federal program terminates or if the level or terms of federal participation change, the estimated premium shown in **(B)** of the Schedule may not be appropriate.

If this policy contains a Conditional Exclusion, continuation of coverage for certified acts of terrorism, or termination of such coverage, will be determined upon disposition of the federal program, subject to the terms and conditions of the Conditional Exclusion. If this policy does not contain a Conditional Exclusion, coverage for certified acts of terrorism will continue. In either case, when disposition of the federal program is determined, we will recalculate the premium shown in **(B)** of the Schedule and will charge additional premium or refund excess premium, if indicated.

If we notify you of an additional premium charge, the additional premium will be due as specified in such notice.

TRUCK INSURANCE EXCHANGE

MEMBERS OF THE FARMERS INSURANCE GROUP OF COMPANIES
HOME OFFICE: 4680 WILSHIRE BLVD., LOS ANGELES, CALIFORNIA 90010

POLICY DECLARATIONS RESTAURANTS - PREMIER

1.			TM22826	
Named	GATHAGAN INVESTMENT CO LP		EasyPay Acct. No.	Prod. Count
Insured	BURGER KING			
Mailing	29 S 2ND ST		26-5G-180	60298-16-67
Address	CLEARFIELD PA 16830-2355		Agent No.	Policy Number

The named insured is an individual unless otherwise stated:

☒ Partnership ☐ Corporation ☐ Joint Venture ☐ Organization (Any other)

Type of Business RESTAURANT

2. Policy Period from 08/10/06 (not prior to time applied for) to 08/10/07 12:01 a.m. Standard Time

If this policy replaces other coverage that ends at noon standard time of the same day this policy begins, this policy will not take effect until the other coverage ends. **This policy will continue for successive policy periods as follows:** If we elect to continue this insurance, we will renew this policy if you pay the required renewal premium for each successive policy period subject to our premiums, rules and forms then in effect.

3. Insured location same as mailing address unless otherwise stated:

001 001 14512 CLEARFIELD SHAWVILLE HWY	CLEARFIELD	PA 168306111
002 001 212 ALLEGHENY BLVD	BROOKVILLE	PA 158252550
003 001 235 HAMPTON AVE	PUNXSUTAWNEY	PA 157672133

4. We provide insurance only for those coverages described below and for which a specific limit of insurance is shown.

PROPERTY

COVERAGES AND LIMITS OF INSURANCE

COVERAGES	PREM NO. 001 001	PREM NO. 002 001	PREM NO. 003 001
BUILDINGS	\$1,139,500	\$585,100	\$530,000
BUSINESS PERSONAL PROPERTY	\$201,400	\$169,600	\$169,600
AUTOMATIC BUILDING INCREASE	8%	8%	8%
PROPERTY DEDUCTIBLE	\$1,000	\$1,000	\$1,000
ACCOUNTS RECEIVABLE	\$25,000	\$25,000	\$25,000
VALUABLE PAPERS	\$25,000	\$25,000	\$25,000
OUTDOOR SIGNS	\$20,000	\$20,000	\$20,000
BACKUP OF SEWER AND DRAIN	\$25,000	\$25,000	\$25,000
OFF PREMISES PERSONAL PROPERTY	\$5,000	\$5,000	\$5,000
MONEY AND SECURITIES	\$5,000	\$5,000	\$5,000
CRIME DEDUCTIBLE	\$500	\$500	\$500
OUTDOOR TREES, SHRUBS, PLANTS	\$2,500	\$2,500	\$2,500
BUILDING GLASS DEDUCTIBLE	\$100	\$100	\$100

ADDITIONAL COVERAGES

COVERAGE	All Premises



COVERAGE EXTENSIONS - Optional Higher Limits of Insurance Per Occurrence

COVERAGE	All Premises

OPTIONAL COVERAGES: We provide insurance for those Optional Coverages described below.

COVERAGE	All Premises
EMPLOYEE DISHONESTY	\$10,000 \$500 DEDUCTIBLE

LIABILITY AND MEDICAL PAYMENTS - Except for Fire Legal Liability, each paid claim for the following coverage reduces the amount of insurance we provide during the applicable annual period. Please refer to Paragraph D.4. of the Liability Coverage Form.

COVERAGE	LIMITS OF INSURANCE
LIABILITY	\$1,000,000
MEDICAL EXPENSES	\$5,000 PER PERSON
TENANTS LIABILITY	\$75,000 PER OCCURRENCE

Mortgage Holders:

Premises No.	Mortgage Holder Name, Address

Countersigned _____ By _____
(Date) (Authorized Representative)

Policy Number: 60298-16-67

Effective Date: 08/10/06

Policy Forms and Endorsements attached at inception:

E3443-ED3	BP00021299	BP00060197	BP00090197	BP04150197
BP04170196	BP04390196	BP04550197	IL00210498	E3342-ED1
E6036-ED1	E0207-ED1	25-2110	E0051-ED2	E6306-ED1
BP01420199	IL02460900	IL09100181	BP05341102	BP05381202
E4009-ED4	BP05140103	E2028-ED2	E2010-ED1	BP05710504
BP04340197	E3416-ED2	BP04040196	E3313-ED1	E8162-ED4
BP04570197	E3031-ED1	E3020-ED1	E3309-ED4	

Countersigned _____

(Date)

By _____

(Authorized Representative)

BUSINESSOWNERS SPECIAL PROPERTY COVERAGE FORM

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

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

Other words and phrases that appear in quotation marks have special meaning. Refer to Section H - Property Definitions.

A. Coverage

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

1. Covered Property

Covered Property, as used in this policy, means the type of property as described in this section, **A.1.**, and limited in **A.2.**, Property Not Covered, if a Limit of Insurance is shown in the Declarations for that type of property.

a. Buildings, meaning the buildings and structures at the premises described in the Declarations, including:

- (1)** Completed additions;
- (2)** Fixtures, including outdoor fixtures;
- (3)** Permanently installed:
 - (a)** Machinery; and
 - (b)** Equipment;
- (4)** Your personal property in apartments or rooms furnished by you as landlord;
- (5)** Personal property owned by you that is used to maintain or service the buildings or structures or the premises, including:
 - (a)** Fire extinguishing equipment;
 - (b)** Outdoor furniture;

(c) Floor coverings; and

(d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;

(6) If not covered by other insurance:

(a) Additions under construction, alterations and repairs to the buildings or structures;

(b) Materials, equipment, supplies and temporary structures, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the buildings or structures.

b. Business Personal Property located in or on the buildings at the described premises or in the open (or in a vehicle) within 100 feet of the described premises, including:

- (1)** Property you own that is used in your business;
- (2)** Property of others that is in your care, custody or control, except as otherwise provided in Loss Payment Property Loss Condition **E.6.d.(3)(b)**;
- (3)** Tenant's improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
 - (a)** Made a part of the building or structure you occupy but do not own; and
 - (b)** You acquired or made at your expense but cannot legally remove; and
- (4)** Leased personal property for which you have a contractual responsibility to insure, unless otherwise provided for under Paragraph **A.1.b.(2)**.

2. Property Not Covered

Covered Property does not include:

- a. Aircraft, automobiles, motortrucks and other vehicles subject to motor vehicle registration;
- b. "Money" or "securities" except as provided in the:
 - (1) Money and Securities Optional Coverage; or
 - (2) Employee Dishonesty Optional Coverage;
- c. Contraband, or property in the course of illegal transportation or trade;
- d. Land (including land on which the property is located), water, growing crops or lawns;
- e. Outdoor fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, signs (other than signs attached to buildings), trees, shrubs or plants, all except as provided in the:
 - (1) Outdoor Property Coverage Extension; or
 - (2) Outdoor Signs Optional Coverage;
- f. Watercraft (including motors, equipment and accessories) while afloat.

3. Covered Causes Of Loss

Risks Of Direct Physical Loss unless the loss is:

- a. Excluded in Section B., Exclusions; or
- b. Limited in Paragraph A.4., Limitations; that follow.

4. Limitations

- a. We will not pay for loss of or damage to:
 - (1) Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

- (2) Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.

- (3) Property that is missing, but there is no physical evidence to show what happened to it, such as shortage disclosed on taking inventory. This limitation does not apply to the Optional Coverage for Money and Securities.

- (4) Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.

- b. With respect to glass (other than glass building blocks) that is part of the interior of a building or structure, or part of an outdoor sign, we will not pay more than \$500 for the total of all loss or damage in any one occurrence. Subject to the \$500 limit on all loss or damage, we will not pay more than \$100 for each plate, pane, multiple plate insulating unit, radiant or solar heating panel, jalousie, louver or shutter.

This Limitation does not apply to loss or damage by the "specified causes of loss", except vandalism.

- c. We will not pay for loss of or damage to fragile articles such as glassware, statuary, marbles, chinaware and porcelains, if broken, unless caused by the "specified causes of loss" or building glass breakage. This restriction does not apply to:

- (1) Glass that is part of the interior of a building or structure;
- (2) Containers of property held for sale; or
- (3) Photographic or scientific instrument lenses.

- d. For loss or damage by theft, the following types of property are covered only up to the limits shown:

- (1) \$2,500 for furs, fur garments and garments trimmed with fur.

- (2) \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semi-precious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
- (3) \$2,500 for patterns, dies, molds and forms.

5. Additional Coverages

a. Debris Removal

- (1) We will pay your expense to remove debris of Covered Property caused by or resulting from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the earlier of:
 - (a) The date of direct physical loss or damage; or
 - (b) The end of the policy period.
- (2) The most we will pay under this Additional Coverage is 25% of:
 - (a) The amount we pay for the direct physical loss of or damage to Covered Property; plus
 - (b) The deductible in this policy applicable to that loss or damage.

But this limitation does not apply to any additional debris removal limit provided in Paragraph (4) below.
- (3) This Additional Coverage does not apply to costs to:
 - (a) Extract "pollutants" from land or water; or
 - (b) Remove, restore or replace polluted land or water.
- (4) If:
 - (a) The sum of direct physical loss or damage and debris removal expense exceeds the Limit of Insurance; or
 - (b) The debris removal expense exceeds the amount payable under the 25% Debris Removal Coverage limitation in Paragraph (2) above;

we will pay up to an additional \$10,000 for each location in any one occurrence under the Debris Removal Additional Coverage.

b. Preservation Of Property

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss of or damage to that property:

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 30 days after the property is first moved.

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$1,000 for your liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

d. Collapse

- (1) We will pay for direct physical loss or damage to Covered Property, caused by collapse of a building or any part of a building insured under this policy, if the collapse is caused by one or more of the following:
 - (a) The "specified cause of loss" or breakage of building glass, all only as insured against in this policy;
 - (b) Hidden decay;
 - (c) Hidden insect or vermin damage;
 - (d) Weight of people or personal property;
 - (e) Weight of rain that collects on a roof;
 - (f) Use of defective material or methods in construction, remodeling or renovation if the collapse occurs during the course of the construction, remodeling or renovation. However, if the collapse occurs after construction, remodeling or renovation is complete and is caused in part by a cause of loss listed in d.(1)(a) through d.(1)(e), we will pay for the loss or damage even if use of defective material or methods in construction, remodeling or renovation, contributes to the collapse.

- (2) If the direct physical loss or damage does not involve collapse of a building or any part of a building, we will pay for loss or damage to Covered Property caused by the collapse of personal property only if:

- (a) The personal property which collapses is inside a building insured under this policy; and
- (b) The collapse was caused by a cause of loss listed in d.(1)(a) through d.(1)(f) above.

- (3) With respect to the following property:

- (a) Awnings;
- (b) Gutters and downspouts;
- (c) Yard fixtures;
- (d) Outdoor swimming pools;
- (e) Piers, wharves and docks;
- (f) Beach or diving platforms or appurtenances;
- (g) Retaining walls; and
- (h) Walks, roadways and other paved surfaces;

if the collapse is caused by a cause of loss listed in d.(1)(b) through d.(1)(f), we will pay for loss or damage to that property only if such loss or damage is a direct result of the collapse of a building insured under this policy and the property is Covered Property under this policy.

- (4) Collapse does not include settling, cracking, shrinkage, bulging or expansion.

e. Water Damage, Other Liquids, Powder Or Molten Material Damage

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material damage loss occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes.

We will not pay the cost to repair any defect that caused the loss or damage; but we will pay the cost to repair or replace damaged parts of fire extinguishing equipment if the damage:

- (1) Results in discharge of any substance from an automatic fire protection system; or
- (2) Is directly caused by freezing.

f. Business Income

(1) Business Income

We will pay for the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration". The suspension must be caused by direct physical loss of or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of the site at which the described premises are located.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of the site at which the described premises are located, your premises means:

- (a) The portion of the building which you rent, lease or occupy; and
- (b) Any area within the building or on the site at which the described premises are located, if that area services, or is used to gain access to, the described premises.

We will only pay for loss of Business Income that you sustain during the "period of restoration" and that occurs within 12 consecutive months after the date of direct physical loss or damage. We will only pay for ordinary payroll expenses for 60 days following the date of direct physical loss or damage.

Business Income means the:

- (i) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses; and
- (ii) Continuing normal operating expenses incurred, including payroll.

Ordinary payroll expenses mean payroll expenses for all your employees except:

- (a) Officers;
- (b) Executives;
- (c) Department Managers;
- (d) Employees under contract; and
- (e) Additional Exemptions shown in the Declarations as:
 - (i) Job Classifications; or
 - (ii) Employees.

Ordinary payroll expenses include:

- (a) Payroll;
- (b) Employee benefits, if directly related to payroll;
- (c) FICA payments you pay;
- (d) Union dues you pay; and
- (e) Workers' compensation premiums.

(2) Extended Business Income

If the necessary suspension of your "operations" produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:

- (a) Begins on the date property except finished stock is actually repaired, rebuilt or replaced and "operations" are resumed; and
- (b) Ends on the earlier of:
 - (i) The date you could restore your "operations", with reasonable speed, to the level which would generate the Business Income amount that would have existed if no direct physical loss or damage had occurred; or
 - (ii) 30 consecutive days after the date determined in (2)(a) above.

However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

Loss of Business Income must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

This Additional Coverage is not subject to the Limits of Insurance.

g. Extra Expense

- (1) We will pay necessary Extra Expense you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of the site at which the described premises are located.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of the site at which the described premises are located, your premises means:

- (a) The portion of the building which you rent, lease or occupy; and
- (b) Any area within the building or on the site at which the described premises are located, if that area services, or is used to gain access to, the described premises.

- (2) Extra Expense means expense incurred:

- (a) To avoid or minimize the suspension of business and to continue "operations":
 - (i) At the described premises; or
 - (ii) At replacement premises or at temporary locations, including relocation expenses, and costs to equip and operate the replacement or temporary locations.
- (b) To minimize the suspension of business if you cannot continue "operations".

(c) To:

- (i)** Repair or replace any property;
or
- (ii)** Research, replace or restore the
lost information on damaged
"valuable papers and records":

to the extent it reduces the amount
of loss that otherwise would have
been payable under this Additional
Coverage or Additional Coverage f.
Business Income.

We will only pay for Extra Expense that
occurs within 12 consecutive months after
the date of direct physical loss or damage.
This Additional Coverage is not subject to
the Limits of Insurance.

h. Pollutant Clean Up And Removal

We will pay your expense to extract
"pollutants" from land or water at the de-
scribed premises if the discharge, dis-
persal, seepage, migration, release or
escape of the "pollutants" is caused by or
results from a Covered Cause of Loss that
occurs during the policy period. The ex-
penses will be paid only if they are re-
ported to us in writing within 180 days of
the earlier of:

- (1)** The date of direct physical loss or
damage; or
- (2)** The end of the policy period.

The most we will pay for each location
under this Additional Coverage is \$10,000
for the sum of all such expenses arising
out of Covered Causes of Loss occurring
during each separate 12 month period of
this policy.

i. Civil Authority

We will pay for the actual loss of Business
Income you sustain and necessary Extra
Expense caused by action of civil authority
that prohibits access to the described
premises due to direct physical loss of or
damage to property, other than at the de-
scribed premises, caused by or resulting
from any Covered Cause of Loss.

The coverage for Business Income will
begin 72 hours after the time of that action
and will apply for a period of up to three
consecutive weeks after coverage begins.

The coverage for necessary Extra Expense
will begin immediately after the time of
that action and ends:

- (1)** 3 consecutive weeks after the time of
that action; or
- (2)** When your Business Income coverage
ends;
whichever is later.

The definitions of Business Income and
Extra Expense contained in the Business
Income and Extra Expense Additional
Coverages also apply to this Civil Author-
ity Additional Coverage. The Civil Author-
ity Additional Coverage is not subject to
the Limits of Insurance.

**j. Money Orders And Counterfeit Paper Cur-
rency**

We will pay for loss due to the good faith
acceptance of:

- (1)** Any U.S. or Canadian post office, ex-
press company, or national or state (or
Canadian) chartered bank money or-
der that is not paid upon presentation
to the issuer; or
- (2)** Counterfeit United States or Canadian
paper currency;

in exchange for merchandise, "money" or
services or as part of a normal business
transaction.

The most we will pay for any loss under
this Additional Coverage is \$1,000.

k. Forgery And Alteration

- (1)** We will pay for loss resulting directly
from forgery or alteration of, any
check, draft, promissory note, bill of
exchange or similar written promise of
payment in "money", that you or your
agent has issued, or that was issued
by someone who impersonates you, or
your agent.
- (2)** If you are sued for refusing to pay the
check, draft, promissory note, bill of
exchange or similar written promise of
payment in "money", on the basis that
it has been forged or altered, and you
have our written consent to defend
against the suit, we will pay for any
reasonable legal expenses that you
incur in that defense.
- (3)** The most we will pay for any loss, in-
cluding legal expenses, under this Ad-
ditional Coverage is \$2,500.

l. Increased Cost Of Construction

- (1)** This Additional Coverage applies only
to buildings insured on a replacement
cost basis.

(2) In the event of damage by a Covered Cause of Loss to a building that is Covered Property, we will pay the increased costs incurred to comply with enforcement of an ordinance or law in the course of repair, rebuilding or replacement of damaged parts of that property, subject to the limitations stated in I.(3) through I.(9) of this Additional Coverage.

(3) The ordinance or law referred to in I.(2) of this Additional Coverage is an ordinance or law that regulates the construction or repair of buildings or establishes zoning or land use requirements at the described premises, and is in force at the time of loss.

(4) Under this Additional Coverage, we will not pay any costs due to an ordinance or law that:

(a) You were required to comply with before the loss, even when the building was undamaged; and

(b) You failed to comply with.

(5) Under this Additional Coverage, we will not pay any costs associated with the enforcement of an ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

(6) The most we will pay under this Additional Coverage, for each described building insured under this Coverage Form, is \$5,000.

The amount payable under this Additional Coverage is additional insurance.

(7) With respect to this Additional Coverage:

(a) We will not pay for the Increased Cost of Construction:

(i) Until the property is actually repaired or replaced, at the same or another premises; and

(ii) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

(b) If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the same premises.

(c) If the ordinance or law requires relocation to another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the new premises.

(8) This Additional Coverage is not subject to the terms of the Ordinance or Law Exclusion, to the extent that such Exclusion would conflict with the provisions of this Additional Coverage.

(9) The costs addressed in the Loss Payment Property Loss Condition in this Coverage Form do not include the increased cost attributable to enforcement of an ordinance or law. The amount payable under this Additional Coverage, as stated in I.(6) of this Additional Coverage, is not subject to such limitation.

m. Exterior Building Glass

(1) We will pay for direct physical loss of or damage to glass, including lettering or ornamentation, that is part of the exterior of a covered building or structure at the described premises. The glass must be owned by you, or owned by others but in your care, custody or control. We will also pay for necessary:

(a) Expenses incurred to put up temporary plates or board up openings;

(b) Repair or replacement of encasing frames; and

(c) Expenses incurred to remove or replace obstructions.

(2) Paragraph A.3., **Covered Causes Of Loss** and Section B., **Exclusions** do not apply to this Additional Coverage, except for:

(a) Paragraph B.1.b., **Earth Movement**;

(b) Paragraph B.1.c., **Governmental Action**;

(c) Paragraph B.1.d., **Nuclear Hazard**;

(d) Paragraph B.1.f., **War And Military Action**; and

(e) Paragraph B.1.g., **Water**.

(3) We will not pay for loss or damage caused by or resulting from:

- (a) Wear and tear;
- (b) Hidden or latent defect;
- (c) Corrosion; or
- (d) Rust.

(4) The most we pay under this Additional Coverage is the Building Limit of Insurance shown in the Declarations.

However, if you are a tenant and no Limit of Insurance is shown in the Declarations for Building property, the most we will pay under this Additional Coverage is the Tenant's Exterior Building Glass Limit of Insurance shown in the Declarations.

6. Coverage Extensions

In addition to the Limits of Insurance, you may extend the insurance provided by this policy as provided below.

Except as otherwise provided, the following Extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises, unless a higher Limit of Insurance is shown in the Declarations.

a. Personal Property At Newly Acquired Premises

(1) You may extend the insurance that applies to Business Personal Property to apply to that property at any premises you acquire.

The most we will pay for loss or damage under this Extension is \$100,000 at each premises.

(2) Insurance under this Extension for each newly acquired premises will end when any of the following first occurs:

- (a) This policy expires;
- (b) 30 days expire after you acquire or begin construction at the new premises; or

(c) You report values to us.

We will charge you additional premium for values reported from the date you acquire the premises.

b. Personal Property Off Premises

You may extend the insurance that applies to Business Personal Property to apply to covered Business Personal Property, other than "money" and "securities", "valuable papers and records" or accounts receivable, while it is in the course of transit or temporarily at a premises you do not own, lease or operate. The most we will pay for loss or damage under this Extension is \$5,000.

c. Outdoor Property

You may extend the insurance provided by this policy to apply to your outdoor fences, radio and television antennas (including satellite dishes), signs (other than signs attached to buildings), trees, shrubs and plants, including debris removal expense, caused by or resulting from any of the following causes of loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion;
- (4) Riot or Civil Commotion; or
- (5) Aircraft.

The most we will pay for loss or damage under this Extension is \$2,500, but not more than \$500 for any one tree, shrub or plant.

d. Personal Effects

You may extend the insurance that applies to Business Personal Property to apply to personal effects owned by you, your officers, your partners or your employees. This extension does not apply to:

- (1) Tools or equipment used in your business; or
- (2) Loss or damage by theft.

The most we will pay for loss or damage under this Extension is \$2,500 at each described premises.

e. "Valuable Papers And Records"

(1) You may extend the insurance that applies to Business Personal Property to apply to direct physical loss or damage to "valuable papers and records" that you own, or that are in your care, custody or control caused by or resulting from a Covered Cause of Loss. This Coverage Extension includes the cost to research lost information on "valuable papers and records" for which duplicates do not exist.

(2) This Coverage Extension does not apply to:

- (a) Property held as samples or for delivery after sale;
- (b) Property in storage away from the premises shown in the Declarations.

(3) The most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence at the described premises is \$5,000, unless a higher Limit of Insurance for "valuable papers and records" is shown in the Declarations.

For "valuable papers and records" not at the described premises, the most we will pay is \$2,500.

(4) Section B. Exclusions of this Coverage Form does not apply to this Coverage Extension except for:

- (a) Paragraph B.1.c., Governmental Action;
- (b) Paragraph B.1.d., Nuclear Hazard;
- (c) Paragraph B.1.f., War And Military Action;
- (d) Paragraph B.2.f., Dishonesty;
- (e) Paragraph B.2.g., False Pretense;
- (f) Paragraph B.3.; and
- (g) The Accounts Receivable and "Valuable Papers And Records" Exclusions.

f. Accounts Receivable

(1) You may extend the insurance that applies to Business Personal Property to apply to accounts receivable. We will pay:

- (a) All amounts due from your customers that you are unable to collect;
- (b) Interest charges on any loan required to offset amounts you are unable to collect pending our payment of these amounts;
- (c) Collection expenses in excess of your normal collection expenses that are made necessary by loss or damage; and
- (d) Other reasonable expenses that you incur to re-establish your records of accounts receivable;

that result from direct physical loss or damage by any Covered Cause of Loss to your records of accounts receivable.

(2) The most we will pay under this Coverage Extension for loss or damage in any one occurrence at the described premises is \$5,000, unless a higher Limit of Insurance for accounts receivable is shown in the Declarations.

For accounts receivable not at the described premises, the most we will pay is \$2,500.

(3) Section B. Exclusions of this Coverage Form does not apply to this Coverage Extension except for:

- (a) Paragraph B.1.c., Governmental Action;
- (b) Paragraph B.1.d., Nuclear Hazard;
- (c) Paragraph B.1.f., War And Military Action;
- (d) Paragraph B.2.f., Dishonesty;
- (e) Paragraph B.2.g., False Pretense;
- (f) Paragraph B.3.; and
- (g) The Accounts Receivable and "Valuable Papers And Records" Exclusions.

B. Exclusions

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

a. Ordinance Or Law

The enforcement of any ordinance or law:

- (1) Regulating the construction, use or repair of any property; or
- (2) Requiring the tearing down of any property, including the cost of removing its debris.

This exclusion, Ordinance Or Law, applies whether the loss results from:

- (1) An ordinance or law that is enforced even if the property has not been damaged; or
- (2) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property or removal of its debris, following a physical loss to that property.

b. Earth Movement

- (1) Any earth movement (other than sinkhole collapse), such as an earthquake, landslide, mine subsidence or earth sinking, rising or shifting. But if earth movement results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.
- (2) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or volcanic action, we will pay for the loss or damage caused by that fire, building glass breakage or volcanic action.

Volcanic action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- (a) Airborne volcanic blast or airborne shock waves;
- (b) Ash, dust, or particulate matter; or
- (c) Lava flow.

All volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

Volcanic action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss of or damage to Covered Property.

c. Governmental Action

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this policy.

d. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

e. Power Failure

The failure of power or other utility service supplied to the described premises, however caused, if the failure occurs away from the described premises.

But if failure of power or other utility service results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

f. War And Military Action

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

g. Water

- (1) Flood, surface water, waves, tides, tidal waves, overflow of any body of water, or their spray, all whether driven by wind or not;
- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows from a sewer, drain or sump; or
- (4) Water under the ground surface pressing on, or flowing or seeping through:
 - (a) Foundations, walls, floors or paved surfaces;
 - (b) Basements, whether paved or not; or
 - (c) Doors, windows or other openings.

But if Water, as described in **B.1.g.(1)** through **B.1.g.(4)**, results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

2. We will not pay for loss or damage caused by or resulting from any of the following:

a. Electrical Apparatus

Artificially generated electrical current, including electric arcing, that disturbs electrical devices, appliances or wires.

But if artificially generated electrical current results in fire, we will pay for the loss or damage caused by fire.

b. Consequential Losses

Delay, loss of use or loss of market.

c. Smoke, Vapor, Gas

Smoke, vapor or gas from agricultural smudging or industrial operations.

d. Steam Apparatus

Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

e. Frozen Plumbing

Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:

- (1) You do your best to maintain heat in the building or structure; or
- (2) You drain the equipment and shut off the supply if the heat is not maintained.

f. Dishonesty

Dishonest or criminal acts by you, anyone else with an interest in the property, or any of your or their partners, employees, directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:

- (1) Acting alone or in collusion with others;
- (2) Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees; but theft by employees is not covered.

With respect to accounts receivable and "valuable papers and records", this exclusion does not apply to carriers for hire.

g. False Pretense

Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.

h. Exposed Property

Rain, snow, ice or sleet to personal property in the open.

i. Collapse

Collapse, except as provided in the Additional Coverage for Collapse. But if collapse results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

j. Pollution

We will not pay for loss or damage caused by or resulting from the discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss". But if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

k. Other Types Of Loss

- (1) Wear and tear;
- (2) Rust, corrosion, fungus, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3) Smog;
- (4) Settling, cracking, shrinking or expansion;
- (5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals;

- (6) Mechanical breakdown, including rupture or bursting caused by centrifugal force; or
- (7) The following causes of loss to personal property:
 - (a) Dampness or dryness of atmosphere;
 - (b) Changes in or extremes of temperature; or
 - (c) Marring or scratching.

But if an excluded cause of loss that is listed in **B.2.k.(1)** through **B.2.k.(7)** results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

- 3. We will not pay for loss or damage caused by or resulting from any of the following **B.3.a.** through **B.3.c.** But if an excluded cause of loss that is listed in **B.3.a.** through **B.3.c.** results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

a. Weather Conditions

Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph 1. above to produce the loss or damage.

b. Acts Or Decisions

Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

c. Negligent Work

Faulty, inadequate or defective:

- (1) Planning, zoning, development, surveying, siting;
- (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
- (3) Materials used in repair, construction, renovation or remodeling; or
- (4) Maintenance;

of part or all of any property on or off the described premises.

4. Business Income And Extra Expense Exclusions

We will not pay for:

- a. Any Extra Expense, or increase of Business Income loss, caused by or resulting from:

- (1) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or

- (2) Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the suspension of "operations", we will cover such loss that affects your Business Income during the "period of restoration".

- b. Any other consequential loss.

5. Accounts Receivable And "Valuable Papers And Records" Exclusions

The following additional exclusions apply to the Accounts Receivable and "Valuable Papers And Records" Coverage Extensions:

- a. We will not pay for loss or damage caused by or resulting from electrical or magnetic injury, disturbance or erasure of electronic recordings that is caused by or results from:

- (a) Programming errors or faulty machine instructions;

- (b) Faulty installation or maintenance of data processing equipment or component parts;

But we will pay for direct loss or damage caused by lightning.

- b. Applicable to "Valuable Papers and Records" only:

We will not pay for loss or damage caused by or resulting from any of the following:

- (1) Errors or omissions in processing or copying. But if errors or omissions in processing or copying result in fire or explosion, we will pay for the direct loss or damage caused by the fire or explosion.

- (2) Wear and tear, gradual deterioration or latent defect.

c. Applicable to Accounts Receivable only:

We will not pay for:

- (1) Loss or damage caused by or resulting from alteration, falsification, concealment or destruction of records of accounts receivable done to conceal the wrongful giving, taking or withholding of "money", "securities" or other property.

This exclusion applies only to the extent of the wrongful giving, taking or withholding.

- (2) Loss or damage caused by or resulting from bookkeeping, accounting or billing errors or omissions.
- (3) Any loss or damage that requires any audit of records or any inventory computation to prove its factual existence.

C. Limits Of Insurance

1. The most we will pay for loss or damage in any one occurrence is the applicable Limit of Insurance shown in the Declarations.
2. The most we will pay for loss of or damage to outdoor signs attached to buildings is \$1,000 per sign in any one occurrence.
3. The limits applicable to the Coverage Extensions and the Fire Department Service Charge and Pollutant Clean Up and Removal Additional Coverages are in addition to the Limits of Insurance.

4. Building Limit - Automatic Increase

- a. The Limit of Insurance for Buildings will automatically increase by the annual percentage shown in the Declarations.
- b. The amount of increase will be:
 - (1) The Building limit that applied on the most recent of the policy inception date, the policy anniversary date, or any other policy change amending the Building limit, times
 - (2) The percentage of annual increase shown in the Declarations, expressed as a decimal (example: 8% is .08), times

- (3) The number of days since the beginning of the current policy year of the effective date of the most recent policy change amending the Building limit, divided by 365.

Example:

If: The applicable Building limit is \$100,000.
The annual percentage increase is 8%.
The number of days since the beginning of the policy year (or last policy change) is 146.

The amount of increase is
 $\$100,000 \times .08 \times 146 \div 365 = \$3,200.$

5. Business Personal Property Limit - Seasonal Increase

- a. The Limit of Insurance for Business Personal Property will automatically increase by 25% to provide for seasonal variations.
- b. This increase will apply only if the Limit of Insurance shown for Business Personal Property in the Declarations is at least 100% of your average monthly values during the lesser of:
 - (1) The 12 months immediately preceding the date the loss or damage occurs; or
 - (2) The period of time you have been in business as of the date the loss or damage occurs.

D. Deductibles

1. We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds the Deductible shown in the Declarations. We will then pay the amount of loss or damage in excess of the Deductible up to the applicable Limit of Insurance.
2. Regardless of the amount of the Deductible, the most we will deduct from any loss or damage under all of the following Optional Coverages and the Additional Coverage - Exterior Building Glass in any one occurrence is the Optional Coverage/Exterior Building Glass Deductible shown in the Declarations:
 - a. Money and Securities;
 - b. Employee Dishonesty;

c. Interior Glass; and

d. Outdoor Signs.

But this Optional Coverage/Exterior Building Glass Deductible will not increase the Deductible shown in the Declarations. This Deductible will be used to satisfy the requirements of the Deductible in the Declarations.

3. No deductible applies to the following Additional Coverages:

a. Fire Department Service Charge;

b. Business Income;

c. Extra Expense; and

d. Civil Authority.

E. Property Loss Conditions

1. Abandonment

There can be no abandonment of any property to us.

2. Appraisal

If we and you disagree on the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately 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:

a. Pay its chosen appraiser; and

b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

3. Duties In The Event Of Loss Or Damage

a. You must see that the following are done in the event of loss or damage to Covered Property:

(1) Notify the police if a law may have been broken.

(2) Give us prompt notice of the loss or damage. Include a description of the property involved.

(3) As soon as possible, give us a description of how, when and where the loss or damage occurred.

(4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.

(5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.

(6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.

Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.

(7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.

(8) Cooperate with us in the investigation or settlement of the claim.

(9) Resume all or part of your "operations" as quickly as possible.

b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

4. Legal Action Against Us

No one may bring a legal action against us under this insurance unless:

- a. There has been full compliance with all of the terms of this insurance; and
- b. The action is brought within 2 years after the date on which the direct physical loss or damage occurred.

5. Limitation - Electronic Media And Records

We will not pay for any loss of Business Income caused by direct physical loss of or damage to Electronic Media and Records after the longer of:

- a. 60 consecutive days from the date of direct physical loss or damage; or
- b. The period, beginning with the date of direct physical loss or damage, necessary to repair, rebuild or replace with reasonable speed and similar quality, other property at the described premises due to loss or damage caused by the same occurrence.

Electronic Media and Records are:

- (1) Electronic data processing, recording or storage media such as films, tapes, discs, drums or cells;
- (2) Data stored on such media; or
- (3) Programming records used for electronic data processing or electronically controlled equipment.

Example No. 1:

A Covered Cause of Loss damages a computer on June 1. It takes until September 1 to replace the computer, and until October 1 to restore the data that was lost when the damage occurred. We will only pay for the Business Income loss sustained during the period June 1 - September 1. Loss during the period September 2 - October 1 is not covered.

Example No. 2:

A Covered Cause of Loss results in the loss of data processing programming records on August 1. The records are replaced on October 15. We will only pay for the Business Income loss sustained during the period August 1 - September 29 (60 consecutive days). Loss during the period September 30 - October 15 is not covered.

6. Loss Payment

In the event of loss or damage covered by this policy:

- a. At our option, we will either:
 - (1) Pay the value of lost or damaged property;
 - (2) Pay the cost of repairing or replacing the lost or damaged property;
 - (3) Take all or any part of the property at an agreed or appraised value; or
 - (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to d.(1)(e) below.
- b. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- c. We will not pay you more than your financial interest in the Covered Property.
- d. Except as provided in (2) through (8) below, we will determine the value of Covered Property as follows:
 - (1) At replacement cost without deduction for depreciation, subject to the following:
 - (a) If, at the time of loss, the Limit of Insurance on the lost or damaged property is 80% or more of the full replacement cost of the property immediately before the loss, we will pay the cost to repair or replace, after application of the deductible and without deduction for depreciation, but not more than the least of the following amounts:
 - (i) The Limit of Insurance under this policy that applies to the lost or damaged property;
 - (ii) The cost to replace, on the same premises, the lost or damaged property with other property:
 - i. Of comparable material and quality; and
 - ii. Used for the same purpose; or
 - (iii) The amount that you actually spend that is necessary to repair or replace the lost or damaged property.

- (b) If, at the time of loss, the Limit of Insurance applicable to the lost or damaged property is less than 80% of the full replacement cost of the property immediately before the loss, we will pay the greater of the following amounts, but not more than the Limit of Insurance that applies to the property:
 - (i) The actual cash value of the lost or damaged property; or
 - (ii) A proportion of the cost to repair or replace the lost or damaged property, after application of the deductible and without deduction for depreciation. This proportion will equal the ratio of the applicable Limit of Insurance to 80% of the cost of repair or replacement.
- (c) You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim on a replacement cost basis if you notify us of your intent to do so within 180 days after the loss or damage.
- (d) We will not pay on a replacement cost basis for any loss or damage:
 - (i) Until the lost or damaged property is actually repaired or replaced; and
 - (ii) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.
- (e) The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.
- (2) If the "Actual Cash Value - Buildings" option applies, as shown in the Declarations, Paragraph (1) above does not apply to Buildings. Instead, we will determine the value of Buildings at actual cash value.
- (3) The following property at actual cash value:
 - (a) Used or second-hand merchandise held in storage or for sale;
 - (b) Property of others, but this property is not covered for more than the amount for which you are liable, plus the cost of labor, materials or services furnished or arranged by you on personal property of others;
 - (c) Household contents, except personal property in apartments or rooms furnished by you as landlord;
 - (d) Manuscripts;
 - (e) Works of art, antiques or rare articles, including etchings, pictures, statuary, marbles, bronzes, porcelains and bric-a-brac.
- (4) Glass at the cost of replacement with safety glazing material if required by law.
- (5) Tenants' Improvements and Betterments at:
 - (a) Replacement cost if you make repairs promptly.
 - (b) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
 - (i) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
 - (ii) Divide the amount determined in (i) above by the number of days from the installation of improvements to the expiration of the lease.

If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.
 - (c) Nothing if others pay for repairs or replacement.

- (6) "Valuable papers and records", including those which exist on electronic or magnetic media (other than prepackaged software programs), at the cost of:

- (a) Blank materials for reproducing the records; and
- (b) Labor to transcribe or copy the records.

This condition does not apply to "valuable papers and records" that are actually replaced or restored.

- (7) Applicable only to the Optional Coverages:

- (a) "Money" at its face value; and
- (b) "Securities" at their value at the close of business on the day the loss is discovered.

- (8) Applicable only to Accounts Receivable:

- (a) If you cannot accurately establish the amount of accounts receivable outstanding as of the time of loss or damage:
 - (i) We will determine the total of the average monthly amounts of accounts receivable for the 12 months immediately preceding the month in which the loss or damage occurs; and
 - (ii) We will adjust that total for any normal fluctuations in the amount of accounts receivable for the month in which the loss or damage occurred or for any demonstrated variance from the average for that month.
- (b) The following will be deducted from the total amount of accounts receivable, however that amount is established:
 - (i) The amount of the accounts for which there is no loss or damage;
 - (ii) The amount of the accounts that you are able to re-establish or collect;

- (iii) An amount to allow for probable bad debts that you are normally unable to collect; and

- (iv) All unearned interest and service charges.

- e. Our payment for loss of or damage to personal property of others will only be for the account of the owners of the property. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.

- f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.

- g. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, provided you have complied with all of the terms of this policy, and

- (1) We have reached agreement with you on the amount of loss; or

- (2) An appraisal award has been made.

7. Recovered Property

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, you may retain the property. But then you must return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limit of Insurance.

8. Resumption Of Operations

We will reduce the amount of your:

- a. Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.
- b. Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.

9. Vacancy

a. Description Of Terms

- (1) As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in (1)(a) and (1)(b) below:
 - (a) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such building is vacant when it does not contain enough business personal property to conduct customary operations.
 - (b) When this policy is issued to the owner of a building, building means the entire building. Such building is vacant when 70% or more of its total square footage:
 - (i) Is not rented; or
 - (ii) Is not used to conduct customary operations.
- (2) Buildings under construction or renovation are not considered vacant.

b. Vacancy Provisions

If the building where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:

- (1) We will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:
 - (a) Vandalism;
 - (b) Sprinkler leakage, unless you have protected the system against freezing;
 - (c) Building glass breakage;
 - (d) Water damage;
 - (e) Theft; or
 - (f) Attempted theft.
- (2) With respect to Covered Causes of Loss other than those listed in b.(1)(a) through b.(1)(f) above, we will reduce the amount we would otherwise pay for the loss or damage by 15%.

F. Property General Conditions

1. Control Of Property

Any act or neglect of any person other than you beyond your direction or control will not affect this insurance.

The breach of any condition of this Coverage Form at any one or more locations will not affect coverage at any location where, at the time of loss or damage, the breach of condition does not exist.

2. Mortgageholders

- a. The term "mortgageholder" includes trustee.
- b. We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interests may appear.
- c. The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this policy, the mortgageholder will still have the right to receive loss payment if the mortgageholder:
 - (1) Pays any premium due under this policy at our request if you have failed to do so;
 - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
 - (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

All of the terms of this policy will then apply directly to the mortgageholder.

- e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this policy:
 - (1) The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and

- (2) The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.

At our option, we may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If we cancel this policy, we will give written notice to the mortgageholder at least:
- (1) 10 days before the effective date of cancellation if we cancel for your non-payment of premium; or
 - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

3. No Benefit To Bailee

No person or organization, other than you, having custody of Covered Property will benefit from this insurance.

4. Policy Period, Coverage Territory

Under this form:

- a. We cover loss or damage commencing:
- (1) During the policy period shown in the Declarations; and
 - (2) Within the coverage territory or, with respect to property in transit, while it is between points in the coverage territory.
- b. The coverage territory is:
- (1) The United States of America (including its territories and possessions);
 - (2) Puerto Rico; and
 - (3) Canada.

G. Optional Coverages

If shown as applicable in the Declarations, the following Optional Coverages also apply. These coverages are subject to the terms and conditions applicable to property coverage in this policy, except as provided below.

1. Outdoor Signs

- a. We will pay for direct physical loss of or damage to all outdoor signs at the described premises:
- (1) Owned by you; or
 - (2) Owned by others but in your care, custody or control.
- b. Paragraph A.3., **Covered Causes Of Loss**, and Section B., **Exclusions**, do not apply to this Optional Coverage, except for:
- (1) Paragraph B.1.c., Governmental Action;
 - (2) Paragraph B.1.d., Nuclear Hazard; and
 - (3) Paragraph B.1.f., War And Military Action.
- c. We will not pay for loss or damage caused by or resulting from:
- (1) Wear and tear;
 - (2) Hidden or latent defect;
 - (3) Rust;
 - (4) Corrosion; or
 - (5) Mechanical breakdown.
- d. The most we will pay for loss or damage in any one occurrence is the Limit of Insurance for Outdoor Signs shown in the Declarations.
- e. The provisions of this Optional Coverage supersede all other references to outdoor signs in this policy.

2. Interior Glass

- a. We will pay for direct physical loss of or damage to items of glass that are permanently affixed to the interior walls, floors or ceilings of a covered building or structure at the described premises, provided each item is:
- (1) Described in the Declarations as covered under this Optional Coverage; and
 - (2) Located in the basement or ground floor level of the building or structure, unless the Declarations show that this Optional Coverage is applicable to interior glass at all floors; and
 - (3) Owned by you, or owned by others but in your care, custody or control.

- b. We will also pay for necessary:
 - (1) Expenses incurred to put up temporary plates or board up openings;
 - (2) Repair or replacement of encasing frames; and
 - (3) Expenses incurred to remove or replace obstructions.
 - c. Paragraph A.3., **Covered Causes Of Loss**, and Section B., **Exclusions**, do not apply to this Optional Coverage, except for:
 - (1) Paragraph B.1.c., Governmental Action;
 - (2) Paragraph B.1.d., Nuclear Hazard; and
 - (3) Paragraph B.1.f., War And Military Action.
 - d. We will not pay for loss or damage caused by or resulting from:
 - (1) Wear and tear;
 - (2) Hidden or latent defect;
 - (3) Corrosion; or
 - (4) Rust.
 - e. This Optional Coverage supersedes all limitations in this policy that apply to interior glass.
- 3. Money And Securities**
- a. We will pay for loss of "money" and "securities" used in your business while at a bank or savings institution, within your living quarters or the living quarters of your partners or any employee having use and custody of the property, at the described premises, or in transit between any of these places, resulting directly from:
 - (1) Theft, meaning any act of stealing;
 - (2) Disappearance; or
 - (3) Destruction.
 - b. In addition to the Limitations and Exclusions applicable to property coverage, we will not pay for loss:
 - (1) Resulting from accounting or arithmetical errors or omissions;
 - (2) Due to the giving or surrendering of property in any exchange or purchase; or
 - (3) Of property contained in any "money"-operated device unless the amount of "money" deposited in it is recorded by a continuous recording instrument in the device.
 - c. The most we will pay for loss in any one occurrence is:
 - (1) The limit shown in the Declarations for Inside the Premises for "money" and "securities" while:
 - (a) In or on the described premises; or
 - (b) Within a bank or savings institution; and
 - (2) The limit shown in the Declarations for Outside the Premises for "money" and "securities" while anywhere else.
 - d. All loss:
 - (1) Caused by one or more persons; or
 - (2) Involving a single act or series of related acts;
 is considered one occurrence.
 - e. You must keep records of all "money" and "securities" so we can verify the amount of any loss or damage.
- 4. Employee Dishonesty**
- a. We will pay for direct loss of or damage to Business Personal Property and "money" and "securities" resulting from dishonest acts committed by any of your employees acting alone or in collusion with other persons (except you or your partner) with the manifest intent to:
 - (1) Cause you to sustain loss or damage; and also
 - (2) Obtain financial benefit (other than salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other employee benefits earned in the normal course of employment) for:
 - (a) Any employee; or
 - (b) Any other person or organization.
 - b. We will not pay for loss or damage:
 - (1) Resulting from any dishonest or criminal act that you or any of your partners commit whether acting alone or in collusion with other persons.

- (2) The only proof of which as to its existence or amount is:
 - (a) An inventory computation; or
 - (b) A profit and loss computation.
 - c. The most we will pay for loss or damage in any one occurrence is the Limit of Insurance for Employee Dishonesty shown in the Declarations.
 - d. All loss or damage:
 - (1) Caused by one or more persons; or
 - (2) Involving a single act or series of related acts;
 is considered one occurrence.
 - e. We will pay only for loss or damage you sustain through acts committed or events occurring during the Policy Period. Regardless of the number of years this policy remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year or period to period.
 - f. This Optional Coverage does not apply to any employee immediately upon discovery by:
 - (1) You; or
 - (2) Any of your partners, officers or directors not in collusion with the employee; of any dishonest act committed by that employee before or after being hired by you.
 - g. We will pay only for covered loss or damage discovered no later than one year from the end of the Policy Period.
 - h. If you (or any predecessor in interest) sustained loss or damage during the period of any prior insurance that you could have recovered under that insurance except that the time within which to discover loss or damage had expired, we will pay for it under this Optional Coverage, provided:
 - (1) This Optional Coverage became effective at the time of cancellation or termination of the prior insurance; and
 - (2) The loss or damage would have been covered by this Optional Coverage had it been in effect when the acts or events causing the loss or damage were committed or occurred.
 - i. The insurance under Paragraph h. above is part of, not in addition to, the Limit of Insurance applying to this Optional Coverage and is limited to the lesser of the amount recoverable under:
 - (1) This Optional Coverage as of its effective date; or
 - (2) The prior insurance had it remained in effect.
- 5. Mechanical Breakdown**
- a. We will pay for direct damage to Covered Property caused by an Accident to an Object. The Object must be:
 - (1) Owned by you or in your care, custody or control; and
 - (2) At the described premises.
 - b. Accident means a sudden and accidental breakdown of the Object or a part of the Object. At the time the breakdown occurs, it must manifest itself by physical damage to the Object that necessitates repair or replacement.
 - c. None of the following is an Accident:
 - (1) Depletion, deterioration, corrosion or erosion;
 - (2) Wear and tear;
 - (3) Leakage at any valve, fitting, shaft seal, gland packing, joint or connection;
 - (4) Breakdown of any vacuum tube, gas tube or brush;
 - (5) Breakdown of any electronic computer or electronic data processing equipment;
 - (6) Breakdown of any structure or foundation supporting the Object or any of its parts;
 - (7) The functioning of any safety or protective device; or
 - (8) The explosion of gases or fuel within the furnace of any Object or within the flues or passages through which the gases of combustion pass.
 - d. Object means any of the following equipment:
 - (1) Boiler and Pressure Vessels:
 - (a) Steam heating boilers and condensate return tanks used with them;

- (b) Hot water heating boilers and expansion tanks used with them;
 - (c) Hot water supply boilers;
 - (d) Other fired or unfired vessels used for maintenance or service of the described premises but not used for processing or manufacturing;
 - (e) Steam boiler piping, valves, fittings, traps and separators, but only if they:
 - (i) Are on your premises or between parts of your premises;
 - (ii) Contain steam or condensate of steam; and
 - (iii) Are not part of any other vessel or apparatus;
 - (f) Feed water piping between any steam boiler and a feed pump or injector.
- (2) Air Conditioning Units - Any air conditioning unit that has a capacity of 60,000 Btu or more, including:
- (a) Inductors, convectors and coils that make use of a refrigerant and form part of a cooling, humidity control or space heating system;
 - (b) Interconnecting piping, valves and fittings containing only a refrigerant, water, brine or other solution;
 - (c) Vessels heated directly or indirectly that:
 - (i) Form part of an absorption type system; and
 - (ii) Function as a generator, regenerator or concentrator;
 - (d) Compressors, pumps, fans and blowers used solely with the system together with their driving electric motors; and
 - (e) Control equipment used solely with the system.
- e. Object does not mean:
- (1) As Boiler and Pressure Vessels:
 - (a) Equipment that is not under internal vacuum or internal pressure other than weight of contents;
 - (b) Boiler settings;
 - (c) Insulating or refractory material; or
 - (d) Electrical, reciprocating or rotating apparatus within or forming a part of the boiler or vessel.
 - (2) As Air Conditioning Units, any:
 - (a) Vessel, cooling tower, reservoir or other source of cooling water for a condenser or compressor, or any water piping leading to or from that source; or
 - (b) Wiring or piping leading to or from the unit.
- f. We will not pay for an Accident to any Object while being tested.
- g. **Suspension**
- Whenever an Object is found to be in, or exposed to, a dangerous condition, any of our representatives may immediately suspend the insurance against loss from an Accident to that Object. This can be done by delivering or mailing a written notice of suspension to:
- (1) Your last known address; or
 - (2) The address where the Object is located.
- If we suspend your insurance, you will get a pro rata refund of premium. But the suspension will be effective even if we have not yet made or offered a refund.
- H. Property Definitions**
- 1. "Money" means:
 - a. Currency, coins and bank notes in current use and having a face value; and
 - b. Travelers checks, register checks and money orders held for sale to the public.
 - 2. "Operations" means your business activities occurring at the described premises.
 - 3. "Period of restoration" means the period of time that:
 - a. Begins:
 - (1) 72 hours after the time of direct physical loss or damage for Business Income Coverage; or
 - (2) Immediately after the time of direct physical loss or damage for Extra Expense Coverage;
- caused by or resulting from any Covered Cause of Loss at the described premises; and
- d

b. Ends on the earlier of:

- (1)** The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or
- (2)** The date when business is resumed at a new permanent location.

"Period of restoration" does not include any increased period required due to the enforcement of any ordinance or law that:

- (1)** Regulates the construction, use or repair, or requires the tearing down of any property; or
- (2)** Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of "pollutants".

The expiration date of this policy will not cut short the "period of restoration".

- 4. "Pollutants"** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- 5. "Securities"** means negotiable and non-negotiable instruments or contracts representing either "money" or other property and includes:
 - a.** Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
 - b.** Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you;but does not include "money".
- 6. "Specified Causes of Loss"** means the following:

Fire; lightning; explosion, windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.

a. Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:

- (1)** The cost of filling sinkholes; or
- (2)** Sinking or collapse of land into man-made underground cavities.

b. Falling objects does not include loss of or damage to:

- (1)** Personal property in the open; or
- (2)** The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.

c. Water damage means accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of any part of a system or appliance (other than a sump system including its related equipment and parts) containing water or steam.

7. "Valuable papers and records" means inscribed, printed, or written:

- a.** Documents;
- b.** Manuscripts; and
- c.** Records;

including abstracts, books, deeds, drawings, films, maps or mortgages.

But "valuable papers and records" does not mean:

- d.** "Money" or "Securities";
- e.** Converted Data;
- f.** Programs or instructions used in your data processing operations, including the materials on which the data is recorded.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

OTHER TYPES OF LOSS ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS SPECIAL PROPERTY COVERAGE FORM

A. Under B. Exclusions, 2.k(2) is deleted and replaced with the following:

- (2) Rust, corrosion, "mold", decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;

B. The following is added to H. Property Definitions:

Mold means any type or form of fungus including but not limited to mildew, mycotoxins, spores, scents or by-products produced or released by "mold".

This endorsement is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all other terms of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAR LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following provisions are added to the Businessowners Liability Coverage Form **BP 00 06** and **Section II Liability** of the Businessowners Coverage Form **BP 00 03**:

A. Exclusion i. under Paragraph B.1., Exclusions Applicable To Business Liability Coverage is replaced by the following:

1. Applicable To Business Liability Coverage

This insurance does not apply to:

i. War

"Bodily injury", "property damage", "personal injury", "advertising injury" or "personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1)** War, including undeclared or civil war; or
- (2)** Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

- (3)** Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

B. Exclusion h. under Paragraph B.2. Exclusions Applicable To Medical Expenses Coverage does not apply. Medical Expenses due to war are now subject to Exclusion g. of Paragraph **B.2.** since "bodily injury" arising out of war is now excluded under Paragraph **B.1., Exclusions Applicable To Business Liability Coverage.**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESSOWNERS SPECIAL FORM COMPUTER COVERAGE

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS SPECIAL PROPERTY COVERAGE FORM

SCHEDULE*

Electronic Data Processing Equipment

LIMITS OF INSURANCE

Prem.	Bldg.	
No.	No.	
001	001	\$ <u>10,000/OCCURRENCE</u>
002	001	\$ <u>10,000/OCCURRENCE</u>
003	001	\$ <u>10,000/OCCURRENCE</u>

The Limit of Insurance for Electronic Media and Records is 25% of the Limit of Insurance shown for Electronic Data Processing Equipment unless a higher Limit of Insurance for Electronic Media and Records is shown below.

Electronic Data Processing Media And Records

LIMITS OF INSURANCE

Prem.	Bldg.	
No.	No.	
001	001	\$ _____
002	001	\$ _____
003	001	\$ _____

*Information required to complete this Schedule, if not shown on this endorsement, will be shown in the Declarations.

The coverage provided by this endorsement is subject to the provisions applicable to the Businessowners Special Property Coverage Form attached to this policy, including the deductible provisions, except as otherwise provided within this endorsement.

The following provisions (A. through H. inclusive) apply only to the coverage provided by this endorsement:

A. Paragraph A.1.b. Business Personal Property is replaced by the following:

b. Business Personal Property

Covered Property as used in this endorsement includes the following types of property that you own that are used in your business; and property of others as defined below, that is in your care, custody or control, except as otherwise provided in Loss Payment Property Loss Condition E.6.d.(3)(b).

(1) Electronic Data Processing Equipment (Hardware)

As used in this endorsement, Electronic Data Processing Equipment includes:

- (a) Programmable electronic equipment that is used to store, retrieve and process data; and
- (b) Associated peripheral equipment that provides communication including input and output functions such as printing, or auxiliary functions such as data transmission;

except as described in (2) below.

(2) Electronic Media And Records (Including Software)

As used in this endorsement, Electronic Media and Records includes:

- (a) Electronic data processing, recording or storage media such as films, tapes, discs, drums or cells;
- (b) Data stored on such media; and
- (c) Programming records used for electronic data processing or electronically controlled equipment.

B. The following is added to Paragraph A.2. Property Not Covered:

- g. Property held as samples, held for rental or sale or that you rent to others;
- h. Property in storage away from the premises shown in the Declarations or in the Schedule, except as provided in the Coverage Extensions of this endorsement;
- i. Electronic data processing equipment which is permanently installed or designed to be permanently installed in any aircraft, watercraft, motortruck or other vehicle subject to motor vehicle registration; or
- j. Accounts, bills, evidences of debt and valuable papers and records. However, such property is Covered Property in its "converted data" form.

C. Under A.4. Limitations, Paragraphs a.(1) and (2) do not apply.**D. Under A.6. Coverage Extensions in the Businessowners Special Property Coverage Form:**

- 1. Under the Personal Property at Newly Acquired Premises Coverage Extension 6.a., insurance under this Extension for Covered Property will end when any of the following first occurs:
 - a. This policy expires;
 - b. 30 days expire after you acquire new premises or begin construction at the new premises;
 - c. Specific insurance for the Covered Property at the newly acquired premises is obtained; or
 - d. You report values to us.

We will charge you additional premium for values reported from the date you acquire the premises.

2. Coverage Extension 6.b. Personal Property Off Premises applies to Covered Property:

- (a) While such property is in the course of transit or is located at a premises you do not own, lease or operate for not more than 90 days.
- (b) Including duplicate or back-up electronic media and records that are stored at a separate location which is at least 100 feet from the premises described in the Schedule or Declarations as applying to electronic media and records.

3. The following are added to A.6. Coverage Extensions:**e. Mechanical Breakdown Of Electronic Data Processing Equipment**

We will pay for loss or damage to Covered Property due to mechanical breakdown if such loss or damage exceeds in any one occurrence the applicable deductible shown in the Declarations.

We will then pay the amount of loss or damage in excess of the deductible up to the applicable Limit of Insurance for the Covered Property.

This Coverage Extension is included within the Limit of Insurance applying to Electronic Data Processing Equipment at the described premises.

f. Artificially Generated Electrical Current

We will pay for loss or damage to Electronic Data Processing Equipment due to artificially generated electrical current if such loss or damage is caused by or results from:

- (1) An occurrence that took place within 100 feet of the described premises; or
- (2) Interruption of electric power supply, power surge, blackout or brownout if the cause of such occurrence took place within 100 feet of the described premises.

If such loss or damage as specified above, exceeds in any one occurrence the applicable deductible shown in the Declarations, we will then pay the amount of loss or damage in excess of the deductible up to the applicable Limit of Insurance for the Equipment.

This Coverage Extension is included within the Limit of Insurance applying to Electronic Data Processing Equipment at the described Location.

The Electrical Apparatus Exclusion **B.2.a.** in the Businessowners Special Property Coverage Form does not apply to this Coverage Extension.

E. The following is added to Paragraph B. Exclusions in the Businessowners Special Property Coverage Form:

1. The following exclusions do not apply to coverage provided under this endorsement:

B.1.e. Power Failure, B.2.c. Smoke, B.2.d. Steam Apparatus, B.2.i. Collapse, B.2.k.(3), (4) and (5) Other Types Of Loss exclusions and B.3.b. Acts Or Decisions.

2. Exclusion **B.2.k.(7)** is replaced by the following:

- (a) Dampness or dryness of atmosphere, or changes in or extremes of temperature, unless such conditions result from physical damage caused by a covered cause of loss to an air conditioning unit or system, including equipment and parts, which is part of, or used with the electronic data processing equipment.

- (b) Marring or scratching:

But if an excluded cause of loss that is listed in **B.2.k.(1), (2), (6) or (7)** results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

F. Additional Exclusions

The following exclusions apply in addition to the exclusions listed under **B. Exclusions** in the Businessowners Special Property Coverage Form.

We will not pay for loss or damage caused by or resulting from any of the following:

1. Human errors or omissions in processing, recording or storing information on electronic media and records and electronic data processing equipment.

But we will pay for direct loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this endorsement.

2. Electrical or magnetic injury, disturbance or erasure of electronic recordings, except as provided for under the Coverage Extensions of this endorsement.

But we will pay for direct loss or damage caused by lightning.

3. Failure, breakdown or malfunction of electronic media and records and electronic data processing equipment, including parts, while the media is being run through the equipment.

But, we will pay for direct loss or damage caused by resulting fire or explosion if these causes of loss are covered by this endorsement.

4. Installation, testing, repair or other similar service performed upon the electronic data processing media and records or electronic data processing equipment, including parts.

G. Property Loss Conditions

Paragraph **d.(6)** of the **Loss Payment** Property Loss Condition does not apply to electronic media and records that are actually replaced or restored.

H. The following is added to H. Property Definitions:

7. "Converted data" means information that is stored on electronic media, that is capable of being communicated, processed or interpreted by electronic data processing equipment.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UTILITY SERVICES - TIME ELEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS POLICY

SCHEDULE*

	Communication Supply Property (Not Including Overhead Transmission Lines)	Communication Supply Property (Including Overhead Transmission Lines)	Power Supply Property (Not Including Overhead Transmission Lines)	Power Supply Property (Including Overhead Transmission Lines)
Water Supply Property				
X		X		X
Prem. No.	Bldg. No.	Utility Services Limit Of Insurance		
001	001	\$10,000		
002	001	\$10,000		
003	001	\$10,000		

* Information required to complete this Schedule, if not shown on this endorsement, will be shown in the Declarations.

The coverage provided by this endorsement is subject to the provisions of the applicable Businessowners Property Coverage Form of this policy, except as provided below.

A. Coverage

The following is added to Paragraph A.:

We will pay for loss of Business Income or Extra Expense at the described premises caused by the interruption of service to the described premises. The interruption must result from direct physical loss or damage by a Covered Cause of Loss to the property described in Paragraph B. if such property is indicated by an "X" in the Schedule and is located outside of a covered building described in the Declarations.

B. Utility Services

1. Water Supply Services, meaning the following types of property supplying water to the described premises:
 - a. Pumping stations; and
 - b. Water mains.
2. Communication Supply Services, meaning property supplying communication services, including telephone, radio, microwave or television services to the described premises, such as:
 - a. Communication transmission lines, including optic fiber transmission lines;
 - b. Coaxial cables; and
 - c. Microwave radio relays except satellites.

It does not include overhead transmission lines unless indicated by an "X" in the Schedule.

3. Power Supply Services, meaning the following types of property supplying electricity, steam or gas to the described premises:

- a. Utility generating plants;
- b. Switching stations;
- c. Substations;
- d. Transformers; and
- e. Transmission lines.

It does not include overhead transmission lines unless indicated by an "X" in the Schedule.

B. Limits Of Insurance

Section C. is replaced by the following:

The most we will pay for loss or damage in any one occurrence is the Limit of Insurance shown in the Schedule as applicable to the Covered Property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SPOILAGE COVERAGE

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS POLICY.

SCHEDULE*

PREMISES NO.	BLDG. NO.	DESCRIPTION OF PERISHABLE STOCK	LIMIT OF INSURANCE	DEDUCTIBLE
001	001	CHILLED OR FROZEN	25,000	1,000
002	001	MERCHANDISE OR FOOD	25,000	1,000
003	001		25,000	1,000

REFRIGERATION MAINTENANCE AGREEMENT	BREAKDOWN OR CONTAMINATION	CAUSES OF LOSS	POWER OUTAGE
<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>

The Businessowners Property Coverage Form is extended to insure against direct physical loss of or damage to "perishable stock" indicated in the Schedule, caused by the Covered Cause(s) of Loss, as provided by this endorsement.

*Information required to complete this Schedule, if not shown on this endorsement, will be shown in the Declarations.

The following provisions (A. through I. inclusive) apply to the coverage provided by this endorsement:

A. Paragraph A.1. **Covered Property** is replaced by the following:

1. Covered Property

Covered Property means "perishable stock" shown in the Schedule at the described premises, if the "perishable stock" is:

- a. Owned by you and used in your business;
or

- b. Owned by others and in your care, custody or control except as otherwise provided in Loss Payment Property Loss Condition E.6.d.(3)(b).

B. The following is added to Paragraph A.2. **Property Not Covered:**

g. Property located:

- (1) On buildings;
(2) In the open; or
(3) In vehicles.

C. Paragraph A.3. **Covered Causes Of Loss** is replaced by the following:

3. Covered Causes Of Loss

Subject to the exclusions described in Item E. of this endorsement, Covered Causes of Loss means the following as indicated in the Schedule:

a. Breakdown or Contamination, meaning:

- (1) Change in temperature or humidity resulting from mechanical breakdown or mechanical failure of refrigerating, cooling or humidity control apparatus or equipment, only while such apparatus or equipment is at the described premises shown in the Schedule; or
- (2) Contamination by a refrigerant, only while the refrigerating apparatus or equipment is at the described premises shown in the Schedule.

Mechanical breakdown and mechanical failure do not mean power interruption, regardless of how or where the interruption is caused and whether or not the interruption is complete or partial.

b. Power Outage, meaning change in temperature or humidity resulting from complete or partial interruption of electrical power, either on or off the described premises, due to conditions beyond your control.

D. Paragraph A.5. **Coverage Extensions** of the Businessowners Standard Property Coverage Form does not apply.

Paragraph A.6. **Coverage Extensions** of the Businessowners Special Property Coverage Form does not apply.

E. Paragraph B. **Exclusions** is replaced by the following:

B. Exclusions

1. Of the **Exclusions** contained in Paragraph B.1. of the Businessowners Property Coverage Form, only the following apply to Spoilage Coverage:
 - b. Earth Movement;
 - c. Governmental Action;
 - d. Nuclear Hazard;

f. War And Military Action; and

g. Water.

2. The following Exclusions are added:

We will not pay for loss or damage caused by or resulting from:

- a. The disconnection of any refrigerating, cooling or humidity control system from the source of power.
- b. The deactivation of electrical power caused by the manipulation of any switch or other device used to control the flow of electrical power or current.
- c. The inability of an electrical utility company or other power source to provide sufficient power due to:
 - (1) Lack of fuel; or
 - (2) Governmental order.
- d. The inability of a power source at the described premises to provide sufficient power due to lack of generating capacity to meet demand.
- e. Breaking of any glass that is a permanent part of any refrigerating, cooling or humidity control unit.

F. Section D. **Deductibles** is replaced by the following:

We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds the Deductible shown in the Schedule of this endorsement. We will then pay the amount of loss or damage in excess of that Deductible, up to the applicable Limit of Insurance. No other deductible in this policy applies to the coverage provided by this endorsement.

G. Conditions

1. Under **Property Loss Conditions**, Item d. of Condition 6. **Loss Payment** is replaced by the following:

d. We will determine the value of Covered Property as follows:

- (1) For "perishable stock" you have sold but not delivered, at the selling price less discounts and expenses you otherwise would have had;
- (2) For other "perishable stock", at actual cash value.

2. The following condition applies in addition to the **Businessowners Common Policy Conditions, Property Loss Conditions** (as modified in 1. above) and **Property General Conditions:**

Additional Condition - Refrigeration Maintenance Agreements

Refrigeration Maintenance Agreements

If Breakdown or Contamination is designated as a Covered Cause of Loss and a refrigeration maintenance agreement is shown as applicable in the Schedule, the following condition applies:

You must maintain a refrigeration maintenance or service agreement as described below. If you voluntarily terminate this agreement and do not notify us within 10 days, the insurance provided by this endorsement under the Breakdown or Contamination Covered Cause of Loss will be automatically suspended at the location involved.

A refrigeration maintenance agreement means a written service contract, between you and the refrigeration service organization, which provides for regular periodic inspection of the refrigeration equipment at the "insured location", and the servicing and repair of the equipment, including emergency response at the "insured location".

- H. Paragraph G. **Optional Coverages** does not apply.

- I. The following is added to the **Definitions:**

"Perishable Stock" means property:

- a. Maintained under controlled temperature or humidity conditions for preservation; and
- b. Susceptible to loss or damage if the controlled temperature or humidity conditions change.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.



FARMERS

E6306
1st Edition

DEDUCTIBLE PROVISIONS ENDORSEMENT

This endorsement modifies coverage provided under the following:

BUSINESSOWNERS SPECIAL PROPERTY COVERAGE FORM BP 00 02

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

A. Deductibles

Item **2.** under **D. Deductibles** is deleted and replaced by the following:

2. Regardless of the amount of the Deductible, the most we will deduct from any loss or damage under:

- a. Additional Coverage - Exterior Building Glass; or
- b. The following Optional Coverages:
 - (1) Money and Securities;
 - (2) Employee Dishonesty

is the applicable Building Glass Deductible and the Optional Coverage Deductible shown in the Declarations.

But the Optional Coverage Deductible or Building Glass Deductible will not increase the Deductible shown in the Declarations. This Deductible will be used to satisfy the requirements of the Deductible in the Declarations.

This endorsement is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all terms of the policy.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BACK UP OF SEWERS OR DRAINS COVERAGE ENDORSEMENT

E3416

2nd Edition

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS SPECIAL PROPERTY COVERAGE FORM
APARTMENT OWNERS PROPERTY COVERAGE FORM CONDOMINIUM
PROPERTY COVERAGE FORM

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

\$ 25,000 Limits of Insurance per Occurrence

The following item is added to paragraph **A.5. Additional Coverages** of the applicable Coverage Form.

Back Up of Sewers or Drains

1. We will pay up to the Limit of Insurance Per Occurrence shown above for each Location shown on the Declarations for loss or damage to your property caused by water that:
 - a. backs up or overflows from your sewer or drain; or
 - b. enters into and overflows from a sump pump or sump pump well or any other system designed to remove subsurface water from the foundation area.

One or more incidents occurring within a 72 hour period is considered one occurrence.

2. Subject to the applicable Limit of Insurance shown above and other provisions of this endorsement, paragraph **g. (3)** in **B. Exclusions** is deleted.
3. The deductible applicable to and shown on the Declarations for Building(s) and/or Business Personal Property applies to each loss under this endorsement.

This endorsement is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all the terms of the policy.

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

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

v.

FARMER'S INSURANCE GROUP SAFETY
FOUNDATION, a California
Corporation,
Defendant.

No. 07-282-CD

Type of Pleading:

AFFIDAVIT OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

&

Trudy G. Lumadue, Esq.
Pa I.D. 202049

NADDEO & LEWIS, LLC.
207 E. Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: March 7, 2007

FILED

MAR 07 2007

0/4:00 W
William A. Shaw

Prothonotary/Clerk of Courts

1 Cmt to HTR

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

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

v.

FARMER'S INSURANCE GROUP SAFETY,
FOUNDATION, a California
Corporation,
Defendant.

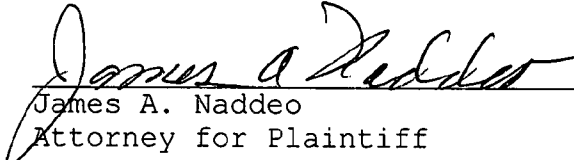
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No. 07-282-CD

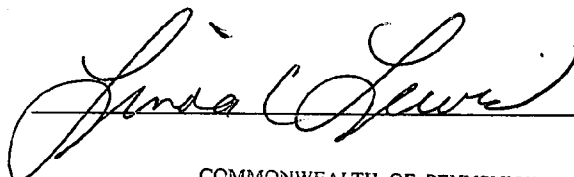
AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA)
SS
COUNTY OF CLEARFIELD)

James A. Naddeo, Esquire, being duly sworn according to law, deposes and states that a certified copy of the Complaint filed in the above-captioned action was served upon the Defendant, Farmer's Insurance Group Safety Foundation, by first-class mail, RESTRICTED DELIVERY, return receipt requested on February 26, 2007, at the Defendant's address of 4680 Wilshire Blvd., Los Angeles, California, 90010 as appears from the receipt of Certified Mail attached hereto.


James A. Naddeo
Attorney for Plaintiff

SWORN and SUBSCRIBED before me this 6th day of March, 2007.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Linda C. Lewis, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires July 25, 2007

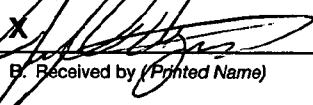
SENDER: COMPLETE THIS SECTION

- 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:

Farmer's Insurance Group SF
4680 Wilshire Blvd.
Los Angeles, CA 90010

COMPLETE THIS SECTION ON DELIVERY**A. Signature**



☐ Agent☐ Addressee**B. Received by (Printed Name)****C. Date of Delivery**

2/26/97

D. Is delivery address different from item 1?☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.**4. Restricted Delivery? (Extra Fee)**☒ Yes**2. Article Number**

(Transfer from si)

7003 3110 0001 9382 2789

GEKOSKI & BOGDANOFF, P.C.
BY: Charles Jay Bogdanoff, Esquire
Attorney ID 02657
42 South Fifteenth Street, Suite 1414
Philadelphia, PA 19102
(215)-563-2511

Attorney for Defendant, Farmers Insurance
Group Safety Foundation

GATHAGAN INVESTMENT COMPANY

v.

FARMERS TRUCK INSURANCE
EXCHANGE

COURT OF COMMON PLEAS

CLEARFIELD COUNTY

FEBRUARY TERM 2007

NO. 07-282-CD

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of the Defendant, Farmers Insurance Group
Safety Foundation only in the above-captioned matter.



CHARLES JAY BOGDANOFF, ESQUIRE
Attorney for Defendant,
Farmers Insurance Group Safety Foundation

Date: March 12, 2007

FILED NO CC
MAR 15 2007 GR

William A. Shaw
Prothonotary/Clerk of Courts

GEKOSKI & BOGDANOFF, PC.
BY: CHARLES JAY BOGDANOFF
ATTY. I.D. #02657
SUITE 1414, ROBINSON BUILDING
42 SOUTH 15TH STREET
PHILADELPHIA, PA 19102
(215) 563-2511

FILED ^{2cc}
019-2134
MAR 16 2007
Atty Naddeo
William A. Shaw
Prothonotary/Clerk of Courts

Attorney for Defendant
Truck Insurance Exchange
(misnamed as Farmer's Insurance
Group Safety Foundation in
Plaintiff's Complaint)

GATHAGAN INVESTMENT COMPANY

Plaintiff

v.

FARMERS INSURANCE GROUP SAFETY
FOUNDATION

Defendants

COURT OF COMMON PLEAS

CLEARFIELD COUNTY

CIVIL ACTION-LAW

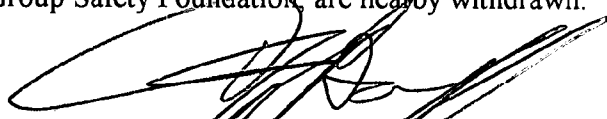
FEBRUARY TERM 2007

NO. 07-282-CD

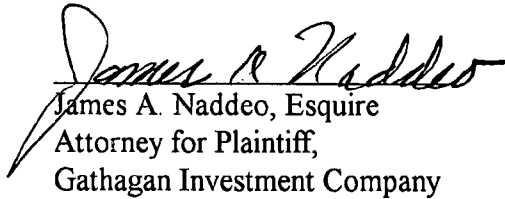
STIPULATION TO AMEND CAPTION

It is hereby stipulated by and between the Plaintiff, Gathagan Investment Company and Defendant, Farmers Insurance Group Safety Foundation that the defendant was misnamed in Plaintiff's Complaint. Accordingly, the parties agree, through their respective counsel, that the caption of the above matter is amended so that Truck Insurance Exchange is made the party defendant in lieu of Farmer's Insurance Group Safety Foundation, for all purposes.

All claims against Farmer's Insurance Group Safety Foundation, are hereby withdrawn.

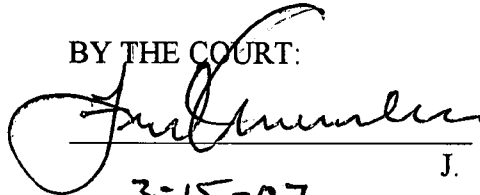


Charles Jay Bogdanoff, Esquire
Attorney for Defendant
Truck Insurance Exchange
(misnamed as Farmer's Insurance Group Safety
Foundation in Plaintiff's Complaint)



James A. Naddeo, Esquire
Attorney for Plaintiff,
Gathagan Investment Company

BY THE COURT:



J.

3-15-07

FILED

MAR 16 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 3/16/07

☒ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

TO: *Plaintiff*
YOU ARE HEREBY NOTIFIED TO
FILE A WRITTEN RESPONSE TO THE
ENCLOSED *Answer to Plaintiff's Complaint*
WITHIN TWENTY (20) DAYS FROM
SERVICE HEREOF OR A JUDGEMENT
MAY BE ENTERED AGAINST YOU. *New Matter*

GEKOSKI & BOGDANOFF, P.C.
BY: Charles Jay Bogdanoff, Esquire
Attorney ID 02657
42 South Fifteenth Street, Suite 1414
Philadelphia, PA 19102
(215)-563-2511

Attorney for Defendant, Farmers Truck
Insurance Exchange (misnamed in
Complaint as Farmer's Insurance Group
Safety Foundation)

FILED
mhp:3029
APR 13 2007

William A. Shaw
Prothonotary/Clerk of Courts

GATHAGAN INVESTMENT COMPANY

v.

TRUCK INSURANCE EXCHANGE
(misnamed in Complaint as Farmer's
Insurance Group Safety Foundation)

COURT OF COMMON PLEAS

CLEARFIELD COUNTY

FEBRUARY TERM 2007

NO. 07-282-CD

**DEFENDANT, TRUCK INSURANCE EXCHANGE'S (MISNAMED IN COMPLAINT
AS FARMER'S INSURANCE GROUP SAFETY FOUNDATION)
ANSWER TO PLAINTIFF'S COMPLAINT WITH NEW MATTER**

NOW COMES the Defendant, Truck Insurance Exchange (misnamed in Complaint as Farmers's Insurance Group Safety Foundation), by and through its attorneys, Gekoski & Bogdanoff, P.C., and answers Plaintiff's Complaint as follows:

1. Denied. All conclusions of law are denied without the need for further response. In the event and to the extent a response is deemed necessary, after reasonable investigation, answering defendant is without sufficient information to form a belief as to the truth of these averments. Therefore, answering defendant denies same and demands strict proof thereof at trial, if relevant.

2. Denied. It is denied that Farmer's Insurance Group Safety Foundation is a California corporation having its principal place of business located at 4680 Wilshire Boulevard, Los Angeles, California 90010.

3. Admitted. It is admitted that Defendant Truck Insurance Exchange was at all times mentioned herein and still is, qualified to transact business as an insurer within the Commonwealth of Pennsylvania and regularly engaged in the sale of insurance of Pennsylvania at the present time.

4. Denied. All conclusions of law are denied without the need for further response. In the event and to the extent a response is deemed necessary, after reasonable investigation, answering defendant is without sufficient information to form a belief as to the truth of these averments. Therefore, answering defendant denies same and demands strict proof thereof at trial, if relevant.

5. Admitted. It is admitted that at all times referred to herein, plaintiff was insured by Defendant Truck Insurance Company pursuant to the attached policy of insurance.

6. Admitted. It is admitted that Defendant Truck Insurance Exchange issued said policy.

7. Denied. After reasonable investigation, answering defendant is without sufficient information to form a belief as to the truth of these averments. Therefore, answering defendant denies same and demands strict proof thereof at trial, if relevant.

8. Denied. After reasonable investigation, answering defendant is without sufficient information to form a belief as to the truth of these averments. Therefore, answering defendant denies same and demands strict proof thereof at trial, if relevant.

9. Denied. After reasonable investigation, answering defendant is without sufficient information to form a belief as to the truth of these averments. Therefore, answering defendant denies same and demands strict proof thereof at trial, if relevant.

10. Denied. After reasonable investigation, answering defendant is without sufficient information to form a belief as to the truth of these averments. Therefore, answering defendant denies same and demands strict proof thereof at trial, if relevant.

11. Denied. After reasonable investigation, answering defendant is without sufficient information to form a belief as to the truth of these averments. Therefore, answering defendant denies same and demands strict proof thereof at trial, if relevant.

12. Denied. After reasonable investigation, answering defendant is without sufficient information to form a belief as to the truth of these averments. Therefore, answering defendant denies same and demands strict proof thereof at trial, if relevant.

13. Admitted.

14. Denied. All conclusions of law are denied without the need for further response. In the event and to the extent a response is deemed necessary, it is denied that, pursuant to the policy issued by Defendant Truck Insurance Exchange to the plaintiff, the following amounts are due and payable to the Defendant for the incidents as follows, employee A: \$10,000, employee B: \$10,000, employee C: \$5,144.00 with a total due and payable by Defendant Truck Insurance Exchange to plaintiff in the amount of \$25,144.00

15. Denied as stated. It is denied that Answering Defendant made claims. It is admitted only that Answering Defendant did investigate the matter through, among other things, reviewing material submitted by Plaintiff.

16. Admitted.

17. Admitted.

18. Admitted.

19. Admitted in part. Denied as stated in part. It is admitted that agents, servants or employees of Defendant Truck Insurance Exchange reconsidered the claim based on additional information provided by the plaintiff. It is further admitted that Defendant Truck Insurance Exchange has refused to pay any amount over the policy limit of \$10,000 for the claim submitted. It is denied that "Defendant denied paying any additional amount to plaintiff." By way of further answer, it is admitted that, to date, Defendant Truck Insurance Exchange has refused to pay any amount over and above the \$10,000 policy limit to compensate Plaintiff's loss as reported to Defendant Truck Insurance Exchange.

COUNT I - BREACH OF CONTRACT

20. Defendant Truck Insurance Exchange incorporates herein by reference its answers to the allegations set forth in paragraphs 1 through 19.

21. Admitted.

22. Admitted.

23. Admitted in part. Denied as stated in part. It is admitted that Defendant is obligated by the terms of insurance contract to indemnify Plaintiff's loss to the extent coverage is available under the contract of insurance. It is denied that full indemnity is available under said terms.

24. Denied. It is denied that in particular Defendant is obligated to indemnify Plaintiff's loss at the amount of loss to Plaintiff or in the alternative, to a maximum amount of \$10,000

payable as a result of each employee's dishonesty for a total amount due and payable to Plaintiff of \$25,144.

25. Denied. All conclusions of law are denied without the need for further response. In the event and to the extent a response is deemed necessary, it is denied that Defendant's refusal to indemnify Plaintiff's loss constitutes a breach of the insurance contract.

26. Denied. All conclusions of law are denied without the need for further response. In the event and to the extent a response is deemed necessary, it is denied that Defendant engaged in any breach whatsoever and it is further denied that as a direct and proximate result of any alleged breach, plaintiff suffered the following damage:

- a. the difference between the amount due Plaintiff for each employee's dishonesty (\$10,000.00 maximum per each employee dishonesty for a total amount due to Plaintiff of \$25,144.00) and the amount paid by Defendant (\$10,000.00) with the loss to Plaintiff being \$15,144.00 with interest thereon.

WHEREFORE, Defendant Truck Insurance Exchange prays that judgment, together with costs and interest, be entered in its favor and that Plaintiff's Complaint be dismissed with prejudice and that Answering Defendant be awarded such other and further relief as may be appropriate under the circumstances.

COUNT II - BAD FAITH

27. Defendant Truck Insurance Exchange incorporates herein by reference its answers to allegations set forth in paragraphs 1 through 26.

28. Denied. All conclusions of law are denied without the need for further response. In the event and to the extent a response is deemed necessary, it is denied that

Defendant Truck Insurance Exchange failed to adequately and properly investigate this

claim to the extent of confirming that each employee acted independently of the other.

29. Denied. All conclusions of law are denied without the need for further response. In the event and to the extent a response is deemed necessary, it is denied that Defendant acted in bad faith when it allegedly failed to adequately and properly investigate this claim.

30. Admitted.

31. Denied. All conclusions of law are denied without the need for further response. In the event and to the extent a response is deemed necessary, it is denied that Defendant Truck Insurance Exchange possesses no justification for not paying the amount of loss or in the alternative a maximum of \$10,000 for each employee's dishonesty reported by Plaintiff to Defendant Truck Insurance Exchange.

32. Denied. All conclusions of law are denied without the need for further response. In the event and to the extent a response is deemed necessary, it is specifically denied that Defendant acted in bad faith when it denied a portion of Plaintiff's claim.

NEW MATTER

By way of further response, Answering Defendant avers the following new matter:

33. Answering Defendant hereby incorporates by reference its answers to Paragraphs 1 through 32, inclusive, as though fully set forth herein at length.

34. Plaintiff's Complaint is limited and/or barred by all of the provisions, exclusions and contingencies of the applicable policy of insurance, which are incorporated herein by reference.

35. Plaintiff's claims are barred and/or limited as a result of its failure to mitigate its damages.

36. Plaintiff has failed to state a cause of action upon which a claim may be brought under the policy of insurance.

37. Plaintiff has failed to plead and prove her claim by clear and convincing evidence.

38. Answering Defendants has dealt fairly and reasonably with Plaintiff and its representative at all times material hereto.

39. Plaintiff's claims are barred and/or limited by the applicable statute of limitations.


40. Plaintiff has failed to state a claim for Bad Faith, pursuant to 42 Pa.C.S.A. § 8731.

41. Plaintiff has failed to state a claim for breach of contract.

WHEREFORE, Defendant Truck Insurance Exchange (Misnamed in Complaint as Farmer's Insurance Group Safety Foundation) prays that judgment, together with costs and interest, be entered in its favor and that Plaintiff's Complaint be dismissed with prejudice and that Answering Defendant be awarded such other and further relief as may be appropriate under the circumstances.

GEKOSKI & BOGDANOFF, P.C.

BY: _____

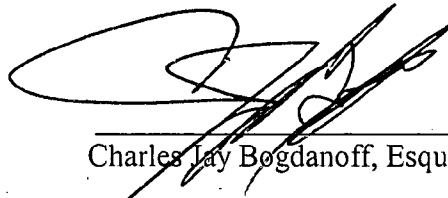


Charles Jay Bogdanoff, Esquire
Attorney for Defendant
Truck Insurance Exchange (misnamed in
Complaint as Farmer's Insurance Group
Safety Foundation)

VERIFICATION

I, Charles Jay Bogdanoff, Esquire, hereby state that I am the attorney for Defendant, Truck Insurance Exchange (Misnamed in Complaint as Farmer's Insurance Group Safety Foundation) Answer to Plaintiff's Complaint with New Matter and that I am authorized to take this Verification on their behalf, that I have read the foregoing Defendants' Answer to Plaintiff's Complaint with New Matter and that the averments set forth therein are true and correct to the best of my knowledge, information and belief.

Further, I understand that this Verification is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

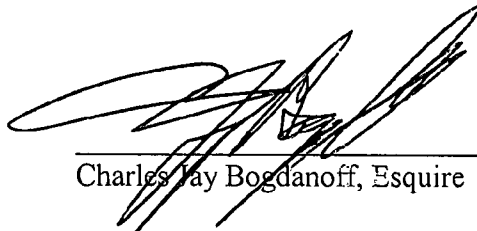


Charles Jay Bogdanoff, Esquire

CERTIFICATE OF SERVICE

I hereby certify that on April 12 , 2007 a copy of the foregoing Defendant Truck Insurance Exchange, (misnamed in Complaint as Farmer's Insurance Group Safety Foundation) was served by first class mail, postage prepaid, upon the following counsel of record:

James A. Naddeo, Esquire
Attorney at Law
207 East Market Street
P. O. Box 552
Clearfield, PA 16830



Charles Jay Bogdanoff, Esquire

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

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

v.

FARMER'S INSURANCE GROUP SAFETY
FOUNDATION, a California
Corporation,
Defendant.

No. 07-282-CD

Type of Pleading:

REPLY TO NEW MATTER

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

&

Trudy G. Lumadue, Esq.
Pa I.D. 202049

NADDEO & LEWIS, LLC.
207 E. Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: April 30, 2007

FILED ice
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APR 30 2007
Naddeo
William A. Shaw
Prothonotary/Clerk of Courts (EK)

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

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

v.

FARMER'S INSURANCE GROUP SAFETY,
FOUNDATION, a California
Corporation,
Defendant.

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No. 07-282-CD

REPLY TO NEW MATTER

NOW COMES the Plaintiff, Gathagan Investment Company,
LP, and by its attorney, James A. Naddeo, Esquire, sets forth
the following:

33. No answer is required.

34. States a conclusion of law to which no answer is
required. To the extent an answer may be required, said
averment is denied.

35. States a conclusion of law to which no answer is
required. To the extent an answer may be required, said
averment is denied.

36. States a conclusion of law to which no answer is
required. To the extent an answer may be required, said
averment is denied.

37. States a conclusion of law to which no answer is required. To the extent an answer may be required, said averment is denied.

38. States a conclusion of law to which no answer is required. To the extent an answer may be required, said averment is denied.

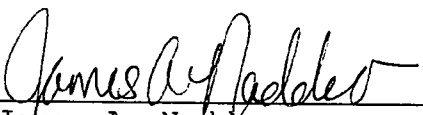
39. States a conclusion of law to which no answer is required. To the extent an answer may be required, said averment is denied.

40. States a conclusion of law to which no answer is required. To the extent an answer may be required, said averment is denied.

41. States a conclusion of law to which no answer is required. To the extent an answer may be required, said averment is denied.

WHEREFORE Plaintiff requests that the Court enter judgment in its favor and against Defendant.

NADDEO & LEWIS, LLC

By 
James A. Naddeo
Attorney for Plaintiff


V E R I F I C A T I O N

I, James A. Naddeo, attorney for plaintiff, have read the foregoing Reply to New Matter. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

I am authorized to make this verification on behalf of Defendant because of my position as counsel of record.

By:


James A. Naddeo, Esquire
Attorney for Plaintiff

Dated:

4-30-07

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

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

v.

FARMER'S INSURANCE GROUP SAFETY,
FOUNDATION, a California
Corporation,
Defendant.

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No. 07-282-CD

CERTIFICATE OF SERVICE

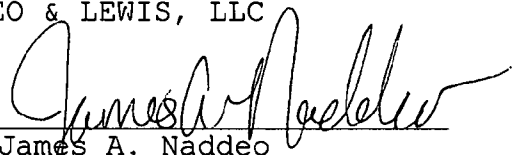
I, James A. Naddeo, Esquire, do hereby certify that a
certified copy of Reply to New Matter was served on the following
and in the following manner on the 30th day of April, 2007:

First-Class Mail, Postage Prepaid

Charles J. Bogdanoff, Esquire
Gekoski & Bogdanoff, P.C.
42 South 15th St, Suite 1414
Philadelphia, PA 19102

NADDEO & LEWIS, LLC

By:


James A. Naddeo
Attorney for Plaintiffs

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

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

V.

FARMER'S INSURANCE GROUP SAFETY
FOUNDATION, a California
Corporation,
Defendant.

No. 07-282-CD

Type of Pleading:

PRAECIPE FOR STATUS CONFERENCE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC.
207 E. Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: July 30, 2007

FILED NO cc
011-0764
JUL 30 2007 (GX)

William A. Shaw
Prothonotary/Clerk of Courts

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

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

v.

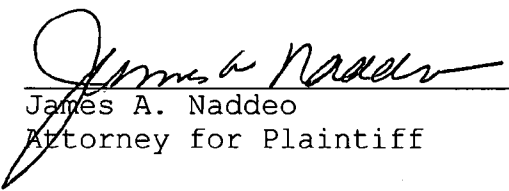
FARMER'S INSURANCE GROUP SAFETY
FOUNDATION, a California
Corporation,
Defendant.

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No. 07-282-CD

PRAECIPE FOR STATUS CONFERENCE

Please schedule a status conference in the above-
captioned case.


James A. Naddeo
Attorney for Plaintiff

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

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

v.

FARMER'S INSURANCE GROUP SAFETY,
FOUNDATION, a California
Corporation,
Defendant.

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No. 07-282-CD

CERTIFICATE OF SERVICE

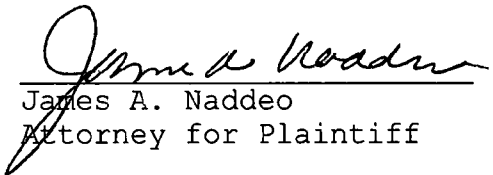
I, James A. Naddeo, Esquire, do hereby certify that a
certified copy of Praecipe for Status Conference was served on the
following and in the following manner on the 30th day of July,
2007:

First-Class Mail, Postage Prepaid

Michael Bogdanoff, Esquire
Gekoski & Bogdanoff, P.C.
42 South 15th St, Suite 1414
Philadelphia, PA 19102

NADDEO & LEWIS, LLC

By:


James A. Naddeo
Attorney for Plaintiff

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

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

V.

No. 07-282-CD

FARMER'S INSURANCE GROUP SAFETY
FOUNDATION, a California
Corporation,
Defendant.

Type of Pleading:

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC.
207 E. Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: July 30, 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

v.

FARMER'S INSURANCE GROUP SAFETY
FOUNDATION, a California
Corporation,
Defendant.

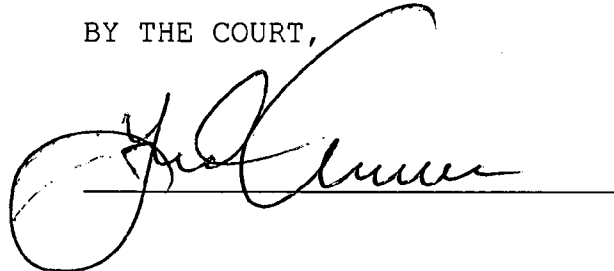
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No. 07-282-CD

ORDER

AND NOW, this 6 day of August, 2007, it is the
ORDER of this Court that a Status Conference is scheduled for
the 22nd day of August, 2007, at 11:30A.m. in Courtroom
No. 1, Clearfield County Courthouse, Clearfield,
Pennsylvania.

BY THE COURT,

A handwritten signature in black ink, appearing to be "John L. ...", is written over a horizontal line.

FILED

AUG 07 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 8/7/07

☒ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

William A. Shaw
Prothonotary/Clerk of Courts

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

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

v.

FARMER'S INSURANCE GROUP SAFETY,
FOUNDATION, a California
Corporation,
Defendant.

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No. 07-282-CD

CERTIFICATE OF SERVICE

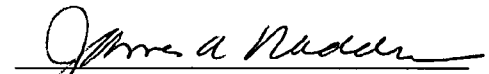
I, James A. Naddeo, Esquire, do hereby certify that a
certified copy of Scheduling Order was served on the following and
in the following manner on the 7th day of August, 2007:

First-Class Mail, Postage Prepaid

Michael Bogdanoff, Esquire
Gekoski & Bogdanoff, P.C.
42 South 15th St, Suite 1414
Philadelphia, PA 19102

NADDEO & LEWIS, LLC

By:



James A. Naddeo
Attorney for Plaintiff

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

GATHAGAN INVESTMENT COMPANY
Plaintiff

v.

TRUCK INSURANCE EXCHANGE
(misnamed in Complaint as Farmer's
Insurance Group Safety Foundation)
Defendant

No. 07-282-CD

Type of Pleading:
DEFENDANT'S UNOPPOSED
MOTION FOR CONTINUANCE OF
STATUS CONFERENCE

Filed on behalf of:
Defendant

Counsel of Record for this party:

Charles Jay Bogdanoff, Esquire
Atty. I.D. 02657

GEKOSKI & BOGDANOFF, P.C.
42 South 15th Street, Suite 1414
Philadelphia, PA 19102
(215)563-2511

Dated: August 15, 2007

FILED ^{ICC}
m/10:46/207 *my*
AUG 16 2007 *Bogdanoff*
W William A. Shaw
Prothonotary/Clerk of Courts

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

GATHAGAN INVESTMENT COMPANY

Plaintiff

v.

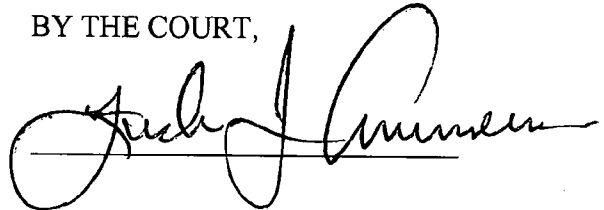
TRUCK INSURANCE EXCHANGE
(misnamed in Complaint as Farmer's
Insurance Group Safety Foundation)
Defendant

No. 07-282-CD

ORDER

AND NOW, this 20th day of AUGUST, 2007, it is the ORDER of this Court
that a Status Conference is scheduled for 26th day of September, 2007 at
3:00 pm in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,



FILED ^{1cc}
012:59/307
AUG 20 2007
Amy Bogdanoff

William A. Shaw
Prothonotary/Clerk of Courts

FILED

AUG 20 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 8/20/07

☒ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

GEKOSKI & BOGDANOFF, P.C.
BY: Charles Jay Bogdanoff, Esquire
Attorney ID 02657
42 South Fifteenth Street, Suite 1414
Philadelphia, PA 19102
(215)-563-2511

Attorney for Defendant, Farmers Truck
Insurance Exchange (misnamed in
Complaint as Farmer's Insurance Group
Safety Foundation)

GATHAGAN INVESTMENT COMPANY

v.

TRUCK INSURANCE EXCHANGE
(misnamed in Complaint as Farmer's
Insurance Group Safety Foundation)

COURT OF COMMON PLEAS

CLEARFIELD COUNTY

FEBRUARY TERM 2007

NO. 07-282-CD

**DEFENDANT'S UNOPPOSED MOTION
FOR CONTINUANCE OF STATUS CONFERENCE**

Defendant Truck Insurance Exchange (misnamed in Complaint as Farmer's Insurance Group Safety Foundation), by and through its attorneys Gekoski & Bogdanoff, P.C., hereby move the Court for a brief continuance of the Status Conference currently scheduled August 22, 2007. In support of this Motion, Defendant respectfully represents:

1. Plaintiff's counsel recently requested a status conference in the above-captioned matter;

2. The court scheduled the Status Conference to take place on August 22, 2007 at 11:30 a.m;
3. Because the conference date selected would interfere with a pre-planned vacation for defense counsel, Defendant is respectfully requesting that the conference be postponed until the first or second week in September, 2007.
4. Plaintiff's counsel has indicated that he has no objection to this request.

WHEREFORE, Defendant respectfully requests this Honorable Court to continue the Status Conference in the above-captioned matter to a date in September, 2007.

GEKOSKI & BOGDANOFF, P.C.

BY: 

Charles Jay Bogdanoff, Esquire

Attorney for Defendant

Truck Insurance Exchange (misnamed in
Complaint as Farmer's Insurance Group
Safety Foundation)

VERIFICATION

I, Charles Jay Bogdanoff, Esquire, do hereby verify that I am the attorney for Defendant, Truck Insurance Exchange (misnamed in Complaint as Farmer's Insurance Group Safety Foundation) and that I am authorized to take this verification and that the facts set forth in the foregoing Defendant's Unopposed Motion for Continuance of Status Conference to be correct to the best of my information, knowledge and belief. I understand that any false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

August 15, 2007
Date

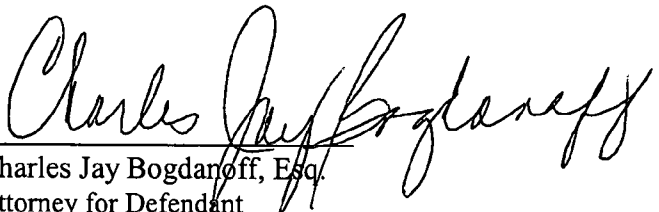
Charles Jay Bogdanoff
Charles Jay Bogdanoff, Esquire
Attorney for Defendant
Truck Insurance Exchange (misnamed in Complaint as
Farmer's Insurance Group Safety Foundation)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 15, 2007 he caused the foregoing Defendant's Unopposed Motion for Continuance of Status Conference thereof to be served by first-class mail, postage prepaid, upon the following counsel of record:

James A. Naddeo
Naddeo & Lewis, LLC
207 East Market Street
P. O. Box 552
Clearfield, Pennsylvania 16830

BY:


Charles Jay Bogdanoff, Esq.
Attorney for Defendant
Truck Insurance Exchange (misnamed in
Complaint as Farmer's Insurance Group
Safety Foundation)

NELSON LEVINE de LUCA & HORST, LLC
BY: ROBERT S. STICKLEY, ESQUIRE
IDENTIFICATION NO.: 80849
FOUR SENTRY PARKWAY, SUITE 300
BLUE BELL, PA 19422
(610) 862-6558

ATTORNEYS FOR DEFENDANT
FARMERS TRUCK INSURANCE
EXCHANGE

GATHAGAN INVESTMENT COMPANY
Plaintiff,

v.

FARMERS TRUCK INSURANCE
EXCHANGE
Defendant.

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

FEBRUARY TERM 2007

NO: 07-282-CD

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of Defendant, Farmers Truck Insurance Exchange,
in the above-captioned matter.

NELSON LEVINE de LUCA & HORST, LLC

BY: 

ROBERT S. STICKLEY, ESQUIRE
ATTORNEYS FOR DEFENDANT
FARMERS TRUCK INSURANCE
EXCHANGE

Dated: September 26, 2007

FILED NO
012:3341 CC
SEP 26 2007
Copy to CIA
William A. Shaw
Prothonotary/Clerk of Courts @

VA

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

GATHAGAN INVESTMENT COMPANY, LP, a
Pennsylvania limited Partnership,
Plaintiff

vs.

TRUCK INSURANCE EXCHANGE,
(misnamed in Complaint as Farmer's Insurance
Group Safety Foundation).
Defendant

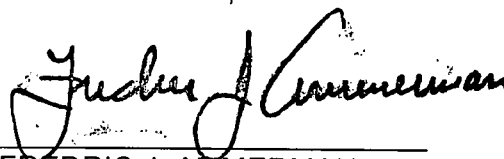
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NO. 07-282-CD

ORDER

NOW, this 26th day of September, 2007, following status conference with counsel
for the parties as set forth above, it is the ORDER of this Court that the matter be
scheduled for arbitration in approximately six (6) months from the date of this Order.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED
SEP 27 2007
10:14 AM
cc: Atty's:
Naddeo
Bogdanoff
William A. Shaw
Prothonotary/Clerk of Courts

FILED

SEP 27 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/27/07

 You are responsible for serving all appropriate parties.
 X The Prothonotary's office has provided service to the following parties:

 Plaintiff(s) X Plaintiff(s) Attorney Other

 Defendant(s) X Defendant(s) Attorney

 Special Instructions:

GATHAGAN INVESTMENT COMPANY
Plaintiffs,

v.

**FARMERS TRUCK INSURANCE
EXCHANGE**
Defendant.

**COURT OF COMMON PLEAS
CLEARFIELD COUNTY**

FEBRUARY TERM 2007

NO: 07-282-CD

WITHDRAWAL OF APPEARANCE

TO THE PROTHONOTARY:

Kindly withdraw my appearance on behalf of Defendant, Farmers Truck Insurance Exchange, in the above-captioned matter.

GEKOSKI & BOGDANOFF, P.C.

BY:


CHARLES JAY BOGDANOFF, ESQUIRE

Dated: 9-28, 2007

FILED NO CC
m10:565H
OCT 03 2007 Copy to CIA
William A. Shaw
Prothonotary/Clerk of Courts

GATHAGAN INVESTMENT COMPANY
Plaintiff,

v.

FARMERS TRUCK INSURANCE
EXCHANGE
Defendant.

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

FEBRUARY TERM 2007

NO: 07-282-CD

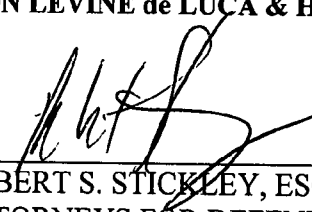
CERTIFICATE OF SERVICE

I, Robert S. Stickley, Esquire, hereby certify that a true and correct copy of Charles Jay Bogdanoff's Withdrawal of Appearance was made on October 1, 2007, upon counsel listed below by United States Mail, postage prepaid.

James A. Naddeo, Esquire
Law Offices of James A. Naddeo
207 E. Market Street
Clearfield, PA 16830

NELSON LEVINE de LUCA & HORST, LLC

BY:



ROBERT S. STICKLEY, ESQUIRE
ATTORNEYS FOR DEFENDANT
FARMERS TRUCK INSURANCE
EXCHANGE

Dated: October 1, 2007

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

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

v.

FARMER'S INSURANCE GROUP SAFETY
FOUNDATION, a California
Corporation,
Defendant.

No. 07-282-CD

Type of Pleading:

**MOTION FOR PARTIAL
SUMMARY JUDGMENT**

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

&

Trudy G. Lumadue, Esq.
Pa I.D. 202049

NADDEO & LEWIS, LLC.
207 E. Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: February 22, 2008

FILED ICC

0/3:52B0
FEB 22 2008

Atty. Lumadue

WAS
BOK

William A. Shaw
Prothonotary/Clerk of Courts

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

GATHAGAN INVESTMENT COMPANY, *
LP, a Pennsylvania limited *
Partnership, *
Plaintiff, *

v. *

No. 07-282-CD

FARMER'S INSURANCE GROUP *
SAFETY, FOUNDATION, a *
California Corporation, *
Defendant. *

ORDER

AND NOW, this _____ day of _____, 2008, upon
consideration of the Motion for Partial Summary Judgment filed by
Plaintiff, it is hereby ORDERED that:

- 1) The respondent shall file an answer to the motion within 30
days of service thereof, said service to be made by Defendant
and;
- 2) a rule is issued upon the respondent to show cause why the
moving party is not entitled to the relief requested.

Rule Returnable and argument thereon to be held the _____ of
_____, 2008, at _____ .m., in Courtroom _____ of the
Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

Judge

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

GATHAGAN INVESTMENT COMPANY, *
LP, a Pennsylvania limited *
Partnership, *
Plaintiff, *

v. *

No. 07-282-CD

FARMER'S INSURANCE GROUP *
SAFETY, FOUNDATION, a *
California Corporation, *
Defendant. *

MOTION FOR PARTIAL SUMMARY JUDGMENT

NOW COMES the Plaintiff, Gathagan Investment Company, LP, and by its attorneys, NADDEO & LEWIS, LLC, hereby moves this Honorable Court to enter partial summary judgment in its favor as to liability, and in support represents as follows:

1. This is an action brought against Defendant, Farmer's Insurance Group Safety Foundation, for breach of an insurance contract and bad faith.

2. That the Plaintiff and Defendant are parties to an insurance contract that was in effect at the time of the losses to Plaintiff.

3. That central to the outcome of this case is the question of coverage under the insurance policy at issue.

4. That Plaintiff represents that in order to save time and expense on behalf of the parties involved, and in the interest of judicial economy, that this Honorable Court is able

4. **Employee Dishonesty**

- a. We will pay for direct loss of or damage to Business Personal Property and "money" and "securities" resulting from dishonest acts committed by any of your employees acting alone or in collusion with other persons (except you or your partner) with the manifest intent to:
 - (1) Cause you to sustain loss or damage; and also
 - (2) Obtain financial benefit (other than salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other employee benefits earned in the normal course of employment) for:
 - (a) Any employee; or
 - (b) Any other person or organization.
- b. We will not pay for loss or damage:
 - (1) Resulting from any dishonest or criminal act that you or any of your partners commit whether acting alone or in collusion with other persons.
 - (2) The only proof of which as to its existence or amount is:
 - (a) An inventory computation; or
 - (b) A profit and loss computation.
- c. The most we will pay for loss or damage in any one occurrence is the Limit of Insurance for Employee Dishonesty shown in the Declarations.
- d. All loss or damage:
 - (1) Caused by one or more persons; or
 - (2) Involving a single act or series of related acts;is considered one occurrence.

to rule on the issue of coverage first, before any additional discovery or action otherwise is taken in this case.

5. That loss occurred to Plaintiff when three separate employees acting individually "skimmed" monies from the cash drawer.

6. That said loss is insured by the Farmer's Insurance Group Safety Foundation policy under "Optional Coverages."

7. The Plaintiff became aware of its losses when it began to investigate a report that one individual was stealing money. During the investigation Plaintiff found that three individuals had stolen money by a technique known as "skimming."

8. Plaintiff reported the loss to Defendant. Defendant chose to treat the loss as one occurrence under the terms of the insurance contract and paid Plaintiff \$10,000.00 for the total losses incurred.

9. Plaintiff disputed this approach by Defendant and provided detailed information to Defendant as to the circumstances surrounding the individual thefts, police investigations and that the three employees were not working in concert or conspiring.

10. Despite the information provided, Defendant denied paying for each loss separately under the terms of the insurance contract.

11. That the insurance contract provides follows:

12. That Defendant's position is that the loss incurred by Plaintiff is considered "one occurrence" as provided in section G, subsection (4)(d) of Employee Dishonesty.

13. That this Court is able to determine if liability would result based upon the facts as presented by Plaintiff under the terms of the contract at issue. In the alternative, Pa. R.C.P. 1035.3(c) provides that this Court may permit affidavits to be obtained or make such other order as is just if it does not desire to rule upon the motion for judgment as presented.

14. That Plaintiff represents that the individuals did not act in collusion or conspire together. They each began stealing at different times (months and years apart) and stole during their particular shifts. They did not have actual knowledge that the other was stealing or discuss the theft. They did not pool or divide stolen funds. Each stole individually and for their own benefit.

15. The only manner in which the thefts are "related" is that the individuals utilized the same technique (known as skimming), although not in the exact same manner, and the time periods overlap. This would not constitute "a series of related acts" as defined in the contract.

16. Related is defined as follows in The American Heritage Dictionary of The English Language as follows: 1. Being

connected; associated. 2. Connected by kinship, common origin, or marriage. 3. Music Having a close harmonic connection.¹

17. Because nothing connects the acts of one employee to the act of the other two employees they are not related and are not a series of related acts. Rather the act that each engaged in is simply a similar act that is defined in the same manner (as "skimming").

18. That Plaintiff represents that where there is no collusion or conspiracy between three individuals who are stealing separately for their own benefit and where nothing connects the acts of one individual to another individual's acts (other than the definition and similarity of the act in which each is engaged) that this is not one occurrence as defined under the terms of the contract.

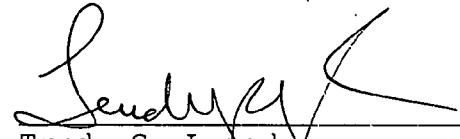
19. Pursuant to the above, Defendant is obligated to pay Plaintiff under the terms of the contract for the loss caused by each separate employee's theft.

WHEREFORE, Plaintiff requests that this Court enter partial summary judgment in its favor and against Defendant and find that where there is no collusion or conspiracy and the acts of three individuals are not connected in any manner other than they are doing the same act, this is not one occurrence as defined in the policy. Therefore, Defendant is liable to

¹ The American Heritage Dictionary of the English Language, Fourth Edition,

Plaintiff for three separate occurrences of loss pursuant to the terms of the contract between the parties and as requested in Plaintiff's Complaint.

NADDEO & LEWIS, LLC

By 
Trudy G. Lunadue
Attorney for Plaintiff

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

CIVIL ACTION – (LAW) (EQUITY)

No. 07-282-CD

Type of case: Insurance Coverage

Gathagan Investment Company
Plaintiff

Type of Pleading: Motion for Continuance
of Arbitration Hearing

VS.

Filed on Behalf of:

Insurance Truck Exchange (misnamed in
Complaint as Farmer's Insurance Group
Safety Foundation)
(Plaintiff/Defendant)

Insurance Truck Exchange
(misnamed in Complaint as
Farmer's Insurance Group
Safety Foundation)
Defendant

Counsel of Record for this Party:
Robert S. Stickley, Esquire
(Name of Attorney)

Supreme Court No.: 80849

Nelson, Levine, de Luca & Horst
(Firm name, if any)

518 Township Line Road, Suite 300 Blue
Bell, PA 19422
(Address)

(215) 358-5100
(Phone)

Dated: February 29, 2008

FILED ^{NO} CC
MAR 03 2008

William A. Shaw
Prothonotary/Clerk of Courts

GATHAGAN INVESTMENT COMPANY
Plaintiff

v.

INSURANCE TRUCK EXCHANGE
(misnamed in Complaint as Farmer's
Insurance Group Safety Foundation)
Defendant.

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

CIVIL ACTION NO: 07-282-CD

ORDER

AND NOW, on this _____ day of _____, 2008 upon Motion of Defendant Truck Insurance Exchange, (misnamed in Complaint as Farmer's Insurance Group Safety Foundation) and the consent of Plaintiff, it is ordered that the Arbitration hearing scheduled for March 25, 2008 is hereby continued to a date in June of 2008.

J.

NELSON LEVINE de LUCA & HORST, LLC BY: ROBERT S. STICKLEY, ESQUIRE IDENTIFICATION NO.: 80849 518 TOWNSHIP LINE ROAD, SUITE 300 BLUE BELL, PA 19422 (215) 358-5100	ATTORNEYS FOR DEFENDANT TRUCK INSURANCE EXCHANGE (misnamed in Complaint as Farmer's Insurance Group Safety Foundation)
GATHAGAN INVESTMENT COMPANY Plaintiff v. TRUCK INSURANCE EXCHANGE (misnamed in Complaint as Farmer's Insurance Group Safety Foundation) Defendant	COURT OF COMMON PLEAS CLEARFIELD COUNTY FEBRUARY TERM 2007 NO: 07-282-CD

MOTION FOR REQUEST OF CONTINUANCE OF ARBITRATION DATE

Defendant, Truck Insurance Exchange, (misnamed in Complaint as Farmer's Insurance Group Safety Foundation) by and through their attorneys Nelson, Levine, de Luca & Horst, LLC hereby respectfully requests an adjournment of the arbitration hearing currently scheduled for March 25, 2008 at 9:00 a.m. In support of said Motion, Defendant avers as follows:

1. This is the first request for a continuance of the arbitration date which is currently scheduled for March 25, 2008 beginning at 9:00 a.m.
2. This case involves legal issues relating to the interpretation of an insurance contract.
3. Specifically, at issue is whether the acts of three third-party criminal defendants represent "a series of related acts" per the terms of the insurance policy. Also at issue are damages.
4. Plaintiff recently filed a Motion for Summary Judgment and Movant may file a Cross-Motion for Summary Judgment. It is likely that this case will be decided on the legal issues and the arbitration hearing will not be necessary.

5. Further, issues relating to liability and damages, including the restitution to be paid by the three individuals responsible for committing the crime that forms the basis of this insurance coverage dispute, have not been fully resolved by the District Attorney's office.

6. Attached as Exhibit "A" are copies of the criminal documents relating to the three individuals responsible for committing the crime that forms the basis of this coverage dispute. These three criminal documents indicate that Valerie Rodrigues recently obtained a continuance of her criminal trial. Similarly, Lisa Meckley recently obtained a continuance of her trial as well. Although Jessica Bruno has pled guilty, she is yet to be sentenced therefore issues relating to the amount of restitution to be paid by Ms. Bruno remain outstanding.

7. Counsel for Plaintiff has provided his consent to this request for a continuance of the arbitration hearing.

8. In the interest of justice, Defendant respectfully requests an adjournment of approximately 90 days so that the legal issues may be resolved by the court and hopefully the damages issues will be resolved, or at least be closer to resolution, by the District Attorney's office.

WHEREFORE, the Defendant, Insurance Truck Exchange (misnamed in Complaint as Farmer's Insurance Group Safety Foundation) respectfully requests an adjournment of the March 25, 2008 Arbitration date until sometime in June 2008.

NELSON LEVINE de LUCA & HORST, LLC

BY:



ROBERT S. STICKLEY, ESQUIRE
ATTORNEYS FOR DEFENDANT
INSURANCE TRUCK EXCHANGE
(misnamed in Complaint as Farmer's
Insurance Group Safety Foundation)
518 Township Line Road, Suite 300
Blue Bell, PA 19422
215-358-5100
215-358-5101 (fax)

Dated: February 29, 2008

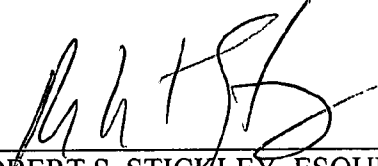
NELSON LEVINE de LUCA & HORST, LLC BY: ROBERT S. STICKLEY, ESQUIRE IDENTIFICATION NO.: 80849 518 TOWNSHIP LINE ROAD, SUITE 300 BLUE BELL, PA 19422 (215) 358-5100	ATTORNEYS FOR DEFENDANT TRUCK INSURANCE EXCHANGE (misnamed in the Complaint as Farmer's Insurance Group Safety Foundation)
GATHAGAN INVESTMENT COMPANY Plaintiff, v. FARMERS TRUCK INSURANCE EXCHANGE Defendant.	COURT OF COMMON PLEAS CLEARFIELD COUNTY FEBRUARY TERM 2007 NO: 07-282-CD

CERTIFICATE OF SERVICE

I, Robert S. Stickley, Esquire, hereby certify that a true and correct copy of the Motion for Request of Continuance of Arbitration Date was served on February 29, 2008, upon counsel listed below by United States Mail, postage prepaid.

James A. Naddeo, Esquire
Law Offices of James A. Naddeo
207 E. Market Street
Clearfield, PA 16830

NELSON LEVINE de LUCA & HORST, LLC

BY: 
ROBERT S. STICKLEY, ESQUIRE
ATTORNEYS FOR DEFENDANT
INSURANCE TRUCK EXCHANGE
(misnamed in Complaint as Farmer's
Insurance Group Safety Foundation)
518 Township Line Road, Suite 300
Blue Bell, PA 19422
215-358-5100
215-358-5101 (fax)

Date: February 29, 2008

COURT OF COMMON PLEAS OF JEFFERSON COUNTY

DOCKET



Docket Number: CP-33-CR-0000194-2007

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

v.

Valerie M. Rodrigues

Page 1 of 5

CASE INFORMATION

Cross Court Docket Nos: CR-0000373-06

Judge Assigned:

OTN: K5710843

Initial Issuing Authority: Richard D. Beck

Arresting Agency: Brookville Boro Police Dept

Case Local Number Type(s)

Date Filed: 04/12/2007

Initiation Date: 12/06/2006

Lower Court Docket No: CR-0000373-06

Final Issuing Authority: Richard D. Beck

Arresting Officer: Markle, Vince

Case Local Number(s)

STATUS INFORMATION

Case Status: Active

Status Date

05/09/2007

04/12/2007

Processing Status

Awaiting Formal Arraignment

Awaiting Filing of Information

Complaint Date: 12/06/2006

CALENDAR EVENTS

<u>Case Calendar Event</u> <u>Type</u>	<u>Schedule</u> <u>Start Date</u>	<u>Start</u> <u>Time</u>	<u>Room</u>	<u>Judge Name</u>	<u>Schedule</u> <u>Status</u>
Conference I	06/05/2007	9:00 am	Room 303/Jury Room	Judge Judge Migrated	Scheduled
Jury Selection	09/10/2007	9:00 am	Large Courtroom	President Judge John H. Foradora	Scheduled
Jury Selection	10/09/2007	9:00 am	Large Courtroom	President Judge John H. Foradora	Scheduled
Jury Selection	11/09/2007	9:00 am	Large Courtroom	President Judge John H. Foradora	Scheduled
Jury Selection	01/07/2008	9:00 am	Large Courtroom	President Judge John H. Foradora	Scheduled
Jury Selection	02/11/2008	9:00 am	Large Courtroom	President Judge John H. Foradora	Scheduled
Jury Selection	03/10/2008	9:00 am	Large Courtroom	President Judge John H. Foradora	Scheduled

DEFENDANT INFORMATION

Date Of Birth: 11/13/1983

City/State/Zip: Brookville, PA 15825

COURT OF COMMON PLEAS OF JEFFERSON COUNTY

DOCKET

Docket Number: CP-33-CR-0000194-2007

CRIMINAL DOCKET

Court Case



Commonwealth of Pennsylvania

v.

Valerie M. Rodrigues

CASE PARTICIPANTS

Participant Type

Name

Defendant

Rodrigues, Valerie M.

Page 2 of 5

BAIL INFORMATION

Rodrigues, Valerie M.

Nebbia Status: None

<u>Bail Action</u>	<u>Date</u>	<u>Bail Type</u>	<u>Percentage</u>	<u>Amount</u>	<u>Bail Posting Status</u>	<u>Posting Date</u>
Set	04/11/2007	Unsecured		\$5,000.00	Posted	04/11/2007

CHARGES

<u>Sequence</u>	<u>Grade</u>	<u>Section/ Description</u>	<u>Statute Description</u>	<u>Offense Date</u>	<u>OTN</u>
1	F3	18 § 3921 §§A	Theft By Unlaw Taking-Movable Prop	03/01/2006	K5710843
2	F3	18 § 3927 §§A	Theft By Fail To Make Req Disp Funds	03/01/2006	K5710843
3	F3	18 § 3925 §§A	Receiving Stolen Property	03/01/2006	K5710843

DISPOSITION SENTENCING/PENALTIES

Disposition

Case Event

Disposition Date

Final Disposition

Sequence/Description

Offense Disposition

Section

Sentencing Judge

Sentence Date

Credit For Time Served

Sentence/Diversion Program Type

Incarceration/Diversionary Period

Start Date

Sentence Conditions

Linked Offense - Sentence

Link Type

Linked Docket Number

Lower Court Proceeding (generic)

Lower Court Disposition

04/11/2007

Not Final

1 / Theft By Unlaw Taking-Movable Prop

Waived for Court (Lower Court)

18§3921§§A

2 / Theft By Fail To Make Req Disp Funds

Waived for Court (Lower Court)

18§3927§§A

3 / Receiving Stolen Property

Waived for Court (Lower Court)

18§3925§§A

Proceed to Court

Information Filed

05/09/2007

Not Final

1 / Theft By Unlaw Taking-Movable Prop

Held for Court

18§3921§§A

2 / Theft By Fail To Make Req Disp Funds

Held for Court

18§3927§§A

3 / Receiving Stolen Property

Held for Court

18§3925§§A

COURT OF COMMON PLEAS OF JEFFERSON COUNTY

DOCKET

Docket Number: CP-33-CR-0000194-2007

CRIMINAL DOCKET

Court Case



Commonwealth of Pennsylvania

v.

Valerie M. Rodrigues

Page 3 of 5

COMMONWEALTH INFORMATION

Name: Jefferson County District Attorney's
Office
Prosecutor

Supreme Court No:

Phone Number(s):

(724) 465-3837 (Phone)

Address:

Jefferson County Courthouse
200 Main Street
Brookville PA 15825

ATTORNEY INFORMATION

Name: Jacqueline Mizerock, Esq.
Public Defender

Supreme Court No: 090202

Counsel Status: Active

Phone Number(s):

(814) 849-1519 (Phone)

Address:

Jefferson County Courthouse
Jefferson Place
155 Main Street, Room 222
Brookville PA 15825

Representing: Rodrigues, Valerie M.

COURT OF COMMON PLEAS OF JEFFERSON COUNTY

DOCKET

Docket Number: CP-33-CR-0000194-2007

CRIMINAL DOCKET

Court Case



Commonwealth of Pennsylvania

v.

Valerie M. Rodrigues

ENTRIES

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<u>Document/Sequence</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Title</u>	<u>Comments</u>	<u>Registry Entry</u>	<u>Service To</u>	<u>Service By</u>	<u>Filed By</u>
<u>Issue Date</u>	<u>Service Type</u>	<u>Status Date</u>	<u>Service Status</u>					
1	04/12/2007		Original Papers Received from Lower Court					Court of Common Pleas - Jefferson County
1	05/09/2007		Information Filed					Commonwealth of Pennsylvania
1	09/11/2007		Motion for Continuance					Mizerock, Jacqueline
2	09/11/2007		Order Granting Motion for Continuance To October 2007 Term Of Court					Foradora, John H.
1	10/12/2007		Motion for Continuance					Mizerock, Jacqueline
2	10/12/2007		Order Granting Motion for Continuance To November 2007 Term of Court					Foradora, John H.
1	11/14/2007		Motion for Continuance					Mizerock, Jacqueline
2	11/14/2007		Order Granting Motion for Continuance To January 2008 Term Of Court					Foradora, John H.

COURT OF COMMON PLEAS OF JEFFERSON COUNTY

DOCKET

Docket Number: CP-33-CR-0000194-2007

CRIMINAL DOCKET

Court Case



Commonwealth of Pennsylvania

v.

Valerie M. Rodrigues

ENTRIES

Page 5 of 5

<u>Document/Sequence</u>	<u>CP Filed Date</u>	<u>Document Date</u>	
<u>Title</u>			
<u>Comments</u>			
<u>Registry Entry</u>			
<u>Service To</u>		<u>Service By</u>	<u>Filed By</u>
<u>Issue Date</u>	<u>Service Type</u>	<u>Status Date</u>	<u>Service Status</u>
1	01/16/2008		
Motion for Continuance			Mizerock, Jacqueline
2	01/16/2008		
Order Granting Motion for Continuance To February 2008 Term Of Court			Foradora, John H.
1	02/20/2008		
Motion for Continuance			Mizerock, Jacqueline
2	02/20/2008		
Order Granting Motion for Continuance To March 2008 Term Of Court			Foradora, John H.

COURT OF COMMON PLEAS OF JEFFERSON COUNTY

DOCKET



Docket Number: CP-33-CR-0000140-2007

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

v.

Lisa Meckley

Page 1 of 6

CASE INFORMATION

Cross Court Docket Nos: CR-0000372-06

Judge Assigned:

OTN: K5710832

Initial Issuing Authority: Richard D. Beck

Arresting Agency: Brookville Boro Police Dept

Case Local Number Type(s)

Date Filed: 03/15/2007

Initiation Date: 12/06/2006

Lower Court Docket No: CR-0000372-06

Final Issuing Authority: Richard D. Beck

Arresting Officer: Markle, Vince

Case Local Number(s)

STATUS INFORMATION

Case Status: Active

Status Date

04/16/2007

03/15/2007

Processing Status

Awaiting Formal Arraignment

Awaiting Filing of Information

Complaint Date: 12/06/2006

CALENDAR EVENTS

<u>Case Calendar Event</u> <u>Type</u>	<u>Schedule</u> <u>Start Date</u>	<u>Start</u> <u>Time</u>	<u>Room</u>	<u>Judge Name</u>	<u>Schedule</u> <u>Status</u>
Conference I	05/02/2007	1:00 pm	Room 303/Jury Room	Judge Judge Migrated	Scheduled
Conference II	06/06/2007	1:00 pm	Room 303/Jury Room	Judge Judge Migrated	Scheduled
Jury Selection	07/09/2007	9:00 am	Large Courtroom	President Judge John H. Foradora	Scheduled
Conference II	07/18/2007	1:00 pm	Room 303/Jury Room	Judge Judge Migrated	Scheduled
Jury Selection	09/10/2007	9:00 am	Large Courtroom	President Judge John H. Foradora	Scheduled
Jury Selection	11/09/2007	9:00 am	Large Courtroom	President Judge John H. Foradora	Scheduled
Conference II	12/19/2007	1:00 pm	Room 303/Jury Room	Judge Judge Migrated	Scheduled
Jury Selection	01/07/2008	9:00 am	Large Courtroom	President Judge John H. Foradora	Scheduled
Conference II	02/20/2008	1:00 pm	Room 303/Jury Room	Judge Judge Migrated	Scheduled
Jury Selection	03/10/2008	9:00 am	Large Courtroom	President Judge John H. Foradora	Scheduled

COURT OF COMMON PLEAS OF JEFFERSON COUNTY

DOCKET

Docket Number: CP-33-CR-0000140-2007

CRIMINAL DOCKET

Court Case



Commonwealth of Pennsylvania

v.

Lisa Meckley

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DEFENDANT INFORMATION

Date Of Birth: 08/10/1972

City/State/Zip: Sprankle Mills, PA 15776

CASE PARTICIPANTS

Participant Type

Name

Defendant

Meckley, Lisa

BAIL INFORMATION

Meckley, Lisa

Nebbia Status: None

<u>Bail Action</u>	<u>Date</u>	<u>Bail Type</u>	<u>Percentage</u>	<u>Amount</u>	<u>Bail Posting Status</u>	<u>Posting Date</u>
Set	03/13/2007	Unsecured		\$15,000.00	Posted	03/13/2007

CHARGES

<u>Sequence</u>	<u>Grade</u>	<u>Section/ Description</u>	<u>Statute Description</u>	<u>Offense Date</u>	<u>OTN</u>
1	F3	18 § 3921 §§A	Theft By Unlaw Taking-Movable Prop	03/01/2006	K5710832
2	F3	18 § 3927 §§A	Theft By Fail To Make Req Disp Funds	03/01/2006	K5710832
3	F3	18 § 3925 §§A	Receiving Stolen Property	03/01/2006	K5710832
4	M1	18 § 4104 §§A	Tamper Records Or Id-Writing	03/01/2006	K5710832

COURT OF COMMON PLEAS OF JEFFERSON COUNTY

DOCKET

Docket Number: CP-33-CR-0000140-2007

CRIMINAL DOCKET

Court Case



Commonwealth of Pennsylvania

v.

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DISPOSITION SENTENCING/PENALTIES

Disposition

Case Event

Sequence/Description

Sentencing Judge

Sentence/Diversion Program Type

Sentence Conditions

Linked Offense - Sentence

Disposition Date

Offense Disposition

Sentence Date

Incarceration/Diversionary Period

Link Type

Final Disposition

Section

Credit For Time Served

Start Date

Linked Docket Number

Lower Court Proceeding (generic)

Lower Court Disposition

03/13/2007

Not Final

1 / Theft By Unlaw Taking-Movable Prop
Beck, Richard D.

Waived for Court (Lower Court)
03/15/2007

18§3921§§A

2 / Theft By Fail To Make Req Disp Funds
Beck, Richard D.

Waived for Court (Lower Court)
03/15/2007

18§3927§§A

3 / Receiving Stolen Property
Beck, Richard D.

Waived for Court (Lower Court)
03/15/2007

18§3925§§A

4 / Tamper Records Or Id-Writing
Beck, Richard D.

Waived for Court (Lower Court)
03/15/2007

18§4104§§A

Proceed to Court

Information Filed

04/16/2007

Not Final

1 / Theft By Unlaw Taking-Movable Prop

Held for Court

18§3921§§A

2 / Theft By Fail To Make Req Disp Funds

Held for Court

18§3927§§A

3 / Receiving Stolen Property

Held for Court

18§3925§§A

4 / Tamper Records Or Id-Writing

Held for Court

18§4104§§A

COURT OF COMMON PLEAS OF JEFFERSON COUNTY

DOCKET

Docket Number: CP-33-CR-0000140-2007

CRIMINAL DOCKET

Court Case



Commonwealth of Pennsylvania

v.

Lisa Meckley

Page 4 of 6

COMMONWEALTH INFORMATION

Name: Jefferson County District Attorney's
Office
Prosecutor

Supreme Court No:

Phone Number(s):

(724) 465-3837 (Phone)

Address:

Jefferson County Courthouse
200 Main Street
Brookville PA 15825

ATTORNEY INFORMATION

Name: Ralph L.s. Montana, Esq.
Private

Supreme Court No: 018084

Counsel Status: Active

Phone Number(s):

(814) 226-5282 (Phone)

(814) 226-4388 (Fax)

Address:

624 S 5th Ave
PO Box 749
Clarion PA 16214

Representing: Meckley, Lisa

COURT OF COMMON PLEAS OF JEFFERSON COUNTY

DOCKET



Docket Number: CP-33-CR-0000140-2007

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

v.

Lisa Meckley

ENTRIES

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<u>Document/Sequence</u>	<u>CP Filed Date</u>	<u>Document Date</u>	
<u>Title</u>			
<u>Comments</u>			
<u>Registry Entry</u>			
<u>Service To</u>		<u>Service By</u>	<u>Filed By</u>
<u>Issue Date</u>	<u>Service Type</u>	<u>Status Date</u>	<u>Service Status</u>
1	03/15/2007		
Original Papers Received from Lower Court			Court of Common Pleas - Jefferson County
1	04/16/2007		
Information Filed			Commonwealth of Pennsylvania
1	07/17/2007		
Motion for Continuance			Montana, Ralph L.s.
2	07/17/2007		
Order Granting Motion for Continuance to September 2007 Term of Court			Foradora, John H.
1	09/11/2007		
Motion for Continuance			Montana, Ralph L.s.
2	09/11/2007		
Order Granting Motion for Continuance To November 2007 Term Of Court			Foradora, John H.
1	11/14/2007		
Motion for Continuance			Montana, Ralph L.s.
2	11/14/2007		
Order Granting Motion for Continuance To January 2008 Term Of Court			Foradora, John H.

COURT OF COMMON PLEAS OF JEFFERSON COUNTY

DOCKET



Docket Number: CP-33-CR-0000140-2007

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

Page 6 of 6

v.

Lisa Meckley

ENTRIES

<u>Document/Sequence</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Title</u>	<u>Comments</u>	<u>Registry Entry</u>	<u>Service To</u>	<u>Service By</u>	<u>Filed By</u>
<u>Issue Date</u>	<u>Service Type</u>	<u>Status Date</u>	<u>Service Status</u>					
1	01/16/2008		Motion for Continuance					Montana, Ralph L.s.
2	01/16/2008		Order Granting Motion for Continuance To March 2008 Term Of Court					Foradora, John H.

CASE FINANCIAL INFORMATION

Last Payment Date:

Total of Last Payment: \$0.00

<u>Meckley, Lisa</u>	<u>Assessment</u>	<u>Payments</u>	<u>Adjustments</u>	<u>Non Monetary</u>	<u>Total</u>
<u>Defendant</u>				<u>Payments</u>	
Costs/Fees					
Server Fees	\$129.80	\$0.00	(\$129.80)	\$0.00	\$0.00
Constable Education Training Act (Act 44 of 1991)	\$5.00	\$0.00	(\$5.00)	\$0.00	\$0.00
Costs/Fees Totals:	\$134.80	\$0.00	(\$134.80)	\$0.00	\$0.00
Grand Totals:	\$134.80	\$0.00	(\$134.80)	\$0.00	\$0.00

** - Indicates assessment is subrogated

COURT OF COMMON PLEAS OF JEFFERSON COUNTY

DOCKET



Docket Number: CP-33-CR-0000193-2007

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

v.

Jessica Ann Bruno

Page 1 of 5

CASE INFORMATION

Cross Court Docket Nos: CR-0000374-06

Judge Assigned:

OTN: K5710854

Initial Issuing Authority: Richard D. Beck

Arresting Agency: Brookville Boro Police Dept

Case Local Number Type(s)

Date Filed: 04/12/2007

Initiation Date: 12/06/2006

Lower Court Docket No: CR-0000374-06

Final Issuing Authority: Richard D. Beck

Arresting Officer: Markle, Vince

Case Local Number(s)

STATUS INFORMATION

Case Status: Adjudicated

Status Date

02/15/2008

02/15/2008

05/09/2007

04/12/2007

Processing Status

Awaiting Sentencing

Awaiting PSI

Awaiting Formal Arraignment

Awaiting Filing of Information

Complaint Date: 12/06/2006

CALENDAR EVENTS

<u>Case Calendar Event Type</u>	<u>Schedule Start Date</u>	<u>Start Time</u>	<u>Room</u>	<u>Judge Name</u>	<u>Schedule Status</u>
Conference I	06/05/2007	9:00 am	Room 303/Jury Room	Judge Judge Migrated	Scheduled
Conference II	07/03/2007	1:00 pm	Room 303/Jury Room	Judge Judge Migrated	Scheduled
Jury Selection	09/10/2007	9:00 am	Large Courtroom	President Judge John H. Foradora	Scheduled
Conference II	10/03/2007	1:00 pm	Room 303/Jury Room	Judge Judge Migrated	Scheduled
Jury Selection	10/09/2007	9:00 am	Large Courtroom	President Judge John H. Foradora	Scheduled
Plea	11/07/2007	9:00 am	Room 200 - Small Courtroom	President Judge John H. Foradora	Scheduled
Jury Selection	11/09/2007	9:00 am	Large Courtroom	President Judge John H. Foradora	Scheduled
Plea	12/05/2007	9:00 am	Room 200 - Small Courtroom	President Judge John H. Foradora	Scheduled
Jury Selection	01/07/2008	9:00 am	Large Courtroom	President Judge John H. Foradora	Scheduled
Sentencing	02/20/2008	9:00 am	Room 200 - Small Courtroom	President Judge John H. Foradora	Scheduled

COURT OF COMMON PLEAS OF JEFFERSON COUNTY

DOCKET

Docket Number: CP-33-CR-0000193-2007

CRIMINAL DOCKET

Court Case



Commonwealth of Pennsylvania
v.
Jessica Ann Bruno

Page 2 of 5

DEFENDANT INFORMATION

Date Of Birth: 06/30/1981

City/State/Zip: Brookville, PA 15825

CASE PARTICIPANTS

Participant Type

Name

Defendant

Bruno, Jessica Ann

BAIL INFORMATION

Bruno, Jessica Ann

Nebbia Status: None

<u>Bail Action</u>	<u>Date</u>	<u>Bail Type</u>	<u>Percentage</u>	<u>Amount</u>	<u>Bail Posting Status</u>	<u>Posting Date</u>
Set	04/11/2007	Unsecured		\$5,000.00	Posted	04/11/2007

CHARGES

<u>Sequence</u>	<u>Grade</u>	<u>Section/ Description</u>	<u>Statute Description</u>	<u>Offense Date</u>	<u>OTN</u>
1	F3	18 § 3921 §§A	Theft By Unlaw Taking-Movable Prop	03/01/2006	K5710854
2	F3	18 § 3927 §§A	Theft By Fail To Make Req Disp Funds	03/01/2006	K5710854
3	F3	18 § 3925 §§A	Receiving Stolen Property	03/01/2006	K5710854

COURT OF COMMON PLEAS OF JEFFERSON COUNTY

DOCKET

Docket Number: CP-33-CR-0000193-2007

CRIMINAL DOCKET

Court Case



Commonwealth of Pennsylvania

v.

Jessica Ann Bruno

Page 3 of 5

DISPOSITION SENTENCING/PENALTIES

Disposition

Case Event

Sequence/Description

Sentencing Judge

Sentence/Diversion Program Type

Sentence Conditions

Linked Offense - Sentence

Disposition Date

Offense Disposition

Sentence Date

Incarceration/Diversionary Period

Link Type

Final Disposition

Section

Credit For Time Served

Start Date

Linked Docket Number

Lower Court Proceeding (generic)

Lower Court Disposition

- 1 / Theft By Unlaw Taking-Movable Prop
- 2 / Theft By Fail To Make Req Disp Funds
- 3 / Receiving Stolen Property

04/11/2007

Not Final

Waived for Court (Lower Court)

18\$3921\$SA

Waived for Court (Lower Court)

18\$3927\$SA

Waived for Court (Lower Court)

18\$3925\$SA

Proceed to Court

Information Filed

- 1 / Theft By Unlaw Taking-Movable Prop
- 2 / Theft By Fail To Make Req Disp Funds
- 3 / Receiving Stolen Property

05/09/2007

Not Final

Held for Court

18\$3921\$SA

Held for Court

18\$3927\$SA

Held for Court

18\$3925\$SA

COMMONWEALTH INFORMATION

Name: Jefferson County District Attorney's
Office
Prosecutor

Supreme Court No:

Phone Number(s):

(724) 465-3837 (Phone)

Address:

Jefferson County Courthouse
200 Main Street
Brookville PA 15825

ATTORNEY INFORMATION

Name: Timothy Paul Morris, Esq.
Public Defender

Supreme Court No: 046222

Counsel Status: Active

Phone Number(s):

(814) 938-1990 (Phone)

(814) 938-4070 (Fax)

Address:

Jefferson County Public Defender
Jefferson Place
Brookville PA 15825

Representing: Bruno, Jessica Ann

COURT OF COMMON PLEAS OF JEFFERSON COUNTY

DOCKET

Docket Number: CP-33-CR-0000193-2007

CRIMINAL DOCKET

Court Case



Commonwealth of Pennsylvania

v.

Jessica Ann Bruno

Page 4 of 5

ENTRIES

<u>Document/Sequence</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Title</u>	<u>Comments</u>	<u>Registry Entry</u>	<u>Service To</u>	<u>Service By</u>	<u>Filed By</u>
<u>Issue Date</u>	<u>Service Type</u>	<u>Status Date</u>	<u>Service Status</u>					
1	04/12/2007		Original Papers Received from Lower Court					Court of Common Pleas - Jefferson County
1	05/09/2007		Information Filed					Commonwealth of Pennsylvania
1	09/11/2007		Motion for Continuance					Morris, Timothy Paul
2	09/11/2007		Order Granting Motion for Continuance To October 2007 Term of Court					Foradora, John H.
1	10/12/2007		Motion for Continuance					Morris, Timothy Paul
2	10/12/2007		Order Granting Motion for Continuance To November 2007 Term of Court					Foradora, John H.
1	11/14/2007		Motion for Continuance					Morris, Timothy Paul
2	11/14/2007		Order Granting Motion for Continuance To January 2008 Term Of Court					Foradora, John H.

COURT OF COMMON PLEAS OF JEFFERSON COUNTY

DOCKET

Docket Number: CP-33-CR-0000193-2007

CRIMINAL DOCKET

Court Case



Commonwealth of Pennsylvania

v.

Jessica Ann Bruno

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ENTRIES

Document/Sequence

CP Filed Date

Document Date

Title

Comments

Registry Entry

Service To

Service By

Filed By

Issue Date

Service Type

Status Date

Service Status

1

12/05/2007

Written Guilty Plea Colloquy

Bruno, Jessica Ann

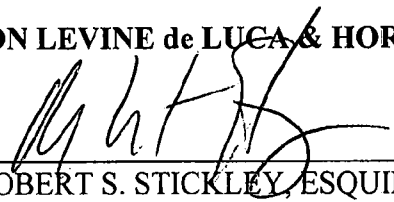
NELSON LEVINE de LUCA & HORST, LLC BY: ROBERT S. STICKLEY, ESQUIRE IDENTIFICATION NO.: 80849 518 TOWNSHIP LINE ROAD, SUITE 300 BLUE BELL, PA 19422 (215) 358-5100	ATTORNEYS FOR DEFENDANT TRUCK INSURANCE EXCHANGE (misnamed in Complaint as Farmer's Insurance Group Safety Foundation)
GATHAGAN INVESTMENT COMPANY Plaintiff v. INSURANCE TRUCK EXCHANGE (misnamed in Complaint as Farmer's Insurance Group Safety Foundation) Defendant	COURT OF COMMON PLEAS CLEARFIELD COUNTY FEBRUARY TERM 2007 NO: 07-282-CD

RULE 208.2 (d) CERTIFICATION

I, Robert Stickely hereby certify that I am counsel for Defendant and that I spoke with counsel for Plaintiff by telephone on February 26, 2008 in connection with this Motion for Request of Continuance of Arbitration Hearing Date. Counsel for Plaintiff consented by telephone to continue the arbitration and I confirmed this consent in writing. A copy of my fax to counsel for Plaintiff dated February 26, 2008 is attached as Exhibit "A". Also attached as Exhibit "B" is a letter from counsel of Plaintiff stating that he has consented to the continuance.

NELSON LEVINE de LUCA & HORST, LLC

BY:


 ROBERT S. STICKLEY, ESQUIRE
 PA80849

ATTORNEYS FOR DEFENDANT
 INSURANCE TRUCK EXCHANGE
 (misnamed in Complaint as Farmer's
 Insurance Group Safety Foundation)
 518 Township Line Road, Suite 300
 Blue Bell, PA 19422
 (215) 358-5100
 (215) 358-5101 (fax)

Date: February 29, 2008

FILED
 MAR 03 2008

William A. Shaw
 Prothonotary/Clerk of Courts



NELSON • LEVINE • de LUCA & HORST

A LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

Robert S. Stickley
Direct: 215.358.5158
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PHILADELPHIA CHERRY HILL COLUMBUS NEWARK NEW YORK LONDON

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February 26, 2008

VIA FACSIMILE ((814) 765-8142)

James A. Naddeo, Esquire
Law Offices of James A. Naddeo
207 E. Market Street
Clearfield, PA 16830

**Re: Gathagan Investment Co. v. Farmers Truck Insurance Exchange
Court of Common Pleas, Clearfield County
No. 07-282-CD**

Dear Mr. Naddeo:

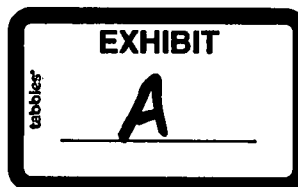
I understand from our telephone call this morning that Plaintiff has filed a Motion for Summary Judgment. Could you please provide me with that motion as soon as possible? Also, this will confirm that you do not object to our request for a continuance of the arbitration hearing which is currently scheduled for March 23, 2008. This will also confirm that you will contact me towards the end of this week to discuss scheduling Maureen's deposition.

Very truly yours,

NELSON LEVINE de LUCA & HORST, LLC


Robert S. Stickley

RSS/aft





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February 27, 2008

VIA FACSIMILE (814) 765-8142

James A. Naddeo, Esquire
Law Offices of James A. Naddeo
207 E. Market Street
Clearfield, PA 16830

Re: **Gathagan Investment Co. v. Farmers Truck Insurance Exchange**
Court of Common Pleas, Clearfield County
No. 07-282-CD

Dear Mr. Naddeo:

I have drafted a Motion for a Continuance of the Arbitration hearing. I note that local Rule 208.2 (d) requires your consent in writing. Could you please sign the bottom of this letter and return it to my office by facsimile which will confirm that you consent to a continuance of the Arbitration hearing.

Very truly yours,

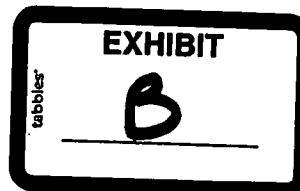
NELSON LEVINE de LUCA & HORST, LLC


Robert S. Stickley


James A. Naddeo

I, James A. Naddeo, counsel for Plaintiff, hereby consent to the adjournment of the Arbitration hearing currently scheduled for March 25, 2008.

RSS/aft
Attachment



1A

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

GATHAGAN INVESTMENT COMPANY
Plaintiff

vs.

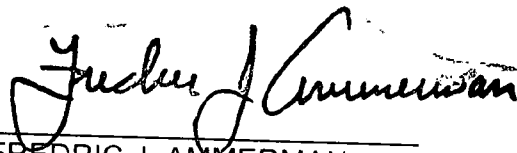
NO. 07-282-CD

INSURANCE TRUCK EXXHANGE (misnamed
in Complaint as Farmer's Insurance Group
Safety Foundation),
Defendant

ORDER

NOW, this 3rd day of February, 2008, upon review of the Motion for Continuance of Arbitration Hearing filed on behalf of the Defendant; it is the ORDER of this Court that argument on said Motion shall be held on the 6th day of March, 2008 at 9:30 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

FILED
014:00/01
MAR 03 2008

William A. Shaw
Prothonotary/Clerk of Courts

ICC Attys:
Naddeo
Bogdanoff
Stickley

Attorneys Bogdanoff and Stickley
notified by telephone

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

GATHAGAN INVESTMENT COMPANY, *
LP, a Pennsylvania limited *
Partnership, *
Plaintiff, *

v. *

FARMER'S INSURANCE GROUP *
SAFETY, FOUNDATION, a *
California Corporation, *
Defendant. *

No. 07-282-CD

William A. Shaw
Prothonotary/Clerk of Courts

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(GK)

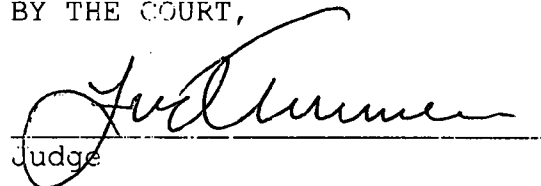
ORDER

AND NOW, this 3rd day of March, 2008, upon
consideration of the Motion for Partial Summary Judgment filed by
Plaintiff, it is hereby ORDERED that:

- 1) The respondent shall file an answer to the motion within 30
days of service thereof, said service to be made by Defendant
and;
- 2) a rule is issued upon the respondent to show cause why the
moving party is not entitled to the relief requested.

Rule Returnable and argument thereon to be held the 6th of
March, 2008, at 9:30 a.m., in Courtroom 1 of the
Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,


Judge

DATE: 3-4-2008

☒ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney -

☐ Special Instructions:

FILED

MAR 04 2008

William A. Shaw
Prothonotary/Clerk of Courts

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

GATHAGAN INVESTMENT COMPANY, *
LP, a Pennsylvania limited *
Partnership, *
Plaintiff, *

v. *

No. 07-282-CD

FARMER'S INSURANCE GROUP *
SAFETY, FOUNDATION, a *
California Corporation, *
Defendant. *

MOTION FOR PARTIAL SUMMARY JUDGMENT

NOW COMES the Plaintiff, Gathagan Investment Company, LP, and by its attorneys, NADDEO & LEWIS, LLC, hereby moves this Honorable Court to enter partial summary judgment in its favor as to liability, and in support represents as follows:

1. This is an action brought against Defendant, Farmer's Insurance Group Safety Foundation, for breach of an insurance contract and bad faith.

2. That the Plaintiff and Defendant are parties to an insurance contract that was in effect at the time of the losses to Plaintiff.

3. That central to the outcome of this case is the question of coverage under the insurance policy at issue.

4. That Plaintiff represents that in order to save time and expense on behalf of the parties involved, and in the interest of judicial economy, that this Honorable Court is able

to rule on the issue of coverage first, before any additional discovery or action otherwise is taken in this case.

5. That loss occurred to Plaintiff when three separate employees acting individually "skimmed" monies from the cash drawer.

6. That said loss is insured by the Farmer's Insurance Group Safety Foundation policy under "Optional Coverages."

7. The Plaintiff became aware of its losses when it began to investigate a report that one individual was stealing money. During the investigation Plaintiff found that three individuals had stolen money by a technique known as "skimming."

8. Plaintiff reported the loss to Defendant. Defendant chose to treat the loss as one occurrence under the terms of the insurance contract and paid Plaintiff \$10,000.00 for the total losses incurred.

9. Plaintiff disputed this approach by Defendant and provided detailed information to Defendant as to the circumstances surrounding the individual thefts, police investigations and that the three employees were not working in concert or conspiring.

10. Despite the information provided, Defendant denied paying for each loss separately under the terms of the insurance contract.

11. That the insurance contract provides follows at
Section G, subsection 4:

4. Employee Dishonesty

- a. We will pay for direct loss of or damage to Business Personal Property and "money" and "securities" resulting from dishonest acts committed by any of your employees acting alone or in collusion with other persons (except you or your partner) with the manifest intent to:
 - (1) Cause you to sustain loss or damage; and also
 - (2) Obtain financial benefit (other than salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other employee benefits earned in the normal course of employment) for:
 - (a) Any employee; or
 - (b) Any other person or organization.
- b. We will not pay for loss or damage:
 - (1) Resulting from any dishonest or criminal act that you or any of your partners commit whether acting alone or in collusion with other persons.
 - (2) The only proof of which as to its existence or amount is:
 - (a) An inventory computation; or
 - (b) A profit and loss computation.
- c. The most we will pay for loss or damage in any one occurrence is the Limit of Insurance for Employee Dishonesty shown in the Declarations.
- d. All loss or damage:
 - (1) Caused by one or more persons; or
 - (2) Involving a single act or series of related acts;is considered one occurrence.

12. That Defendant's position is that the loss incurred by Plaintiff is considered "one occurrence" as provided in section G, subsection (4)(d) of Employee Dishonesty.

13. That this Court is able to determine if liability would result based upon the facts as presented by Plaintiff under the terms of the contract at issue. In the alternative, Pa. R.C.P. 1035.3(c) provides that this Court may permit affidavits to be obtained or make such other order as is just if it does not desire to rule upon the motion for judgment as presented.

14. That Plaintiff represents that the individuals did not act in collusion or conspire together. They each began stealing at different times (months and years apart) and stole during their particular shifts. They did not have actual knowledge that the other was stealing or discuss the theft. They did not pool or divide stolen funds. Each stole individually and for their own benefit.

15. The only manner in which the thefts are "related" is that the individuals utilized the same technique (known as skimming), although not in the exact same manner, and the time periods overlap. This would not constitute "a series of related acts" as defined in the contract.

16. Related is defined as follows in The American Heritage Dictionary of The English Language as follows: 1. Being connected; associated. 2. Connected by kinship, common origin, or marriage. 3. *Music* Having a close harmonic connection.¹

17. Because nothing connects the acts of one employee to the act of the other two employees they are not related and are not a series of related acts. Rather the act that each engaged in is simply a similar act that is defined in the same manner (as "skimming").

18. That Plaintiff represents that where there is no collusion or conspiracy between three individuals who are stealing separately for their own benefit and where nothing connects the acts of one individual to another individual's acts (other than the definition and similarity of the act in which each is engaged) that this is not one occurrence as defined under the terms of the contract.

19. Pursuant to the above, Defendant is obligated to pay Plaintiff under the terms of the contract for the loss caused by each separate employee's theft.

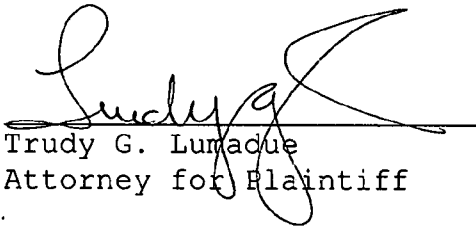
WHEREFORE, Plaintiff requests that this Court enter partial summary judgment in its favor and against Defendant and find that where there is no collusion or conspiracy and the acts of three individuals are not connected in any manner other than

¹ The American Heritage Dictionary of the English Language, Fourth Edition,

they are doing the same act, this is not one occurrence as defined in the policy. Therefore, Defendant is liable to Plaintiff for three separate occurrences of loss pursuant to the terms of the contract between the parties and as requested in Plaintiff's Complaint.

NADDEO & LEWIS, LLC

By



Trudy G. Lumadue
Attorney for Plaintiff

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

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

v.

FARMER'S INSURANCE GROUP SAFETY
FOUNDATION, a California
Corporation,
Defendant.

No. 07-282-CD

Type of Pleading:

**PRAECIPE TO SETTLE
AND DISCONTINUE**

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

&

Trudy G. Lumadue, Esq.
Pa I.D. 202049

NADDEO & LEWIS, LLC.
207 E. Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED *ICC & 1 Cert*
0/3:45pm *Of disc*
JUN 18 2008 *issued to*
AAA Naddeo

William A. Shaw
Prothonotary/Clerk of Courts

copy to CIA

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

GATHAGAN INVESTMENT COMPANY,
LP, a Pennsylvania limited
Partnership,
Plaintiff,

v.

FARMER'S INSURANCE GROUP SAFETY
FOUNDATION, a California
Corporation,
Defendant.

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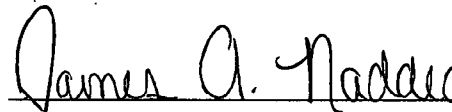
No. 07 - 282 - CD

PRAECIPE TO SETTLE AND DISCONTINUE

TO THE PROTHONOTARY:

Dear Sir:

Please mark the above-captioned case settled and
discontinued.


James A. Naddeo, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION

Gathagan Investment Company, LP,
a Pennsylvania limited Partnership
Plaintiff(s)

Vs.

No. 07-282-CD

Farmer's Insurance Group Safety
Foundation, a California Corporation
Defendant(s)

CERTIFICATE OF DISCONTINUATION


Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the Count
and Commonwealth aforesaid do hereby certify that the above case was this day, the 18th
of June A.D. 2008, marked:

Settled and Discontinued

Record costs in the sum of \$85.00 have been paid in full by James A. Naddeo Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at
Clearfield, Clearfield County, Pennsylvania this 18th day of June A.D. 2008.



Prothonotary

lm

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