

68-173-CD

Tuscarora Wayne al vs L. Cutler

CIVIL COVER SHEET

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA
CIVIL ACTION – LAW

TUSCARORA WAYNE MUTUAL
INSURANCE COMPANY
P.O. Box 7
Wyalusing, PA 18853
Petitioner

v.

LINDA CUTLER
103 Merril Street
Clearfield, PA 16830
Respondent

and

JAMES R. CUTLER, JR.
617 West Locust Street
Clearfield, PA 16830
Respondent

: NO: 08-173-CD
:
: Type of Case: Insurance
:
: Type of Pleading:
: Petition for Appointment of Umpire
: Filed on Behalf of:
: Petitioner Tuscarora Wayne
: Mutual Insurance Company

: Counsel of Record for this Party:
: Peter J. Speaker, Esquire
: Attorney I.D. No. 42834
: Thomas Thomas & Hafer
: 305 North Front Street, 6th Floor
: P.O. Box 999
: Harrisburg, PA 17108-0999
: (717) 255-7644

Date: January 31, 2008

Original
upstairs

FILED acc-Sheriff
m 11/22/08
FEB 01 2008 1cc Atty
William A. Shaw
Prothonotary/Clerk of Courts
Atty pd \$95.00

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William A. Shaw
Prothonotary/Clerk of Courts
Atty pd. 95.00

TUSCARORA WAYNE MUTUAL INSURANCE COMPANY P.O. Box 7 Wyalusing, PA 18853 Petitioner	:	IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
v.	:	CIVIL ACTION
LINDA CUTLER 103 Merril Street Clearfield, PA 16830 Respondent	:	NO. 08-173-CD
and	:	
JAMES R. CUTLER, JR. 617 West Locust Street Clearfield, PA 16830 Respondent	:	

ORDER FOR RULE TO SHOW CAUSE

AND NOW, this ____ day of _____, 2008, upon consideration of the Petition for Appointment of Umpire, filed by Tuscarora Wayne Mutual Insurance Company, it is hereby ORDERED that:

- (1) A Rule is issued upon Respondents to show cause why Tuscarora Wayne Mutual Insurance Company is not entitled to the relief requested;
- (2) Respondents shall file an answer to the Petition for Appointment of Umpire within twenty (20) days of this date;
- (3) The Petition for Appointment of Umpire shall be decided in accordance with Pa.R.Civ.P. 206.7.
- (4) Notice of Entry of this Order shall be provided to all parties by the Petitioner.

BY THE COURT

TUSCARORA WAYNE MUTUAL
INSURANCE COMPANY
P.O. Box 7
Wyalusing, PA 18853
Petitioner

v.

LINDA CUTLER
103 Merril Street
Clearfield, PA 16830
Respondent

and

JAMES R. CUTLER, JR.
617 West Locust Street
Clearfield, PA 16830
Respondent

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PA

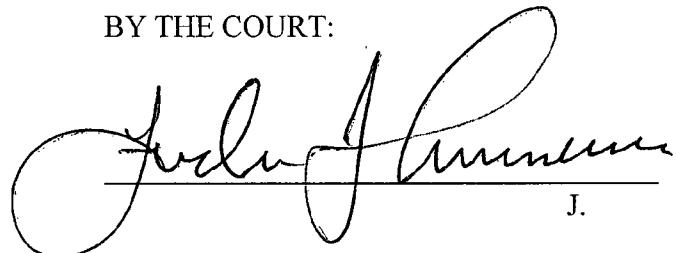
CIVIL ACTION

NO. 08-173-CD

ORDER

AND NOW, this 4th day of February, 2008, upon consideration of
the foregoing Petition, it is hereby ordered that the Petition for Appointment of Umpire is
GRANTED, and the Honorable Thomas C. Raup is appointed as the Umpire in this matter.

BY THE COURT:



J.

FILED 01/04/08
FEB 04 2008 1CC Atty
6K

William A. Shaw
Prothonotary/Clerk of Courts

TUSCARORA WAYNE MUTUAL INSURANCE COMPANY	:	IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
P.O. Box 7	:	
Wyalusing, PA 18853	:	
Petitioner	:	CIVIL ACTION
	:	
v.	:	NO.
	:	
LINDA CUTLER	:	
103 Merril Street	:	
Clearfield, PA 16830	:	
Respondent	:	
	:	
and	:	
	:	
JAMES R. CUTLER, JR.	:	
617 West Locust Street	:	
Clearfield, PA 16830	:	
Respondent	:	

PETITION FOR APPOINTMENT OF UMPIRE

The Petitioner, Tuscarora Wayne Mutual Insurance Company (“Tuscarora Wayne”), by its attorneys, Thomas, Thomas & Hafer, LLP, files this Petition for Appointment of Umpire.

1. Tuscarora Wayne is a mutual insurance company organized and existing under the laws of the Commonwealth of Pennsylvania, with a principal place of business at P.O. Box 7, Wyalusing, PA 18853.

2. Respondents, Linda Cutler (“Ms. Cutler”) and James R. Cutler, Jr. (“Mr. Cutler”), are adult individuals who reside in Clearfield, Pennsylvania, at the addresses indicated above.

3. Respondents are the named insureds in Homeowners Policy no. H0113652, which covered a house located at 201 Race Street, Clearfield, PA 16830, and its contents. Copies of the pertinent parts of that policy are attached hereto as Exhibit “A.”

4. The house was damaged on July 18, 2007, when it was struck by a tractor-trailer, and Respondents have made claims under the Policy for their losses.

5. Despite the efforts of Tuscarora Wayne's Claims Department, contractors and an engineer retained by Tuscarora Wayne, a contractor hired but later fired by Mrs. Cutler, and an attorney retained but later fired by Mrs. Cutler, the parties have been unable to agree as to the amount of the loss.

6. The policy provides in pertinent part as follows:

Appraisal – if “you” and “we” do not agree as to the value of the property or the amount of the loss, “you” and “we” will each select a competent appraiser within 20 days after receiving a written request from the other. The two appraisers will select an umpire. If they do not agree on an umpire, the two appraisers will ask a judge of a court of record of the state in which the appraisal is pending to make the selection. The written agreement of any two of these three will be binding and set the amount of the loss. “You” will pay the expense of “your” appraiser and “we” will pay “ours”. “You” and “we” will share equally the expense of the umpire and the other expenses of the appraisal.

(AAIS Form 3 Ed. 2.0, p. 28 of 29.)

7. Accordingly, Tuscarora Wayne named Gerald Williams of Gerald Williams Adjustment Service as an appraiser. (See the letter of December 17, 2007, attached hereto as “Exhibit B.”)

8. Mrs. Cutler named Timothy Britton of Tim Britton Construction Services as an appraiser. (See the letter dated December 28, 2007, attached hereto as “Exhibit C.”)

9. The two appraisers conferred and discussed the Honorable Thomas C. Raup as a potential umpire and agreed to plan to meet for an inspection of the property on January 31, 2008.

10. Thereafter, Mr. Britton notified Mr. Williams that he could not accept or reject an umpire, discuss the selection of an umpire, meet to inspect the property or discuss the case, or do anything else, until he received his required “commitment letter” back from Linda Cutler, which she had failed to provide to him as requested. (See the emails attached hereto as “Exhibit D.”)

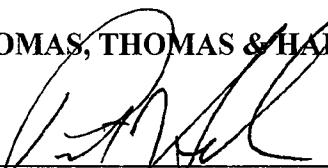
11. The undersigned contacted Ms. Cutler on behalf of Tuscarora Wayne in an unsuccessful effort to resolve this impasse, advising her specifically that Tuscarora Wayne would seek appointment of an umpire by this Honorable Court in order to move the matter toward a fair conclusion. Mr. Cutler was also notified. Attached hereto as "Exhibit E" are copies of the pertinent letters to the Respondents.

12. It is important that an umpire be appointed promptly so that this matter can be resolved as soon as possible, as Tuscarora Wayne already has paid out nearly eighty-nine thousand dollars (\$89,000.00) for living expenses, property loss and repairs, but final resolution has been delayed continually by Mrs. Cutler's unreasonable demands, changes in position, and failure to cooperate with Tuscarora Wayne and her own contractor, appraiser and attorney.

WHEREFORE, Tuscarora Wayne respectfully requests the Court to appoint an umpire.

Respectfully submitted,

THOMAS, THOMAS & HAVER, LLP

By: 

Peter J. Speaker, Esquire
Attorney I.D. No. 42834
305 North Front Street, 6th Floor
P.O. Box 999
Harrisburg, PA 17108-0999
(717) 255-7644

Date: January 31, 2008

Attorneys for Petitioner
Tuscarora Wayne Mutual Insurance Company

VERIFICATION

I verify that the facts set forth in the foregoing Petition are true and correct to the best of my information, knowledge and belief. I understand that any false statements contained herein are made subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

Craig Marshall





Post Office Box Seven • Wyalusing, Pennsylvania 18853

HOMEOWNERS

Renewal Declarations

MB

POLICY NUMBER	FROM	POLICY PERIOD	TO		
HO113652	10/11/06	10/11/07	12:01 AM STANDARD TIME		14103

NAMED INSURED AND ADDRESS		AGENT
LINDA CUTLER JAMES R CUTLER JR 201 RACE STREET CLEARFIELD, PA 16830		CENTRAL INSURERS GROUP, INC T/A CHARLES A JONES INS 20 S FRONT ST - PO BOX 209 PHILIPSBURG, PA 16866 Phone: (814) 342-1880

MK

----- PREMIUM SUMMARY -----					
BASIC COVERAGES	ATTACHED ENDORSEMENTS	SCHEDULED PROPERTY PREMIUM	POLICY FEES/TAXES PREMIUM	TOTAL POLICY PREMIUM	EARNED/UNEARNED PREMIUM
\$511.00	\$10.00	\$0.00		\$521.00	

----- LOCATION 1 -----							
FORM	CONST	YEAR	SQ FEET	NUM FAM	OCCUP	PROT	CLASS
3	Frame	1951		1	P	P	143
OWNER OCCUPIED DWELLING							

COVERAGES - SECTION I	LIMITS	PREMIUMS
Coverage A - Residence	\$168,000	\$511
Coverage B - Appurtenant Structures	\$16,800	Incl
Coverage C - Personal Property	\$84,000	Incl
Coverage D - Additional Living Expenses	\$33,600	Incl

Section I coverages are subject to \$250 all peril deductible each loss.

COVERAGES - SECTION II	LIMITS	PREMIUMS
Coverage L - Personal Liability	\$100,000	Incl
Coverage M - Medical Liability	\$1,000	Incl

LOCATION OF PROPERTY INSURED

CLEARFIELD
W RTE 322
CLEARFIELD, PA 16830
County: CLEARFIELD

----- POLICY FORMS AND ENDORSEMENTS -----							
NUMBER	EDITION	DESCRIPTION	LOC	ITM	DED	LIMIT	PREM
ML-145	1.0	Expanded Replacement Cost Terms	1	1			\$4
ML-30	1.0	Incidental Property Coverages - H REFRIGERATED FOOD	1	1		500	\$6
ML-55	2.4	Replacement Value - Personal Prop	1	1			
ML-216	2.0	Protective Devices 2% SMOKE ALARM CREDIT	1	1			
ML-184	1.0	Automatic Adjustment of Limits 6% Annual Increase	1	1			

Continued on Next Page...

Home Office Copy



Post Office Box Seven • Wyalusing, Pennsylvania 18853

HOMEOWNERS

Renewal Declarations

MB

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HO113652	10/11/06	10/11/07	12:01 AM STANDARD TIME	14103		
NAMED INSURED AND ADDRESS			AGENT			
LINDA CUTLER JAMES R CUTLER JR 201 RACE STREET CLEARFIELD, PA 16830			CENTRAL INSURERS GROUP, INC T/A CHARLES A JONES INS 20 S FRONT ST - PO BOX 209 PHILIPSBURG, PA 16866 Phone: (814) 342-1880			
MK						

----- POLICY FORMS AND ENDORSEMENTS -----

NUMBER	EDITION	DESCRIPTION	LOC	ITM	DED	LIMIT	PREM
ML 0689	10 03	Limited Fungi, Wet/Dry Rot, or Ba	1	1			
ZPREFER	09-95	Preferred Credit Applies		1	1		
TW-FB	04-00	Exclusion of Farm-Type Outbuildin					
FORM-3	2.0	Special Form					
ML 0083	06 99	Amendatory Endorsement - Pennsylv					
ML-120	2.0	Insurance Consultation Services E					
ML-147	1.0	Punitive Damage Exclusion					
ML-223	6.0	Lead Liability Exclusion					
ML-483	2.1	Calendar Date or Time Failure Exc					
R-LOSSCR	02-02	Renewal Loss Free Credit					
TW-MP	04-97	Mutual Provisions					
TW-LOSS	01-01	TW Loss Surcharge					
TW-PPN	07-01	Privacy Policy Notice					

----- CLAIM LOSSES -----

A RENEWAL LOSS FREE CREDIT AND/OR A LOSS SURCHARGE MAY APPLY TO YOUR POLICY.
YOUR POLICY WAS LOSS FREE FOR 4 CONSECUTIVE YEARS.

----- ADDITIONAL INTERESTS -----

Mortgagee 1	Policy
CSB BANK	
ISAOA, MORTGAGE DEPT	
PO BOX 29	
CURWENSVILLE, PA 16833-0029	

IN WITNESS WHEREOF, this Company has executed and attested these presents: but
this policy shall not be valid unless countersigned by the duly authorized agent of this
Company at Wyalusing, PA.

Shelby W. Tapscott
Secretary

Amy W. Chadwick
President/CEO

THIS REPLACES ALL PREVIOUSLY ISSUED POLICY DECLARATIONS, IF ANY. THIS POLICY APPLIES ONLY TO
ACCIDENTS, OCCURRENCES, OR LOSSES WHICH HAPPEN DURING THE POLICY PERIOD SHOWN ABOVE.

AGENCY AT PHILIPSBURG PA
Home Office Copy

Amy W. Chadwick
AUTHORIZED COUNTERSIGNATURE

DATE 09/06/06
PAGE 2

SPECIAL FORM

The following Table of Contents shows how the policy is organized. It will help "you" locate particular sections of the policy.

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Endorsements and schedules may also be part of this policy. They are identified on the "declarations".

Refer to the Definitions for words and phrases that have special meaning. These words and phrases are shown in quotation marks or bold type.

AGREEMENT

This policy, subject to all of its "terms", provides property and liability insurance and other described coverages during the policy period. In return "you" must pay the required premium. Each of the Principal Coverages described in this policy applies only if a "limit" is shown on the "declarations" for that coverage.

DEFINITIONS

1. The words "you" and "your" mean the person or persons named as the insured on the "declarations". This includes "your" spouse if a resident of "your" household.
2. The words "we", "us", and "our" mean the company providing this insurance.
3. "Bodily injury" means bodily harm to a person and includes sickness, disease, or death. This also includes required care and loss of services.

"Bodily injury" does not mean bodily harm, sickness, disease, or death that arises out of:

 - a. a communicable disease;
 - b. the actual, alleged, or threatened sexual molestation of a person;
 - c. mental or emotional injury, suffering, or distress that does not result from physical injury;
 - d. physical abuse;
 - e. corporal punishment; or
 - f. the use, sale, manufacture, delivery, transfer, or possession by any person of Controlled Substances as defined by the Federal Food and Drug Law at 21 U.S.C.A. Sections 811 and 812, including any amendments. Controlled Substances include but are not limited to cocaine, LSD, marijuana, and all narcotic or hallucinogenic drugs. However, this does not apply to the legitimate use of prescription drugs by a person following the orders of a licensed physician.

4. "Business" means a trade, a profession, or an occupation including farming, all whether full or part time. This includes the rental of property to others. It does not include the occasional rental for residential purposes of the part of the "insured premises" normally occupied solely by "your" household.

"Business" includes services regularly provided by an "insured" for the care of others and for which an "insured" is compensated. A mutual exchange of like services is not considered compensation.

"Business" does not include:

- a. part-time or seasonal activities that are performed by minors; or
- b. activities that are related to "business", but are usually not viewed as "business" in nature.

5. "Declarations" are all pages labeled Declarations, Supplemental Declarations, or Schedules which pertain to this policy.

6. "Domestic employee" means a person employed by an "insured" to perform duties that relate to the use and care of the "insured premises". This includes a person who performs duties of a similar nature elsewhere for an "insured". This does not include a person while performing duties in connection with the "business" of an "insured".

7. "Insured" means:

- a. "you";
- b. "your" relatives if residents of "your" household;
- c. persons under the age of 21 residing in "your" household and in "your" care or in the care of "your" resident relatives; and

- d. "your" legal representative, if "you" die while insured by this policy. This person is an "insured" only for liability arising out of the "insured premises". An "insured" at the time of "your" death remains an "insured" while residing on the "insured premises".

Under Coverages L and M, "insured" also includes:

- e. persons using or caring for vehicles, watercraft, or animals owned by an "insured" as defined under a., b., or c. above and to which this insurance applies (This does not include persons using or caring for vehicles, watercraft, or animals in the course of "business" or without the owner's consent.);
- f. persons in the course of performing domestic duties that relate to the "insured premises"; and
- g. persons in the course of acting as "your" real estate manager for the "insured premises".

Each of the above is a separate "insured", but this does not increase "our" "limit".

- 8. "Insured premises"
 - a. Described Location: If "you" own and reside in the "residence" shown on the "declarations" as the described location, the "insured premises" means:
 - 1) that "residence"; and
 - 2) related private structures and grounds at that location.

If the "residence" is a townhouse or a row house, item 2) above includes only related private structures and grounds at that location used or occupied solely by "your" household for residential purposes.
 - b. Under Coverages L and M, "insured premises" also includes:
 - 1) all other premises shown on the "declarations";
 - 2) that part of a residential premises, acquired by "you" during the policy period, and to be used by "you" as "your" place of residence;
 - 3) all vacant land owned by or rented to an "insured". This includes land where a "residence" is being built for the use of an "insured". This does not include farm land;
 - 4) "your" cemetery lots and "your" burial vaults or those of "your" resident relatives;
 - 5) that part of a premises not owned by an "insured" if it is temporarily used as a residential premises by an "insured";
 - 6) all premises used by "you" in connection with the premises shown on the "declarations" as the described location;
 - 7) all access ways immediately adjoining the "insured premises"; and
 - 8) that part of premises occasionally rented to an "insured" for other than "business" purposes.
 - 9. "Limit" means the amount of coverage that applies.
 - 10. "Motorized vehicle" means a self-propelled land or amphibious vehicle regardless of method of surface contact.

This does not include vehicles that are designed and used to assist the handicapped and are not required to be licensed for road use.
 - 11. "Motor vehicle" means a "motorized vehicle", a trailer, or a semi-trailer, and all attached machinery or equipment, if:
 - a. it is subject to "motor vehicle" registration; or
 - b. it is designed for use on public roads.

12. "Occurrence" means an accident, including repeated exposures to similar conditions, that results in "bodily injury" or "property damage" during the policy period.
13. "Pollutant" means:
 - a. any solid, liquid, gaseous, thermal, or radioactive irritant or contaminant, including acids, alkalis, chemicals, fumes, smoke, soot, vapor, and waste. Waste includes materials to be recycled, reclaimed, or reconditioned, as well as disposed of; and
 - b. electrical or magnetic emissions, whether visible or invisible, and sound emissions.
14. "Property damage" means:
 - a. physical injury or destruction of tangible property; or
 - b. the loss of use of tangible property whether or not it is physically damaged.
15. "Recreational motor vehicle" means a "motorized vehicle", a trailer, or attached equipment that is designed or is used for leisure time activities, and which is not a "motor vehicle".
16. "Residence" means a one- to four-family house, a townhouse, a row house, or a one- or two-family mobile home used mainly for family residential purposes.
17. "Terms" means all provisions, limitations, exclusions, conditions, "declarations", and definitions used in this policy.

PROPERTY COVERAGES

PRINCIPAL PROPERTY COVERAGES

Coverage A -- Residence

"We" cover the "residence" on the "insured premises". This includes additions and built-in components and fixtures, as well as building materials and supplies located on the "insured premises" for use in the construction, alteration, or repair of the "residence".

"We" do not cover land, including the land on which covered property is located, underground water, or surface water.

"We" do not cover trees, plants, shrubs, or lawns, except as provided under Incidental Property Coverages.

Coverage B -- Related Private Structures

"We" cover related private structures on the "insured premises" which are not attached to "your" "residence". Structures that are connected to "your" "residence" by only a fence, a utility line, or a similar connection are not considered attached.

"We" cover fences, driveways, sidewalks, and other permanently installed outdoor fixtures, and building materials and supplies located on the "insured premises" for use in the construction, alteration, or repair of a related private structure.

"We" do not cover land, including the land on which covered property is located, underground water, or surface water.

"We" do not cover structures used for "business" purposes. However, this does not apply to structures:

1. rented to a tenant of the "residence" on the "insured premises" and not used for "business"; or
2. used solely for private garage purposes.

"We" do not cover trees, plants, shrubs, or lawns, except as provided under Incidental Property Coverages.

Coverage C -- Personal Property

1. "We" cover personal property owned by or in the care of an "insured". Coverage for personal property usually on residential premises of an "insured" other than the "insured premises" is limited to 10% of the Coverage C "limit".
2. "We" cover personal property in a newly acquired principal place of residence. The full Coverage C "limit" applies for 30 days from the date "you" begin to move. After that, coverage for personal property in a newly acquired principal place of residence is limited to 10% of the Coverage C "limit". This coverage does not extend past the date on which the policy expires or the date on which the policy is terminated.
3. At "your" option, personal property owned by a guest or "domestic employee" is covered while it is in that part of residential premises occupied by an "insured".
4. **Limitations on Certain Property** -- The special "limits" shown below do not increase the Coverage C "limit". The "limit" for each class is the total "limit" per occurrence for all items in that class.
 - a. \$250 on money, bank notes, bullion, gold other than goldware and gold-plated ware, silver other than silverware and silver-plated ware, platinum, and numismatic property.
 - b. \$1,500 on securities, stamps, letters of credit, notes other than bank notes, personal records, tickets, accounts, deeds, evidence of debt, passports, and manuscripts. This special "limit" applies regardless of the medium on which these items exist, and includes the cost of research or other expenses necessary to reproduce, replace, or restore the item.
 - c. \$1,500 on electronic devices, accessories, and antennas that can be operated from the electrical system of a "motorized vehicle" or watercraft and by other sources of power, including films, tapes, wires, discs, records, or other media for use with such devices. This limitation applies:
 - 1) while the devices are in or on a "motorized vehicle" or watercraft; and
 - 2) while the devices are not in or on a "motorized vehicle" or watercraft, if the devices:
 - a) are used in whole or in part for "business" purposes; and
 - b) are away from the "insured premises".
 - d. \$1,500 on watercraft including their trailers, furnishings, equipment, and engines or motors.
 - e. \$1,500 on trailers not otherwise provided for.
 - f. For loss by theft:
 - 1) \$2,500 on jewelry, watches, precious and semiprecious stones, gems, and furs;
 - 2) \$2,500 on silverware, goldware, pewterware, and items plated with gold or silver; and
 - 3) \$2,500 on guns.

g. For loss to personal property used, in whole or in part, for "business" purposes:

- 1) \$2,500 on property while on the "insured premises"; and
- 2) \$250 on property while away from the "insured premises". However, this special "limit" does not apply to electronic devices, accessories, and antennas, including films, tapes, wires, discs, records, or other media for use with such devices, that can be operated from the electrical system of a "motorized vehicle" or watercraft and by other sources of power.

These special "limits" include the cost of research or other expenses necessary to reproduce, replace, or restore "business" data.

5. **Personal Property Not Covered** -- "We" do not cover:

- a. property covered by scheduled insurance;
- b. animals, birds, fish, or insects;
- c. "motorized vehicles". This includes:
 - 1) their parts, equipment, and accessories. This does not include property listed in item c. above under Limitations on Certain Property; and
 - 2) electronic devices, accessories, or antennas that can be operated only from the electrical system of a "motorized vehicle", including films, tapes, wires, discs, records, or other media for use with such devices;

while in or on a "motorized vehicle".

"We" do cover "motorized vehicles" that are not subject to "motor vehicle" registration if they are designed and

used to assist the handicapped or used only to service the "insured premises";

- d. aircraft, including their parts and equipment. This does not include model aircraft which is not designed or used to carry people or cargo;
- e. property of roomers or boarders who are not "insureds";
- f. trees, plants, shrubs, or lawns, except as provided under Incidental Property Coverages;
- g. loss that results from credit or debit cards, except as provided under Incidental Property Coverages; or
- h. land, including the land on which covered property is located, underground water, or surface water.

Coverage D -- Additional Living Costs and Loss of Rent

"We" pay the necessary and reasonable increase in living costs "you" incur to maintain the normal standard of living of "your" household if a part of the "insured premises" occupied by "your" household is made unfit for use by an insured loss. "We" pay only for the period of time reasonably required to make the "insured premises" fit for use or until "your" household is permanently relocated, whichever is less. This period of time is not limited by the policy period.

"We" pay for the rent "you" lose or the fair rental value if the part of the "insured premises" rented or held for rental to others is made unfit for use by an insured loss. "We" pay only for the period of time reasonably required to make the "insured premises" fit for use or until "your" household is permanently relocated, whichever is less. Loss of rent is the amount "you" would have received less the charges and expenses that do not continue while the "insured premises" is unfit for use. This period of time is not limited by the policy period.

"We" pay "your" additional living costs and loss of rent or fair rental value as described above for up to two weeks if a premises neighboring the "insured premises" is damaged from a peril insured against by this policy and "you" may not, by order of civil authority, use the "insured premises". This is not limited by the policy period.

"We" do not pay for loss of rent or costs due to the cancellation of a lease or an agreement.

The "limit" shown on the "declarations" for Coverage D is the most "we" pay for all of the coverages described above.

INCIDENTAL PROPERTY COVERAGES

This policy provides the following Incidental Property Coverages. They are subject to all of the "terms" of the applicable Coverages A, B, or C. These coverages provide additional insurance unless otherwise stated.

1. **Emergency Removal** -- "We" pay for direct physical loss to covered property that is moved from a premises to prevent a loss from perils insured against. The property is covered for up to 30 days, however this coverage does not extend past the date on which this policy expires.

"We" pay up to \$250 towing charge to move a covered mobile home that is in danger from a peril insured against.

This coverage does not increase the "limits" shown for the property being removed. The Exclusions That Apply To Property Coverages do not apply to this coverage, however "we" do not pay any "insured" for loss which results from any act committed by or at the direction of any "insured" with the intent to cause a loss.

2. **Debris Removal** -- "We" pay for the cost to remove the debris of covered property after a loss. The loss must be caused by a peril that applies to the damaged property. "We" also pay for the cost to remove volcanic ash, dust, or particulate matter that causes direct physical loss to property covered under Coverages A, B, or C.

"You" may apply up to 25% of the "limit" that applies to the damaged property to cover debris removal. "We" will not pay more for direct physical loss to property and debris removal combined than the "limit" that applies to the damaged property.

However, when the covered loss plus the cost of debris removal is more than the applicable "limit", "we" will pay up to an extra 5% of the applicable "limit" to cover the cost of debris removal.

This coverage does not include any cost or expense to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or in any way respond to or assess the effects of "pollutants".

"We" also pay the cost to remove fallen trees which:

- a. cause damage to property covered under Coverages A, B, or C; or
- b. obstruct access to a driveway on the "insured premises";

if the falling of the tree is caused by any of the perils insured against described under Coverage C and coverage is not provided elsewhere by this policy.

Regardless of the number of fallen trees, the most "we" will pay is \$500 per occurrence.

3. **Increased Cost -- Ordinance or Law--**
"We" pay for the increased cost which results from the enforcement of a code, ordinance, or law which regulates the use, construction, repair, or demolition of property or the removal of its debris when loss to property covered under Coverages A or B is caused by a peril insured against.

"You" may apply up to 25% of the "limit" that applies to the damaged property to cover such increased costs. "We" will not pay more for direct physical loss to property and the increased costs combined than the "limit" that applies to the damaged property. However, when the covered loss plus the increased cost is more than the applicable "limit", "we" will pay up to an extra 10% of the applicable "limit" to cover the increased cost which results from the enforcement of a code, ordinance, or law which regulates the use, construction, repair, or demolition of the property or the removal of its debris.

However, "we" do not pay for:

- a. any loss in value of property which results from the enforcement of a code, ordinance, or law; or
- b. any loss, cost, or expense which results from the enforcement of a code, ordinance, or law requiring that any "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or in any way respond to or assess the effects of "pollutants".

4. **Fire Department Service Charge --** "We" pay for charges assumed by "you" under a contract or agreement when a fire department is called to save or protect covered property from a peril insured against.

The most "we" pay is \$500 per occurrence unless a higher "limit" is shown on the "declarations".

5. **Credit Card, Forgery, and Counterfeit Money --** "We" pay for loss if an "insured":

- a. by law must pay for the unauthorized use of credit or debit cards issued or registered in the name of an "insured";
- b. has a loss when checks, drafts, notes, or negotiable instruments are forged or altered; or
- c. accepts in good faith counterfeit United States or Canadian paper money.

The most "we" pay is \$1,500 per occurrence unless a higher "limit" is shown on the "declarations".

"We" do not pay for a loss if:

- a. an "insured" has not complied with the rules under which the credit or debit card was issued;
- b. the loss is caused by the dishonesty of an "insured";
- c. the loss results from the "business" of an "insured"; or
- d. the loss occurs while a person who is not an "insured" has the credit or debit card with the consent of an "insured".

6. **Trees, Plants, Shrubs, or Lawns --** "We" pay for direct physical loss to trees, plants, shrubs, or lawns on the "insured premises" caused by:

- a. fire or lightning, explosion, riot or civil commotion, aircraft;
- b. vehicles if not owned or operated by an occupant of the "insured premises"; or
- c. vandalism or theft.

"You" may apply up to 10% of the Coverage C "limit" to cover trees, plants, shrubs, or lawns. "We" do not pay more than \$500 for each tree, plant, or shrub. This includes the cost to remove the debris of the covered item.

"We" do not cover trees, plants, shrubs, or lawns grown for "business".

7. **Grave Markers** -- "We" pay up to \$1,500 for direct physical loss to grave markers and mausoleums caused by a peril insured against described under Coverage C.
8. **Collapse** -- "We" pay for direct physical loss to covered property involving the collapse of a building or a part of a building caused by the following:
 - a. any of the perils insured against described under Coverage C. Under this coverage, these perils apply to covered buildings and personal property;
 - b. hidden insect or vermin damage or hidden decay;
 - c. weight of contents or people;
 - d. weight of rain which collects on a roof; or
 - e. the use of defective materials or methods in construction or repair if the collapse occurs during the course of construction or repair.

Under b. through e. above, unless the loss is the direct result of the collapse of a building, "we" do not pay for loss to awnings; swimming pools; fences; patios; paved areas; retaining walls; bulkheads; foundations; wharves; docks; piers; underground pipes, flues, and drains; cesspools; or septic tanks.

Collapse does not mean settling, cracking, shrinking, bulging, or expanding. This coverage does not increase the "limits" shown for the property covered.

Under Exclusions That Apply To Property Coverages, the exclusion for Errors, Omissions, and Defects does not apply to this coverage.

9. **Glass Breakage** -- "We" pay for breakage of glass that is part of a structure. "We" pay to replace the damaged glass with safety glazing materials if required by code, ordinance, or law. "We" also pay for direct physical loss to covered property which is damaged by the breakage of glass that is part of a structure. However, "we" do not pay for loss on the "insured premises" if the "residence" is vacant for more than 30 days in a row just before the loss. A "residence" being built is not vacant.

This coverage does not increase the "limits" shown for the property covered.

10. **Refrigerated Food Spoilage** -- "We" pay for spoilage of food in a freezer or refrigerated unit on the "insured premises". The spoilage must be caused by change in temperature resulting from:
 - a. interruption of electrical service to refrigeration equipment caused by damage to the generating or transmission equipment; or
 - b. mechanical or electrical breakdown of the refrigeration equipment.

"You" must maintain the refrigeration equipment in proper working order.

The most "we" pay is \$500 per occurrence unless a higher "limit" is shown on the "declarations".

Under Exclusions That Apply To Property Coverages, Power Disruption and the reference to mechanical breakdown under Wear and Tear do not apply to this coverage.

11. **Loss Assessment** -- "We" pay for "your" share of an assessment made by "your" homeowners, condominium, mobile-homeowners, or similar residential association. Coverage applies only when the assessment:

- is made during the policy period;
- results from direct loss to the property owned collectively by all association members and is caused by a peril insured against described under Coverage A other than:
 - earthquake; or
 - land shock waves or tremors before, during, or after a volcanic eruption, explosion, or effusion; and
- is charged against "you" as owner or tenant of the premises shown on the "declarations" as the described location.

However, "we" do not pay for assessments charged against "you" or "your" association by any governmental body or authority.

The most "we" pay is \$1,500 per occurrence. This "limit" is the most "we" pay for any one loss, regardless of the number of assessments.

Under Policy Conditions, Policy Period does not apply to this coverage.

**PERILS INSURED AGAINST --
COVERAGES A, B, C, AND D**

Coverage A -- Residence and Coverage B -- Related Private Structures -- "We" insure property covered under Coverages A and B for risks of direct physical loss, unless the loss is excluded under the Exclusions Applying to

Coverages A and B or under the Exclusions That Apply To Property Coverages.

Exclusions Applying to Coverages A and B:

- Freezing, Discharge, Leakage, or Overflow -- Unoccupied Residence** -- "We" do not pay for loss caused by freezing or the resulting discharge, leakage, or overflow from any plumbing, heating, air-conditioning, or automatic fire protective sprinkling system; water heater; or domestic appliance if the "residence" is vacant, unoccupied, or under construction and unoccupied. This exclusion does not apply if "you" take reasonable care to:
 - maintain heat in the building or mobile home; or
 - shut off the water supply and completely empty liquids from such system, heater, or appliance.
- Freezing, Thawing, Pressure, or Weight of Ice or Water** -- "We" do not pay for damage caused by freezing, thawing, pressure, or weight of ice or water, whether driven by wind or not, to structures (other than structures that are buildings, carports, or mobile homes) such as:
 - swimming pools, fences, patios, paved areas;
 - retaining walls, bulkheads, foundations; or
 - wharves, docks, or piers.
- Theft** -- "We" do not cover theft or attempted theft in or to a dwelling being built, or theft of materials or supplies for use in construction of the dwelling, until the dwelling is occupied for its intended use.
- Vandalism** -- "We" do not pay for loss caused by vandals if the "residence" is vacant for more than 30 days in a row just before the loss. A "residence" being built is not vacant.

5. **Seepage or Leakage** -- "We" do not pay for loss caused by repeated or continuous seepage or leakage of liquids or steam from within a plumbing, heating, air-conditioning, or automatic fire protective sprinkling system; water heater; or domestic appliance.

However, "we" do pay for loss caused by the accidental leakage, overflow, or discharge of liquids or steam from a plumbing, heating, air-conditioning, or automatic fire protective sprinkling system; water heater; or domestic appliance. In this exception, plumbing systems and domestic appliances do not include a sump, sump pump, or related equipment.

When loss is caused by the accidental leakage, overflow, or discharge of liquids or steam from a plumbing, heating, air-conditioning, or automatic fire protective sprinkling system; water heater; or domestic appliance, "we" also pay the reasonable cost of removing and replacing those parts of the building or mobile home needed to repair the system, heater, or appliance. "We" do not pay for loss to the system, heater, or appliance from which the liquid or steam escapes.

6. **Settling, Cracking, Shrinking, Bulging, or Expanding** -- "We" do not pay for loss caused by the settling, cracking, shrinking, bulging, or expanding of a building, mobile home, pavements, patios, or other outdoor structures.

7. **Animals, Birds, Vermin, Rodents, or Insects** -- "We" do not pay for loss caused by animals owned or kept by an "insured", birds, vermin, rodents, or insects, except as provided under Incidental Property Coverages.

8. **Smoke** -- "We" do not pay for damage caused by smoke from agricultural smudging or industrial operations.

9. **Collapse** -- "We" do not pay for loss caused by collapse, except as provided under Incidental Property Coverages.

10. **Pollution** -- "We" do not pay for loss caused by the release, discharge, dispersal, seepage, migration, or escape of "pollutants", unless the release, discharge, dispersal, seepage, migration, or escape is caused by a peril insured against described under Coverage C.

"We" pay for an ensuing loss that results from any of the above, unless the ensuing loss itself is excluded.

11. "We" do not pay for loss excluded under the Exclusions That Apply To Property Coverages.

Coverage C -- Personal Property -- "We" insure against direct physical loss to property covered under Coverage C caused by the following perils, unless the loss is excluded under the Exclusions That Apply To Property Coverages:

1. **Fire or Lightning**
2. **Windstorm or Hail** -- However, "we" do not pay for loss:
 - a. to property inside a structure caused by dust, rain, sand, sleet, snow, or water, all whether driven by wind or not, which enter through an opening in the structure not made by the direct force of wind or hail; or
 - b. to watercraft or their trailers, furnishings, equipment, or engines or motors unless inside a fully enclosed building. "We" do cover canoes and rowboats while on the "insured premises".
3. **Explosion**

4. Riot or Civil Commotion

c. loss of a precious or semiprecious stone from its setting;

5. Aircraft

d. loss that results from the theft of a credit or debit card, except as provided under Incidental Property Coverages;

6. Vehicles

e. theft from a part of the "insured premises" usually occupied solely by an "insured" while it is rented to others; or

7. Sudden and Accidental Damage from Smoke -- However, "we" do not pay for loss caused by smoke from agricultural smudging or industrial operations.

f. theft that occurs away from the "insured premises" of:

8. Sinkhole Collapse -- This means direct physical loss caused by sudden settlement or collapse of earth supporting covered property. The earth settlement or collapse must result from subterranean voids created by the action of water on a limestone or similar rock formation.

- 1) property while on the part of residential premises which an "insured" owns, rents, or occupies, except for the time while an "insured" temporarily resides there. "We" do cover the property of an "insured" who is a full-time student while it is in the living quarters occupied by the student at school;
- 2) trailers or their equipment;
- 3) campers or camper bodies; or
- 4) watercraft or their furnishings, equipment, or engines or motors.

9. Volcanic Action -- This means:

- a. airborne volcanic blast or airborne shock waves;
- b. ash, dust, or particulate matter; and
- c. lava flow.

However, "we" do not cover removal of ash, dust, or particulate matter that does not cause direct physical loss to covered property.

10. Vandalism

12. Falling Objects -- However, "we" do not pay for loss to:

11. Theft -- This includes attempted theft and loss of property from a known place when it is likely that theft occurred. However, "we" do not cover:

- a. property inside a structure, unless the falling object has first damaged an outside wall or the roof of the structure by impact; or
- b. the object which falls.

- a. theft by an "insured";
- b. theft in or to a dwelling being built, or theft of materials or supplies for use in construction of the dwelling, until the dwelling is occupied for its intended use;

13. Weight of Ice, Snow, or Sleet which causes damage to property inside a structure.

14. Sudden and Accidental Tearing Apart, Cracking, Burning, or Bulging of a heating, air-conditioning, or automatic fire protective sprinkling system or water heater. However, "we" do not pay for loss caused by freezing, except as provided under the peril of Freezing.

15. Accidental Discharge or Overflow of Liquids or Steam from a plumbing, heating, air-conditioning, or automatic fire protective sprinkling system; water heater; or domestic appliance. However, "we" do not pay for loss:

- a. caused by continuous or repeated seepage or leakage;
- b. if the "residence" has been vacant for more than 30 days in a row just before the loss. A "residence" being built is not vacant;
- c. caused by freezing, except as provided under the peril of Freezing;
- d. on the "insured premises" caused by accidental discharge or overflow which comes from off the "insured premises"; or
- e. to the system, heater, or appliance from which the liquid or steam escapes. ("We" do pay the reasonable cost of removing and replacing only those parts of the building or mobile home needed to repair the system, heater, or appliance.)

In this peril, plumbing systems and domestic appliances do not include a sump, sump pump, or related equipment.

16. Freezing of a plumbing, heating, air-conditioning, or automatic fire protective sprinkling system; water heater; or domestic appliance. However, "we" do not pay for loss on the "insured premises" while the "residence" is vacant or unoccupied or under construction and unoccupied, unless "you" have taken reasonable care to:

- a. maintain heat in the building or mobile home; or
- b. shut off the liquid supply and drain the system, heater, or domestic appliance.

17. Sudden and Accidental Damage from Artificially Generated Electrical Currents -

- However, "we" do not pay for loss to tubes, transistors, and similar electronic components.

EXCLUSIONS THAT APPLY TO PROPERTY COVERAGES

1. "We" do not pay for loss if one or more of the following exclusions apply to the loss, regardless of other causes or events that contribute to or aggravate the loss, whether such causes or events act to produce the loss before, at the same time as, or after the excluded causes or events.

a. **Ordinance or Law** -- "We" do not pay for:

- 1) any loss or increased cost which results from the enforcement of a code, ordinance, or law which regulates the use, construction, repair, or demolition of property or the removal of its debris, except as provided under Incidental Property Coverages;
- 2) any loss in value of property which results from the enforcement of a code, ordinance, or law; or
- 3) any loss, cost, or expense which results from the enforcement of a code, ordinance, or law requiring that any "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or in any way respond to or assess the effects of "pollutants".

This applies whether or not there has been physical damage to covered property.

b. **Civil Authority** -- "We" do not pay for a loss which results from order of civil authority, except as provided under Coverage D.

"We" do pay for loss which results from acts of a civil authority to prevent the spread of fire. "We" do not pay if the fire was caused by an excluded peril.

- c. **Nuclear Hazard** -- "We" do not pay for loss which results from nuclear reaction, nuclear radiation, or radioactive contamination (whether controlled or uncontrolled; whether caused by, contributed to, or aggravated by a peril insured against; and whether caused by natural, accidental, or artificial means). Loss caused by nuclear hazard is not considered loss caused by fire, explosion, or smoke. Direct loss by fire resulting from the nuclear hazard is covered.
- d. **War** -- "We" do not pay for loss which results from declared or undeclared war, civil war, insurrection, rebellion, revolution, warlike act by a military force or military personnel, or destruction, seizure, or use of property for a military purpose. It includes the consequences of these. Discharge of a nuclear weapon is deemed an act of war even if it is accidental.
- e. **Neglect** -- "We" do not pay for loss which results from the neglect of the "insured" to use all reasonable means to save and preserve covered property at and after the time of a loss.
- f. **Earth Movement** -- "We" do not pay for loss which results from earth movement whether the earth movement results from natural or artificial causes.

Earth movement includes but is not limited to:
 - 1) earthquake;
 - 2) landslide, subsidence, erosion;

- 3) mudflow;
- 4) earth sinking, rising, shifting, expanding, or contracting. This does not include Sinkhole Collapse as described under the Perils Insured Against for Coverage C; and
- 5) volcanic eruption, explosion, or effusion. Volcanic eruption, explosion, or effusion does not include Volcanic Action as described under the Perils Insured Against for Coverage C.

"We" do pay for direct loss caused by fire; explosion (other than a volcanic explosion); and theft resulting from earth movement.

"We" do pay for the breakage of glass that is part of a covered structure resulting from earth movement.

- g. **Water Damage** -- "We" do not pay for loss which results from the following:
 - 1) flood, surface water, waves, tidal water, overflow of a body of water, or spray, all whether driven by wind or not;
 - 2) water or sewage which backs up through sewers or drains or water which overflows from within a sump pump, sump pump well, or other type of system designed to remove subsurface water which is drained from the foundation area; or
 - 3) water below the surface of the ground. This includes water which exerts pressure on, or seeps or leaks through or into a building, sidewalk, driveway, foundation, swimming pool, or other structure.

"We" do pay for direct loss caused by fire; explosion (other than a volcanic explosion); and theft resulting from water damage.

h. **Power Disruption** -- "We" do not pay for loss which results from the disruption of power or other utility service, whether or not it is caused by a peril insured against, if the cause of the disruption is not on the "insured premises".

"We" do pay for direct loss that is otherwise covered by this policy which occurs on the "insured premises" as a result of the disruption of power.

i. **Intentional Acts** -- "We" do not pay any "insured" for loss which results from any act committed by or at the direction of any "insured" with the intent to cause a loss.

2. "We" do not pay for loss if one or more of the following exclusions apply to the loss. However, "we" do pay for an ensuing loss that is otherwise covered by this policy.

- a. **Weather Conditions** -- "We" do not pay for loss which results from weather conditions that initiate, set in motion, or in any way contribute to losses excluded under the preceding Exclusions That Apply To Property Coverages (Numbers 1. a. through 1. i.).
- b. **Errors, Omissions, and Defects** -- "We" do not pay for loss which results from one or more of the following:
 - 1) an act, error, or omission (negligent or not) relating to:
 - a) land use;
 - b) the design, specification, construction, workmanship, or installation of property;
 - c) planning, zoning, development, surveying, siting, grading, compaction; or
 - d) maintenance of property (including land, structures, or improvements);

whether on or off the "insured premises"; or

2) a defect, a weakness, the inadequacy, a fault, or unsoundness in materials used in construction or repair whether on or off the "insured premises";

except as provided under the Incidental Property Coverage for Collapse.

c. **Wear and Tear** -- "We" do not pay for loss which results from wear and tear, marring, deterioration, inherent vice, latent defect, mechanical breakdown, rust, wet or dry rot, corrosion, mold, contamination, or smog.

LIABILITY COVERAGES

PRINCIPAL COVERAGES -- LIABILITY AND MEDICAL PAYMENTS TO OTHERS

Coverage L -- Personal Liability -- "We" pay, up to "our" "limit", all sums for which an "insured" is liable by law because of "bodily injury" or "property damage" caused by an "occurrence" to which this coverage applies. "We" will defend a suit seeking damages if the suit resulted from "bodily injury" or "property damage" not excluded under this coverage. "We" may make investigations and settle claims or suits that "we" decide are appropriate. "We" do not have to provide a defense after "we" have paid an amount equal to "our" "limit" as a result of a judgment or written settlement.

Coverage M -- Medical Payments To Others -- "We" pay the necessary medical expenses if they are incurred or medically determined within three years from the date of an accident causing "bodily injury" covered by this policy. Medical expenses means the reasonable charges for medical, surgical, X-ray, dental, ambulance, hospital, professional nursing, and funeral services; prosthetic devices; hearing aids; prescription drugs; and eyeglasses, including contact lenses. This applies only to:

1. a person on the "insured premises" with the permission of an "insured"; and
2. a person away from the "insured premises" if the "bodily injury":
 - a. is a result of a condition on an "insured premises";
 - b. is caused by an activity of an "insured";
 - c. is caused by a person in the course of performing duties as a "domestic employee";
 - d. is caused by an animal owned by or in the care of an "insured"; or
 - e. is sustained by a "domestic employee" and arises out of and in the course of employment.

b. caused intentionally by an "insured" who has attained the age of 13; or

c. resulting in whole or in part from:

- 1) activities related to a "business" of an "insured";
- 2) premises owned, rented, or controlled by an "insured", other than an "insured premises"; or
- 3) the ownership, operation, maintenance, use, occupancy, renting, loaning, entrusting, supervision, loading, or unloading of "motorized vehicles", aircraft, or watercraft. "We" do pay for "property damage" to "motorized vehicles" not subject to "motor vehicle" registration and not owned by an "insured" if the "motorized vehicle" is used only to service the premises or if it is designed for recreational use off public roads.

INCIDENTAL LIABILITY COVERAGES

This policy provides the following Incidental Liability Coverages. They are subject to all of the "terms" of Coverages L and M. Except for Damage to Property of Others, Claims and Defense Cost, First Aid Expense, and Loss Assessment, they do not increase the "limits" stated for the Principal Coverages.

1. **Damage to Property of Others** – Regardless of an "insured's" legal liability, "we" pay for property of others damaged by an "insured", or "we" repair or replace the property, to the extent practical, with property of like kind and quality. "Our" "limit" for this coverage is \$500 per "occurrence".

The exclusions that apply to Coverages L and M do not apply to this coverage. However, "we" do not pay for damage to property:

- a. owned by an "insured", or owned by, rented to, or leased to another resident of "your" household or the tenant of an "insured";

2. **Contracts and Agreements** -- "We" pay for damages for "bodily injury" or "property damage" where the liability of others is assumed by an "insured" under a written contract:

- a. that directly relates to the ownership, maintenance, or use of an "insured premises"; or
- b. if the contract was made before the loss.

The loss causing the "bodily injury" or "property damage" must have occurred during the policy period.

3. **Claims and Defense Cost** -- If "we" defend a suit, "we" pay:

- a. the costs taxed to an "insured";
- b. the costs incurred by "us";

- c. the actual loss of earnings by an "insured" for time spent away from work at "our" request ("We" pay up to \$50 per day.);
- d. the necessary costs incurred by "you" at "our" request;
- e. the interest which accrues after the entry of a judgment, but ending when "we" tender or pay up to "our" "limit";
- f. the premiums on appeal bonds or bonds for the release of attachments up to "our" "limit" ("We" are not required to apply for or furnish bonds.);
- g. the premiums up to \$500 per bail bond required of an "insured" because of an accident or a traffic law violation arising out of the use of a vehicle to which Coverages L and M apply ("We" are not required to apply for or furnish bonds.); and
- h. prejudgment interest awarded against an "insured" on that part of the judgment "we" pay. If "we" offer to pay the "limit", "we" will not pay any prejudgment interest based on that period of time after the offer.

4. **First Aid Expense** -- "We" pay the expenses incurred by an "insured" for first aid to persons, other than "insureds", for "bodily injury" covered by this policy.

5. **Motorized Vehicles** -- "We" pay for the "bodily injury" or the "property damage" which:

- a. occurs on the "insured premises" and is a result of the ownership, maintenance, use, loading, or unloading of:
 - 1) a "motorized vehicle" if it is not subject to "motor vehicle" registration because of its type or use; or
 - 2) a "recreational motor vehicle".
- b. results from:
 - 1) a golf cart while used for golfing purposes;
 - 2) a utility, boat, camp, or mobile home trailer. However, this coverage does not apply to "bodily injury" or "property damage" resulting from a trailer which:
 - a) is carried on, towed by, or attached to a "motor vehicle" or a "recreational motor vehicle"; or
 - b) becomes detached while being carried on or towed by a "motor vehicle" or a "recreational motor vehicle"; or
 - 3) a "motorized vehicle" which is designed only for use off public roads and which is used mainly to service the "insured premises". However, this coverage does not apply to "bodily injury" or "property damage" which results from a "motorized vehicle" owned by an "insured" while used for recreational purposes away from the "insured premises", other than a golf cart while used for golfing purposes.
 - c. results from an "insured's" use of a "recreational motor vehicle" which is not owned by an "insured".

6. **Watercraft** --

- a. "We" pay for the "bodily injury" or the "property damage" which results from the maintenance, use, loading, or unloading of:

- 1) a watercraft while it is on the "insured premises";
- 2) a watercraft which is not owned by or rented to an "insured" if the loss is a result of the activities of an "insured";
- 3) a watercraft which is not owned by an "insured" and which is powered by inboard or inboard/outboard engines or motors which total 50 horsepower or less;
- 4) a sailing vessel with or without auxiliary power which is owned by or is rented to an "insured" and is less than 26 feet in overall length;
- 5) a watercraft which is powered by outboard engines or motors which total 25 horsepower or less; or
- 6) a watercraft which is in storage.

b. "We" pay for the "bodily injury" or the "property damage" which results from the maintenance, use, loading, or unloading of a watercraft that is powered by outboard engines or motors which total more than 25 horsepower, if:

- 1) the engines or motors are acquired by an "insured" prior to the policy period and:
 - a) they are listed on the "declarations" as insured for personal liability; or
 - b) a request for liability coverage is made within 45 days after they are acquired;
- 2) the engines or motors are acquired by an "insured" during the policy period; or
- 3) the engines or motors are not owned by an "insured".

7. **Business** -- "We" pay for the "bodily injury" or the "property damage" which results from:
 - a. the rental of that part of the "insured premises" that is usually occupied by "you" as a residence;
 - b. the rental of other parts of the "insured premises" for use as a residence (No family unit may include more than two roomers or boarders.); or
 - c. the rental of a part of the "insured premises" for use as a school, studio, office, or private garage.
8. **Loss Assessment** -- "We" pay for "your" share of an assessment made by "your" homeowners, condominium, mobile-homeowners, or similar residential association if the assessment:
 - a. results from "bodily injury" or "property damage" to which Coverages L and M apply; or
 - b. is for damages or legal fees the association legally must pay for the acts of a director, officer, or trustee which result from the exercise of his or her duties solely on behalf of the association. This applies only to the acts of a director, officer, or trustee who is elected by the members of the association and who serves without receiving a fee, salary, or other compensation.

However, "we" do not pay for assessments charged against "you" or "your" association by any governmental body or authority.

Coverage applies only when the assessment is made during the policy period and is charged against "you" as owner or tenant of the premises shown on the "declarations" as the described location.

The most "we" pay is \$1,500 per occurrence. Regardless of the number of assessments, this "limit" is the most "we" pay for loss arising out of:

- a. any one accident, including repeated exposures to similar conditions; or
- b. an act of a director or trustee. An act involving more than one director or trustee is considered a single act.

Under Policy Conditions, Policy Period does not apply to this coverage.

EXCLUSIONS THAT APPLY TO LIABILITY COVERAGES

"We" do not pay for "bodily injury" or "property damage" resulting from one or more of the following excluded "occurrences", regardless of other causes or "occurrences" that contribute to or aggravate the "bodily injury" or "property damage", whether such causes or "occurrences" act to produce the "bodily injury" or "property damage" before, at the same time as, or after the excluded "occurrence".

1. Exclusions That Apply To Coverages L and M -- This policy does not apply:

- a. "bodily injury" or "property damage" which results from war. (This includes undeclared war, civil war, insurrection, rebellion, revolution, warlike act by a military force or military personnel, or destruction, seizure, or use of property for a military purpose. Discharge of a nuclear weapon is deemed a warlike act even if accidental.)
- b. "bodily injury" or "property damage" which results from the ownership, operation, maintenance, use, occupancy, renting, loaning, entrusting, supervision, loading, or unloading of aircraft, except for "bodily injury" to a

person while performing duties as a "domestic employee". However, this exclusion does not apply to model aircraft which is not designed or used to carry people or cargo.

- c. "bodily injury" or "property damage" which results from the ownership, operation, maintenance, use, occupancy, renting, loaning, entrusting, supervision, loading, or unloading of "motorized vehicles", trailers, or watercraft owned or operated by or rented or loaned to an "insured". However, "we" do pay:

- 1) for "bodily injury" to a person in the course of performing duties as a "domestic employee"; or
- 2) if coverage is provided by an Incidental Motorized Vehicle or Watercraft Coverage.
- d. "bodily injury" or "property damage" which results from the use of a "motorized vehicle" in, or in the practice or the preparation for, racing, speed, pulling or pushing, demolition, or stunt activities or contests.
- e. "bodily injury" or "property damage" that results from liability imposed by law on an "insured" for the use of a "motorized vehicle", aircraft, or watercraft, except if coverage is provided by an Incidental Motorized Vehicle or Watercraft Coverage.
- f. "bodily injury" or "property damage" that results from the rendering of or the failing to render a professional service.
- g. "bodily injury" or "property damage" resulting from activities related to the "business" of an "insured", except as provided by Incidental Business Coverage.

h. "bodily injury" or "property damage" which results from premises that are owned, rented, or controlled by an "insured" and that are not the "insured premises". However, "we" do pay for "bodily injury" to a person in the course of performing duties as a "domestic employee".

i. "bodily injury" or "property damage":

- 1) which is expected by, directed by, or intended by an "insured";
- 2) that is the result of a criminal act of an "insured"; or
- 3) that is the result of an intentional and malicious act by or at the direction of an "insured".

This exclusion applies even if:

- 1) the "bodily injury" or "property damage" that occurs is different than what was expected by, directed by, or intended by the "insured"; or
- 2) the "bodily injury" or "property damage" is suffered by someone other than the person or persons expected by, directed by, or intended by the "insured".

However, this exclusion does not apply to "bodily injury" or "property damage" that arises out of the use of reasonable force to protect people or property.

j. "bodily injury" or "property damage" that results from an "occurrence" for which an "insured" is also an insured under a nuclear energy liability policy or would be an insured but for the exhaustion of its "limits". (A nuclear energy liability policy is a policy issued by American Nuclear Insurers, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada, or their successors.)

2. **Additional Exclusions That Apply Only to Coverage L** -- Coverage L does not apply to:

- a. "bodily injury" to "you", and if residents of "your" household, "your" relatives and persons under the age of 21 in "your" care or in the care of "your" resident relatives.
- b. liability assumed under a contract or an agreement, except as provided by Incidental Contracts and Agreements Coverage.
- c. damage to property owned by an "insured".
- d. damage to property that is rented to, occupied by, used by, or in the care of an "insured", except for "property damage" caused by fire, smoke, or explosion.
- e. sickness, disease, or death of a "domestic employee" unless a written notice is received by "us" within 36 months after the end of the policy period in which the injury occurred.
- f. "bodily injury" to a person, including a "domestic employee", if the "insured" has a workers' compensation policy covering the injury or if benefits are payable or are required to be provided by the "insured" under a workers' compensation, non-occupational disability, occupational disease, or like law.
- g. liability for any assessment made by "your" homeowners, condominium, mobile-homeowners, or similar residential association, except as provided by Incidental Loss Assessment Coverage.

3. **Additional Exclusions That Apply Only to Coverage M** -- Coverage M does not apply to "bodily injury" to:
 - a. an "insured" or other person who resides on the "insured premises", except a "domestic employee".
 - b. a person who is on the "insured premises" because a "business" is conducted or professional services are rendered on the "insured premises".
 - c. a person, including a "domestic employee", if a workers' compensation policy covers the injury or if benefits are provided under a workers' compensation, non-occupational disability, occupational disease, or like law.
2. **Cooperation** -- The "insured" must cooperate with "us" in performing all acts required by this policy.
3. **Volunteer Payments** -- An "insured" must not make payments, pay or offer rewards, or assume obligations or other costs, except at the "insured's" own cost. This does not apply to costs that are allowed by this policy.
4. **Repairs** -- The "insured" must take all reasonable steps to protect covered property at and after an insured loss to avoid further loss. "We" will pay the reasonable costs incurred by "you" for necessary repairs or emergency measures performed solely to protect covered property from further damage by a peril insured against if a peril insured against has already caused a loss to covered property. The "insured" must keep an accurate record of such costs. However, "we" will not pay for such repairs or emergency measures performed on property which has not been damaged by a peril insured against. This does not increase "our" "limit".
5. **Other Duties -- Property Coverages** -- At "our" request the "insured" must:
 - a. give "us" a signed, sworn proof of loss, within 60 days after "our" request, that shows:
 - 1) the time, place, and the details of the loss;
 - 2) the interest of the "insured" and the interest of all others in the property. This includes all mortgages and liens;
 - 3) other policies that may cover the loss;
 - 4) changes in title or use;
 - 5) available plans and specifications of buildings;

WHAT YOU MUST DO IN CASE OF LOSS OR CLAIM

1. **Notice --**
 - a. In case of a loss, the "insured" must:
 - 1) give "us" or "our" agent prompt notice ("We" may request written notice.);
 - 2) give notice to the police when the act that causes the loss is a crime; and
 - 3) give notice to the credit card or debit company if the loss involves a credit or debit card.
 - b. The notice to "us" must state:
 - 1) the name of the "insured", the policy number, and the time, place, and the details of the loss; and
 - 2) the names and addresses of all known potential claimants and witnesses.
5. **Other Duties -- Property Coverages** -- At "our" request the "insured" must:
 - a. give "us" a signed, sworn proof of loss, within 60 days after "our" request, that shows:
 - 1) the time, place, and the details of the loss;
 - 2) the interest of the "insured" and the interest of all others in the property. This includes all mortgages and liens;
 - 3) other policies that may cover the loss;
 - 4) changes in title or use;
 - 5) available plans and specifications of buildings;

- 6) detailed estimates for repair; and
- 7) in detail, the quantity, description, cost, amount of loss, and actual cash value of the personal property involved in the loss. The "insured" must give "us" copies of all bills, receipts, and related documents to confirm these;

- b. submit to examination under oath in matters that relate to the loss or claim as often as "we" reasonably request. If more than one person is examined, "we" have the right to examine and receive statements separately from each person and not in the presence of the others;
- c. show the damaged property and allow "us" to take samples of damaged property for inspection, testing, and analysis as often as "we" reasonably request;
- d. show records, including tax returns and bank records of all canceled checks that relate to the value, loss, and costs, and permit copies to be made of them as often as "we" reasonably request;
- e. assist "us" to enforce any right of recovery which the "insured" may have against a party causing the loss;
- f. show records that prove loss of rents and show receipts for additional living costs, and permit copies to be made of them as often as "we" reasonably request; and
- g. submit evidence or affidavit supporting a claim under Credit Card, Forgery, and Counterfeit Money Coverage stating the amount and cause of loss.

6. Other Duties -- Personal Liability

Coverage -- In case of an "occurrence" which might result in a claim, the "insured" must promptly give "us" copies of all notices, demands, and legal papers that relate to the "occurrence" or the claim.

At "our" request, the "insured" must help "us":

- a. to settle a claim;
- b. to conduct suits. This includes being at trials and hearings;
- c. to enforce the right of recovery or indemnification against all parties who may be liable to an "insured" for the injury or damage;
- d. in the securing of and giving of evidence; and
- e. in obtaining the attendance of all witnesses.

7. Other Duties -- Medical Payments to

Others Coverage -- In case of a loss, the injured person or someone acting on behalf of that person must:

- a. give "us" written proof of claim (under oath if "we" request) as soon as practical; and
- b. authorize "us" to get copies of medical records.

The injured person must submit to medical exams by doctors chosen by "us" when and as often as "we" may reasonably require.

8. Other Duties -- Damage to Property of

Others -- In case of a loss, "you" must give "us" a signed, sworn statement of loss within 60 days after the loss and "you" must exhibit the damaged property if it is within "your" control.

HOW MUCH WE PAY FOR LOSS OR CLAIM

1. Property Coverages

- a. **Our Limit** -- Subject to the deductible or other limitation that applies, "we" pay the lesser of:
 - 1) the "limit" that applies;
 - 2) "your" interest in the property; or
 - 3) the amount determined under the applicable Loss Settlement Terms.
- b. **Deductible** -- This applies to all Principal Property Coverages and all Incidental Property Coverages except Emergency Removal; Fire Department Service Charge; Credit Card, Forgery, and Counterfeit Money; Grave Markers; Refrigerated Food Spoilage; and Loss Assessment. It applies to all perils insured against unless otherwise shown.

"We" pay that part of the loss over the deductible. The deductible applies per occurrence, and separately at each covered location. Only one deductible applies at each location.
- c. **Loss to a Pair or Set** -- If there is a loss to an item that is part of a pair or set, "we" pay only to replace or repair the item, or "we" pay the difference in the actual cash value of the pair or set just before the loss and the actual cash value just after the loss.
- d. **Loss to Parts** -- If there is a loss to a part of an item that consists of several parts when it is complete, "we" pay only for the value of the lost or damaged part or the cost to repair or replace it.

- e. **Loss Settlement Terms** -- Subject to the "terms" shown above, "we" settle losses according to the Replacement Cost Terms. If the Replacement Cost Terms do not apply, "we" settle losses according to the Actual Cash Value Terms.

1) Replacement Cost Terms

- a) The Replacement Cost Terms apply only to buildings covered under Coverages A and B that have a permanent foundation and roof. They do not apply to:
 - (1) mobile homes whether or not on a permanent foundation;
 - (2) window air-conditioners;
 - (3) awnings and canopies;
 - (4) appliances;
 - (5) carpets;
 - (6) window coverings; and
 - (7) antennas.
- b) In determining the replacement cost, do not include the cost of:
 - (1) excavations; brick, stone, or concrete foundations; piers; and other supports which are:
 - (a) below the undersurface of the lowest basement floor; or
 - (b) below the surface of the ground inside the foundation walls, if there is no basement; and
 - (2) underground flues, pipes, wiring, and drains.

c) When the cost to repair or replace exceeds the lesser of \$2,500 or 5% of the "limit" on the damaged building, "we" do not pay for more than the actual cash value of the loss until repair or replacement is completed.

"You" may make a claim for the actual cash value of the loss before repairs are made. A claim for an additional amount payable under these "terms" must be made within six months after the loss.

d) If the "limit" on the damaged building is less than 80% of its replacement cost at the time of loss, the larger of the following amounts is used in applying the "terms" under Our Limit:

- (1) the actual cash value at the time of the loss; or
- (2) that part of the replacement cost of the damaged part which "our" "limit" on the building bears to 80% of the full current replacement cost of the building.

e) If the "limit" on the damaged building is at least 80% of its replacement cost at the time of loss, the smaller of the following amounts is used in applying the "terms" under Our Limit:

- (1) the cost to repair or replace the damage on the same premises using materials of like kind and quality, to the extent practical; or
- (2) the amount spent to repair or replace the damage.

2) **Actual Cash Value Terms** -- Actual cash value includes a deduction for depreciation, however caused.

a) The Actual Cash Value Terms apply to all property not subject to the Replacement Cost Terms.

b) The smallest of the following amounts is used in applying the "terms" under Our Limit:

- (1) the cost to repair or replace the property with materials of like kind and quality to the extent practical;
- (2) the actual cash value of the property at the time of loss; or
- (3) (applies only to mobile homes) the difference in the actual cash value just before the loss and the actual cash value just after the loss.

2. **Coverage L -- Personal Liability** -- The "limit" shown on the "declarations" for Coverage L is the most "we" pay for loss for each "occurrence". This applies regardless of the number of:

- a. persons insured under this policy;
- b. parties who sustain injury or damage; or
- c. claims made or suits brought.

3. **Coverage M -- Medical Payments To Others** -- The "limit" shown on the "declarations" per person for Coverage M is the most "we" pay for all medical expenses payable for "bodily injury" to one person as the result of one accident.

When a "limit" is shown on the "declarations" per accident for Coverage M, that "limit" is the most "we" pay for any one accident.

The payment of a claim under Coverage M does not mean "we" admit "we" are liable under Coverage L.

4. **Insurance Under More Than One Coverage** -- If more than one coverage of this policy applies to a loss, "we" pay no more than the actual loss.
5. **Insurance Under More Than One Policy**
 - a. **Property Coverage** -- If there is other insurance that applies to the loss, "we" pay "our" share of the loss. "Our" share is that part of the loss that the "limit" of this policy bears to the total amount of insurance that applies to the loss. When a loss is also covered by the master policy of an association or corporation of property owners, this insurance is excess.
 - b. **Coverage L -- Personal Liability** -- This insurance is excess over other valid and collectible insurance that applies to the loss or claim. However, this does not apply to insurance written specifically to provide coverage in excess of the "limits" that apply in this policy.

If the other insurance is also excess, "we" pay only "our" share of the loss. "We" pay only that part of the loss that the applicable "limit" under this policy bears to the total amount of insurance covering the loss.
6. **Restoration of Limits** -- Each loss "we" pay under this policy does not reduce the "limits" available over the policy period.

PAYMENT OF LOSS OR CLAIM

1. **Your Property** -- "We" adjust each loss with "you". "We" pay an insured loss within 30 days after an acceptable proof of loss is received and the amount of the loss is agreed to in writing. If "you" and "we" do not agree, "we" pay within 30 days after the filing of an appraisal award with "us". Payment is made to "you" unless a loss payee is named.

2. **Additional Living Costs** -- If the "insured premises" is made unfit for use for more than one month, covered costs are paid on a monthly basis. "You" must give "us" proof of such costs.
3. **Damage to Personal Property of Others** -- At "our" option, an insured loss may be adjusted with and paid:
 - a. to "you" on behalf of the owner; or
 - b. to the owner. If "we" pay the owner, "we" do not have to pay an "insured".
4. **Our Options** -- "We" may:
 - a. pay the loss in money; or
 - b. rebuild, repair, or replace the property. "We" must give "you" notice of "our" intent to do so within 30 days after "we" receive an acceptable proof of loss.

"We" may take all or part of the damaged property at the agreed or appraised value. Property paid for or replaced by "us" becomes "ours".
5. **Liability Coverages** -- A person who has secured a judgment against an "insured" for an insured loss or has liability established by a written agreement between the claimant, an "insured", and "us" is entitled to recover under this policy to the extent of coverage provided.

POLICY CONDITIONS

CONDITIONS APPLICABLE TO ALL COVERAGES

1. **Assignment** -- This policy may not be assigned without "our" written consent.
2. **Bankruptcy of an Insured** -- Bankruptcy or insolvency of an "insured" does not relieve "us" of "our" obligations under this policy.

3. **Cancellation and Nonrenewal** -- "You" may cancel this policy by returning the policy to "us" or by giving "us" written notice and stating at what future date coverage is to stop.

"We" may cancel or not renew this policy by written notice to "you" at the address shown on the "declarations". Proof of delivery or mailing is sufficient proof of notice.

During the first 60 days this policy is in effect, "we" may cancel for any reason. "We" will give "you" notice at least ten days before cancellation is effective.

After this policy has been in effect 60 days or more, or if it is a renewal of a policy issued by "us", "we" may cancel or not renew only at the anniversary date unless:

- a. the premium has not been paid when due;
- b. the policy was obtained through fraud, material misrepresentation, or omission of fact, which, if known by "us", would have caused "us" not to issue the policy; or
- c. there has been a material change or increase in hazard of the risk.

If "we" cancel this policy for nonpayment of premium, "we" will give "you" notice at least ten days before cancellation is effective. If "we" cancel this policy for any other reason after it has been in effect for 60 days or more, "we" will give "you" notice at least 30 days before cancellation is effective.

If "we" do not renew this policy, "we" will give "you" notice at least 30 days before nonrenewal is effective.

"Your" return premium, if any, will be refunded at the time of cancellation or as soon as practical. Payment or tender of the unearned premium is not a condition of cancellation.

4. **Change, Modification, or Waiver of Policy Terms** -- A waiver or change of the "terms" of this policy must be issued by "us" in writing to be valid.

If "we" adopt a revision which broadens coverage under this edition of "our" policy without an additional premium, the broadened coverage will apply to "your" policy as of the date "we" adopt the revision in the state in which the premises shown on the "declarations" as the described location is located. This applies only to revisions adopted 60 days prior to or during the policy period shown on the "declarations". This does not apply to changes adopted as a result of the introduction of a subsequent edition of "our" policy.

"Our" request for an appraisal or examination under oath does not waive policy "terms".

If this policy has no expiration date, "we" may substitute or "we" may add, at each anniversary date, forms that are then authorized for use.

5. **Conformity With Statute** -- "Terms" in conflict with the laws of the state in which the premises shown on the "declarations" as the described location is located are changed to conform to such laws.

6. **Inspections** -- "We" have the right, but are not obligated, to inspect "your" property and operations. This inspection may be made by "us" or may be made on "our" behalf. An inspection or its resulting advice or report does not warrant that "your" property or operations are safe, healthful, or in compliance with laws, rules, or regulations. Inspections or reports are for "our" benefit only.

7. **Misrepresentation, Concealment, or Fraud** -- This policy is void as to "you" and any other "insured" if before or after a loss:
 - a. "you" or any "insured" has willfully concealed or misrepresented:
 - 1) a material fact or circumstance that relates to this insurance or the subject thereof; or
 - 2) an "insured's" interest herein; or
 - b. there has been fraud or false swearing by "you" or any other "insured" with regard to a matter that relates to this insurance or the subject thereof.
8. **Policy Period** -- This policy only covers losses, "bodily injury", and "property damage" that occur during the policy period.
9. **Recoveries** -- This applies if "we" pay for a loss and lost or damaged property is recovered, or payment is made by those responsible for the loss.

"You" must inform "us" or "we" must inform "you" if either recovers property or receives payment. Proper costs incurred by either party are paid first.

"You" may keep the property. The amount of the claim paid, or a lesser amount to which "we" agree, must be returned to "us".

If the claim paid is less than the agreed loss due to a deductible, or other limiting "terms", the recovery is prorated between "you" and "us" based on the interest of each in the loss.
10. **Subrogation** -- If "we" pay for a loss, "we" may require that "you" assign to "us" the right of recovery up to the amount "we" pay. "We" are not liable for a loss if, after

the loss, "you" impair "our" right to recover against others. "You" may waive "your" right to recover, in writing, before a loss occurs, without affecting coverage. If "we" pay a loss to or for "you" and "you" recover from another party for the same loss, "you" must pay "us" as stated in Recoveries.

Subrogation does not apply to Coverage M -- Medical Payments to Others or to Damage to Property of Others under the Incidental Liability Coverages.

11. **Suit Against Us** -- No suit may be brought against "us" unless all the "terms" of this policy have been complied with and:

- a. **Property Coverages** -- The suit is brought within two years after the loss.

If a law of the state where the premises is located makes this time period invalid, the suit must be brought within the time period allowed by the law.
- b. **Liability Coverages** -- The amount of the "insured's" liability has been fixed by:
 - 1) a final judgment against the "insured" as a result of a trial; or
 - 2) a written agreement of the "insured", the claimant, and "us".

No person has a right under this policy to join "us" or implead "us" in actions that are brought to fix the liability of an "insured".

CONDITIONS APPLICABLE TO PROPERTY COVERAGES ONLY

12. **Abandonment of Property** -- "You" may not abandon the property to "us" unless "we" agree.

13. Appraisal -- If "you" and "we" do not agree as to the value of the property or the amount of the loss, "you" and "we" will each select a competent appraiser within 20 days after receiving a written request from the other. The two appraisers will select an umpire. If they do not agree on an umpire, the two appraisers will ask a judge of a court of record of the state in which the appraisal is pending to make the selection. The written agreement of any two of these three will be binding and set the amount of the loss. "You" will pay the expense of "your" appraiser and "we" will pay "ours". "You" and "we" will share equally the expense of the umpire and the other expenses of the appraisal.

14. Death -- On "your" death, protection on "your" covered property passes to:

- a. "your" legal representative; or
- b. any other persons having proper, temporary custody of covered property.

15. Mortgage, Secured Party, and Lender's Loss Payable Clause -- If a mortgagee is named on the "declarations", a loss payable under Coverage A or B will be paid to the mortgagee and "you", as interests appear. If more than one mortgagee is named, the order of payment will be the same as the order of precedence of the mortgages. The word mortgagee includes trustee.

If a secured party is named on the "declarations", a loss payable on property subject to the security interest will be paid to the secured party and "you", as interests appear. If there is more than one security interest in the same property, the order of payment will be the same as their order of priority.

However, the secured party's interest is not covered for "your" conversion, embezzlement, or secretion of encumbered property in "your" possession, unless specifically insured against and premium paid for such.

If a lender is named on the "declarations", a loss payable on property on which the lender has an insurable interest will be paid to the lender and "you", as interests appear.

If "we" deny "your" claim, that denial does not apply to a valid claim of the mortgagee, secured party, or lender if the mortgagee, secured party, or lender has:

- a. notified "us" of change in ownership, occupancy, or substantial change in risk of which the mortgagee, secured party, or lender became aware;
- b. paid the premium due under this policy on demand if "you" neglected to pay the premium; and
- c. submitted a signed, sworn proof of loss within 60 days after receiving notice from "us" if "you" failed to do so.

All "terms" of this policy apply to the mortgagee, secured party, or lender unless changed by this clause.

If "we" cancel or do not renew this policy, "we" will notify the mortgagee, secured party, or lender at least ten days before the date cancellation or nonrenewal takes effect.

Payment to Mortgagee -- If "we" pay the mortgagee for a loss and deny payment to "you", "we" are subrogated, up to the amount "we" paid for the loss, to all the rights of the mortgagee granted under the mortgage on the property. Subrogation will not impair the right of the mortgagee to recover the full amount of the mortgagee's claim.

At "our" option, "we" may pay to the mortgagee the whole principal on the mortgage plus the accrued interest. In this event, "we" shall receive a full assignment and transfer of the mortgage and all securities held as collateral to the mortgage debt.

Payment to a Secured Party -- If "we" pay the secured party for a loss and deny payment to "you", "we" are subrogated, up to the amount "we" paid for the loss, to all the rights of the secured party granted under the security agreement. Subrogation will not impair the right of the secured party to recover the full amount of the security agreement.

At "our" option, "we" may pay the secured party the remaining amount due on the security agreement, plus the accrued interest. In this event, "we" shall receive full assignment of the security agreement and securities held as collateral for the agreement.

Payment to Lender -- If "we" pay the lender for a loss and deny payment to "you", "we" are subrogated, up to the amount "we" paid for the loss, to the rights of the lender to collect on the debt from "you". Subrogation will not impair the right of the lender to collect the rest of the debt from "you".

At "our" option, "we" may pay the lender the remaining amount due plus the accrued interest. In this event, "we" shall receive a full assignment of the lender's interest and any instruments given as security for the debt.

16. **No Benefit To Bailee** -- Coverage under this policy will not directly or indirectly benefit those who are paid to assume custody of the covered property.
17. **Volcanic Action** -- All volcanic action that occurs within a 168-hour period constitutes a single occurrence.

Tuscarora-Wayne Mutual Insurance Company

Craig Marshall
Adjuster
P.O. Box 7
Wyalusing, PA 18853

Telephone (814) 372-0920
FAX (570) 746-9020

December 17, 2007

Attorney Peter F. Smith
30 South Second Street
P.O. Box 130.
Clearfield, PA 16830

Regular and Return Receipt Mail

RE: Claim # : 2007-000852-MK
Policy # : HO113652
D/O/L : July 18, 2007

Dear Mr. Smith:

Please be advised that we represent Tuscarora Wayne Mutual Insurance Company, the carrier of the homeowner's policy for Linda Cutler.

This will acknowledge your most recent letter of December 11, 2007 regarding our November 26, 2007 package proposal on the building, additional living and contents.

We never said "No" to meeting on this matter. In fact, we indicated we would consider it, if you wanted, and bring, also, Isaac Graham, a Tuscarora Wayne Mutual Insurance Company Supervisor along to assist in the reconciliation. We advised Isaac of this and waited for your call on Monday. Moreover, Mr. Smith, we have more than once offered to meet with you in writing and by email to go over this matter and reach an accord on the issues or a game plan on those that we still disagreed; the earliest being the day after the meeting with MGM back in August. You have had all our phone numbers.

As far as the electrical work, both MGM and Britton gave figures for the all the electric repairs. Their price includes the cost of a final electrical inspector. Further, both contractors were within a couple of hundred dollars of each other (before overhead and profit) at \$2861.40 MGM and \$2770 Britton. The insured was informed that they can use whoever they wish as a contractor for the amount agreed. Thus, as long as we have an agreed price, they can use whoever they want and that contractor, also, is going to have to use an electrical inspector. The issue of the electrical inspection is that it is included, if that is your issue. Thus, you have Hughes professional opinion and the assuredness that an electrical inspector will be involved.

In summation, our proposal includes all the damage items and some questionably beyond contract terms. The roof at the back and the second story roof are not damaged and not

something we owe. We do not owe to paint the undamaged rooms in the home. As a compromise we allowed for cleaning. We allowed for the repair of the alleyway. We don't owe to resurface same entirely; only for that section damaged and the ownership on this issue is still not resolved.

If you will re-read the Statement of Loss you will note that accounting document summarizes the building repairs, the loss of use or additional living expense, and contents loss and claim. At the bottom is a total for all and the advances, which were not all additional living but, also, contents storage, emergency board up, temporary electrical and winterization, are deducted. Since our proposal, we have paid an additional amount for Krebs moving and that will be added to the advances and deducted. Total advances are: \$3211.00 building, \$4495.75 contents and \$12,847.83 additional living expense (loss of use).

Mr. Smith, frankly, we believe our proposal is more than fair. You are welcome to take a look at it again.

In any case, if your stance is still unchanged, we advised we would put this into "Appraisal". Mr. Schweitzer and this adjuster have reviewed this and we will, also, include the content's loss in the "Appraisal". If your stance remains the same, you have twenty days upon receipt of this letter to name your appraiser. A Mr. Gerry Williams of Gerald Williams Adjustment Service is our appointed appraiser, if this be the case.

Pursuant to policy, enclosed, again, is the "Appraisal" language in the policy.

With respect to "Appraisal" we will issue the undisputed amount of the claim. On the building portion the mortgagee will be named.

Tuscarora Wayne Mutual Insurance Company expressly reserves the right to assert all of its defenses to this claim and does not waive or relinquish any of its rights or defenses under its policy of insurance.

Thank you.

Sincerely,



TUSCARORA WAYNE MUTUAL INSURANCE COMPANY

Craig Marshall
Adjuster

Enclosures: Statement of Loss, Policy Language

Cc: David Schweitzer

PETER F. SMITH
ATTORNEY
30 SOUTH SECOND STREET
P.O. BOX 130
CLEARFIELD, PENNSYLVANIA 16830

(814) 765-5595
FAX (814) 765-6682

E-mail
pfsatty@verizon.net

December 28, 2007

Craig M. Marshall
Washington Mutual
67 Main Street
Falls Creek, PA 15840

Re: Claim # 2007-000852-MK
Policy # HO113652
D/O/L July 18, 2007

Dear Mr. Marshall:

Thank you so much for your December 17, 2007 letter. On behalf of Ms. Cutler, I designate Tim Britton as her appraiser. Please let me know and when you would like to proceed with the appraisal process.

Let me conclude by wishing you, your family and all your insureds the very best for 2008.

Sincerely,



Peter F. Smith

PFS/jac

cc: Linda Cutler

*Received from P. F. Smith
on 1-4-07
Notified
as
appraiser
Carr*

PETER F. SMITH
ATTORNEY
30 SOUTH SECOND STREET
POST OFFICE BOX 130
CLEARFIELD, PENNSYLVANIA 16830

ALTOONA, PA. 16601



1
CRAIG M. MARSHALL
WASHINGTON MUTUAL
67 MAIN STREET
FALLS CREEK, PA 15840

1
ISACKSON

----- Original Message -----

From: [Tim Britton](#)
To: [Gerald Williams](#)
Sent: Tuesday, January 29, 2008 7:28 AM
Subject: Re: cutler

Jan 25 2008

Hi Gerald,

I am sorry to report that I have not heard back from Mrs. Cutler. I am suppose to handle this for her but have been unable to contact her since. I am sorry to you for backing up delaying and or canceling our appointment this week. I am now removing it from my schedule. If something changes I will give this my full attention to resolve issues quickly.

Feel free to notify whomever you need to bring them up to date on the situation.

If you hear something from her please let her know to contact me.

Thank you for you E-mails and attention to this matter, it is noted in my book as to your cooperation in this matter.

Sincerely
Tim Britton

----- Original Message -----

From: [Gerald Williams](#)
To: timbritton@verizon.net
Sent: Monday, January 28, 2008 2:36 PM
Subject: cutler

Tim,

I have not heard from anyone else identifying themselves as an appraiser for Mrs. Cutler. Has she returned the commitment letters and if so, are we still on for 1/31/08? Is Thomas Raup ok as the umpire?

Gerald Williams

----- Original Message -----

From: [Gerald Williams](#)
To: tbritton@verizon.net
Sent: Thursday, January 10, 2008 10:02 AM
Subject: SUGGESTED UMPIRE, JUDGE THOMAS RAUP'S WEBSITE

The message is ready to be sent with the following file or link attachments:

Shortcut to: <http://www.lawyers.com/Pennsylvania/Williamsport/Raup-and-Wiley-2976156-f.htm>

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

THOMAS, THOMAS & HAVER LLP
ATTORNEYS AT LAW



www.tthlaw.com

Mailing Address: P.O. Box 999, Harrisburg, PA 17108
Street Address: 305 North Front Street, Harrisburg, PA 17101
Phone: (717) 237-7100 Fax: (717) 237-7105

Peter J. Speaker
(717) 255-7644
pspeaker@tthlaw.com

January 22, 2008

***BY UPS NEXT DAY AIR
& FIRST CLASS U.S.MAIL***

Linda J. Cutler
103 Merrill Street
Clearfield, PA 16830

Re: Tuscarora Wayne Claim No.: 2007-000852-MK
Insured: Linda & James Cutler
Policy No.: HO113652
D/O/L: 07/18/2007

Dear Ms. Cutler:

This will confirm the substance of our telephone conversation of January 15, 2008.

You told me that Peter Smith no longer represents you in this matter.

You said that you wanted \$150,000, more to settle your case, in addition to all the money already paid on your behalf. (That is, your demand is for almost \$240,000, which includes \$150,000 in addition to payments of \$67,429.02 (building), \$16,072.39 (living expenses) and \$5,497.44 (contents) for an actual total of \$238,998.85.)

I asked you to explain the basis for your demand. You responded that you bought the house two years ago and "signed a note for \$110,000," and it would cost \$130,000 to rebuild it or \$86,000, "to put a doublewide on the lot."

I asked you why you believed you were entitled to end up with a house without a mortgage when you told me that you owed \$110,000 on the house prior to the accident. You responded that your sister lives next door to you and was paid \$179,000 for her house and \$125,000 for its contents, from another insurer. I said that perhaps she was paid that much because that is what she lost and that I

Bethlehem Office	• 3400 Bath Pike, Suite 302, Bethlehem, PA 18017	• Phone: (610) 868-1675 • Fax: (610) 868-1702
Pittsburgh Office	• 301 Grant Street, Suite 1150, Pittsburgh, PA 15219	• Phone: (412) 697-7403 • Fax: (412) 697-7407
Baltimore Office	• Six East Mulberry Street, Baltimore, MD 21202	• Phone: (410) 752-0075 • Fax: (410) 752-4744

understood that her house had been demolished. You responded that your house was destroyed too and that you have \$168,000 in insurance on the house. I responded that you would be entitled to the limit of coverage if you had sustained a loss in that amount but that it was my understanding that your house could be repaired for substantially less than the limit of coverage. You insisted that your house was destroyed too. I told you that it was my understanding that your own contractor, Tim Britton, said that the house can be repaired and that he was willing to repair the house for less than \$105,000. (At this point, both of those contractors, and an engineer, are in agreement that the house is repairable.) You responded that Mr. Britton is no longer your contractor and you are now using Thomas Shifter, who says the house is not repairable and that it would cost \$130,000 to rebuild. (I have not seen any report or estimate from him.) I said that I thought you might have a difficult time convincing an objective person to reject not only the estimate of the reputable contractor that Tuscarora Wayne sent out to your house but also the contractor that you and your former attorney selected yourselves. I said that it appears to me that we may have to go ahead and have this matter resolved by the appraisal process that had started already.

You asked me how the appraisal worked. I told you that I did not have a copy of the insurance policy in front of me, since I did not have a file yet, but the usual process would be for the homeowner and the insurer each to pick an appraiser, who would then agree on a third person to act as "umpire," and then the three of them would decide the appropriate amount of the claim. I said that under that process, that should be the end of the matter, and the insurance company would have to pay even if it thought the amount was too high and the insured would have to accept the amount awarded even if she believed it was too low. You responded that you did not think that was right and fair. I said that, based on more than twenty years' experience, I believe that that was the process used almost everywhere. You said you would not accept that.

You indicated you had an appointment to do television interviews and that you would continue your efforts to damage Tuscarora Wayne's reputation.

It is unfortunate that you have decided to proceed in that fashion, rather than try to work with us to resolve this claim or else simply allow it to be resolved in an orderly fashion in accordance with the appraisal process described in the insurance policy, as practically everyone else does in these circumstances. I assume that your former attorney has advised you of the risks involved in regard to your proposed course of defamation. We really would prefer to have this claim resolved promptly and fairly, in a spirit of cooperation, rather than get involved in unnecessary controversy. But if you are going to complain publicly, then please confirm that you have no objection to our notifying the press of our position and releasing pertinent information, so that if this matter is going to be considered publicly, then the whole truth will be known.

If you have any interest in trying to resolve this matter fairly and promptly, then please contact me or have your legal representative contact me.

THOMAS, THOMAS & HAVER LLP

Page 3

Of course nothing in this or any other communication with any representative of Tuscarora Wayne should be taken as a waiver of any of the policy terms or conditions. Tuscarora Wayne reserves all rights under the policy and the law.

Very truly yours,

THOMAS, THOMAS & HAVER, LLP

By

Peter J. Speaker

P.S.-- I understand that your appraiser is refusing to move forward with the appraisal process, including the selection of an umpire, until he receives some sort of agreement or "commitment" letter from you, which he reportedly sent to you some time ago. We cannot allow this process to be delayed by you any further, so if he has not contacted the appraiser selected by Tuscarora Wayne (Gerald Williams) and agreed on an umpire by the close of business on Thursday, January 24, 2008, then we will go ahead and petition the Court for appointment of an umpire.

PJS:ks:561410.1

THOMAS, THOMAS & HAVER LLP
ATTORNEYS AT LAW



Mailing Address: P.O. Box 999, Harrisburg, PA 17108
Street Address: 305 North Front Street, Harrisburg, PA 17101
Phone: (717) 237-7100 Fax: (717) 237-7105

Peter J. Speaker
(717) 255-7644
pspeaker@tthlaw.com

January 22, 2008

***BY UPS NEXT DAY AIR
& FIRST CLASS U.S.MAIL***

James R. Cutler, Jr.
617 West Locust Street
Clearfield, PA 16830

Re: Tuscarora Wayne Claim No.: 2007-000852-MK
Insured: Linda & James Cutler
Policy No.: HO113652
D/O/L: 07/18/2007

Dear Mr. Cutler:

I represent Tuscarora Wayne Mutual Insurance Company in this matter.

I am sending this letter to you, because you are identified as a named insured in the insurance policy or contract.

I have enclosed a copy of my letter of today's date, addressed to Linda Cutler. It is my understanding that Ms. Cutler is your ex-wife but that you remain a named insured, mortgagor and perhaps title holder.

I will assume that Ms. Cutler is authorized to act and speak on your behalf in this matter, unless you advise me to the contrary.

THOMAS, THOMAS & HAVER LLP

Page 2

Of course nothing in this or any other communication with any representative of Tuscarora Wayne should be taken as a waiver of any of the policy terms or conditions. Tuscarora Wayne reserves all rights under the policy and the law.

Very truly yours,

THOMAS, THOMAS & HAVER, LLP

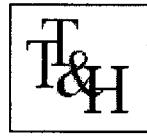
By

Peter J. Speaker

PJS:ks:561435.1

THOMAS, THOMAS & HAVER LLP

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Phone: (717) 237-7100 Fax: (717) 237-7105

Peter J. Speaker
(717) 255-7644
pspeaker@tthlaw.com

January 24, 2008

BY UPS NEXT DAY AIR

James R. Cutler, Jr.
617 West Locust Street
Clearfield, PA 16830

Re: Tuscarora Wayne Claim No.: 2007-000852-MK
Insured: Linda & James Cutler
Policy No.: HO113652
D/O/L: 07/18/2007

Dear Mr. Cutler:

Enclosed is a copy of my letter dated January 22, 2008, addressed to Linda Cutler. I understand that this letter inadvertently was not enclosed with my previous letter to you.

Very truly yours,

THOMAS, THOMAS & HAVER LLP

By
Peter J. Speaker

PJS:ks:561435.2

Enclosure

Bethlehem Office • 3400 Bath Pike, Suite 302, Bethlehem, PA 18017 • Phone: (610) 868-1675 • Fax: (610) 868-1702
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Baltimore Office • Six East Mulberry Street, Baltimore, MD 21202 • Phone: (410) 752-0075 • Fax: (410) 752-4744

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103710
NO: 08-173-CD
SERVICE # 1 OF 2
PETITION/APPT. OF UMPIRE,CIVIL COVER SHEET,ORDER

PLAINTIFF: TUSCARORA WAYNE MUTUAL INSURANCE COMPANY
VS.
DEFENDANT: LINDA CUTLER and JAMES R. CUTLER JR.

SHERIFF RETURN

NOW, February 14, 2008 AT 10:45 AM SERVED THE WITHIN PETITION/APPT. OF UMPIRE,CIVIL COVER SHEET,ORDER ON LINDA CUTLER DEFENDANT AT RESIDENCE 214 MERRIL ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO LINDA CUTLER, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL PETITION/APPT. OF UMPIRE,CIVIL COVER SHEET,ORDER AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER / DEHAVEN

FILED
03:00 pm
FEB 15 2008

William A. Shaw
Prothonotary/Clerk of Courts

W

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103710
NO: 08-173-CD
SERVICE # 2 OF 2
PETITION/APPT. OF UMPIRE,CIVIL COVER SHEET,ORDER

PLAINTIFF: TUSCARORA WAYNE MUTUAL INSURANCE COMPANY
VS.
DEFENDANT: LINDA CUTLER and JAMES R. CUTLER JR.

SHERIFF RETURN

NOW, February 15, 2008 AT 9:00 AM SERVED THE WITHIN PETITION/APPT. OF UMPIRE,CIVIL COVER SHEET,ORDER ON JAMES R. CUTLER JR. DEFENDANT AT WORK MT. LAUREL NURSING HOME, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JAMES R. CUTLER JR., DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL PETITION/APPT. OF UMPIRE,CIVIL COVER SHEET,ORDER AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103710
NO: 08-173-CD
SERVICES 2
PETITION/APPT. OF UMPIRE,CIVIL COVER

SHEET,ORDER

PLAINTIFF: TUSCARORA WAYNE MUTUAL INSURANCE COMPANY

VS.

DEFENDANT: LINDA CUTLER and JAMES R. CUTLER JR.

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SHERIFF HAWKINS	THOMAS	134774	20.00
SHERIFF HAWKINS	THOMAS	134774	30.41

Sworn to Before Me This

So Answers,

____ Day of _____ 2008


Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

FILED

TUSCARORA WAYNE MUTUAL
INSURANCE COMPANY,
Plaintiff
vs.
LINDA CUTLER and JAMES
CUTLER,
Defendants

Type of Case:
Civil Action
No. 08-173-CD

Type of Pleading:
Praecipe for
Discontinuance

Filed on Behalf of:
Plaintiff

Counsel of Record for This
Party:
Peter J. Speaker, Esq.
Attorney ID No. 42834
Thomas Thomas & Hafer
305 North Front Street 6th Floor
P.O. Box 999
Harrisburg, PA 17108-0999
(717) 255-7644

OCT 07 2009
m/11/2010
William A. Shaw
Prothonotary/Clerk of Courts
NO C/L

LEM o/c Asst. to
Attala T. Walker

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

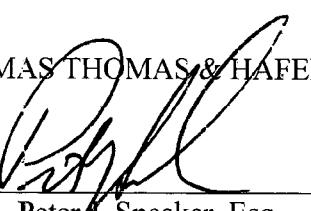
TUSCARORA WAYNE MUTUAL :
INSURANCE COMPANY, :
Plaintiff :
vs. : No. 08-173-CD
LINDA CUTLER and JAMES :
CUTLER, :
Defendants :
:

PRAECIPE FOR DISCONTINUANCE

TO THE PROTHONOTARY:

Kindly mark the above referenced case settled and discontinued.

THOMAS THOMAS & HAVER

By 

Peter J. Speaker, Esq.
Attorney for Plaintiff

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

CIVIL DIVISION

Tuscarora Wayne Mutual Insurance Company

Vs. **No. 2008-00173-CD**
Linda Cutler
James R. Cutler Jr.

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on October 7, 2009, marked:

Settled and Discontinued

Record costs in the sum of \$145.41 have been paid in full by Thomas, Thomas & Hafer, LLP.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 7th day of October A.D. 2009.

William A. Shaw, Prothonotary