

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM MARION COUNTY
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Case No. 2021-CP-33-00342
Appellate Case No. 2022-000232

RECEIVED

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SC Court of Appeals

Kevin L. Grant, ... Appellant,

v.

State Farm Mutual Automobile
Insurance Company, ... Respondent.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

COUNTY OF MARION

Kevin L. Grant

Plaintiff,

vs.

**State Farm Mutual Automobile
Insurance Company,
Defendant.**

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

CIVIL ACTION NO: 2021-CP-33-00342

ORDER

This matter comes before me upon Defendant State Farm Mutual Automobile Insurance Company's ("State Farm") Motion to Dismiss under SCRCP 12(b)(6). A hearing on the Motion was held on Monday, September 27, 2021, in Marion County. Appearing on behalf of State Farm was Charles R. Norris, Esquire. Appearing on behalf of Plaintiff Kevin L. Grant was Allison P. Sullivan, Esquire and Rodney Jernigan, Esquire. After reviewing the legal memoranda submitted by the parties, and hearing the able arguments of counsel, I find that State Farm's Motion is not satisfactory to dismiss this case and therefore, deny the Motion to Dismiss.

This matter arises out of an automobile accident that occurred on July 16, 2018. Plaintiff Kevin Grant was a pedestrian in a roadway when he was struck by a vehicle operated by Hughes Sellers. Sellers, who was found at-fault for the collision, was insured by Integon National Insurance Company who tendered the limits of \$30,000 coverage to Grant, on a Covenant Not to Exclude. (Compl. ¶16). Mr. Grant did resolve a UIM claim with GEICO on a Covenant Not to Execute which insured different vehicles than those insured by State Farm. Following the accident, Grant made a claim for UIM coverage pursuant to the State Farm policy, and Defendant

State Farm failed to tender the UIM coverage in the amount of \$25,000 to Mr. Grant. (Compl. ¶ 8). Plaintiff Grant then filed a Declaratory Judgment against State Farm which is the subject of the 12(b)(6) Motion to Dismiss *sub judice*.

A. Stacking of UIM Coverage

State Farm argues that Mr. Grant is not allowed to stack UIM coverage under a State Farm policy with UIM coverage under a GEICO policy (Mot. to Dismiss ¶ 8). State Farm defines “stacking” as “an insured’s recovery of damages under more than one policy until the insured satisfies all of his damages or exhausts the limits of all available policies” (Mot. to Dismiss ¶ 6). State Farm argues that Mr. Grant is attempting to recover UIM coverage under more than one policy, therefore he is stacking and this action is prohibited by law (Mot. to Dismiss ¶ 6). State Farm’s use of the word “policy” in their argument is not supported by their cited case law and therefore does not constitute stacking.

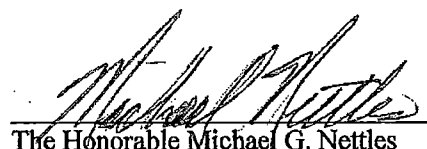
State Farm contends that Mr. Grant in attempting to recover from separate insurance carriers, GEICO and State Farm, is stacking “an insured’s recover of damages under more than one policy” (Mot. to Dismiss ¶ 6). However, in the cases State Farm cites in support, the term “policy” refers to different insurance coverages from the same insurance carrier. *Auto-Owners Ins. Co. v. Horne*, 356 S.C. 52, 55, 586 S.E.2d 865, 867 (Ct. App. 2003) (“Crystal then submitted a claim to Auto-Owners seeking to recover additional UIM benefits by stacking *coverages of other vehicles* insured under Mrs. Horne’s policy.”) (emphasis added); *Cont’l Ins. Co. v. Shives*, 328 S.C. 470, 472, 492 S.E.2d 808, 809-10 (Ct. App. 1997) (“Shives was a named insurance on an insurance policy issued to him and his mother by Continental. There are two vehicles named on the policy. . . . Continental paid Shives \$500,000 in UIM benefits . . . Shives asserted he is entitled to stack an additional \$500,000 in UIM benefits.”); *Giles v. Whitaker*, 297 S.C. 267, 268, 376

S.E.2d 278, 279 (1989) (“In addition to the ‘Chevrolet policy,’ Whitaker had two other automobile liability insurance policies with State Farm Giles first sought to stack the liability coverage available in Whitaker’s two other policies.”); *Burgess v. Nationwide Mut. Ins. Co.*, 373 S.C. 37, 39, 644 S.E.2d 40, 41 (2007) (“[Plaintiff] did, however, own three other vehicles insured by Nationwide, each of which had \$25,000 in UIM coverage.”). In each of these cases, the term “policy” refers to individual vehicle coverage from a single insurance carrier. Using this definition, stacking prohibits collecting damages from more than one *coverage* under a single policy. Mr. Grant is seeking to recover damages from multiple *policies* held by separate insurance carriers, GEICO and State Farm, and argues that he is not attempting to “stack” policies but rather is attempting to collect upon a theory based upon the “portability” of the UIM policy he held with State Farm.

Under Rule 12(b)(6), SCRCPP, a defendant may move to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action. In considering such a motion, the trial court must base its ruling solely on allegations set forth in the complaint. If the facts and inferences drawn from the facts alleged in the complaint, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory, then the grant of a motion to dismiss for failure to state a claim is improper. *Baird v. Charleston County*, 333 S.C. 519, 511 S.E.2d 69 (1999). A motion to dismiss under Rule 12(b)(6) should not be granted if facts alleged and inferences reasonably deducible therefrom entitle the plaintiff to relief under any theory. *Id.* The question of whether a pedestrian, involved in a car accident, may recover UIM damages under multiple policies, held by separate insurance carriers, is a novel legal issue. “[A]s a general rule, important questions of novel impression should not be decided on a motion to dismiss.” *Unisys Corp. v. South Carolina Budget and Control Bd.*, 346 S.C. 158, 165, 551 S.E.2d 263, 267 (2001).

Based on the foregoing, State Farm's Motion to Dismiss is DENIED.

IT IS SO ORDERED.


The Honorable Michael G. Nettles
Presiding Judge, 12th Judicial Circuit

Marion, South Carolina
October 16, 2021

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Marion
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2021CP3300342

Kevin L Grant
PLAINTIFF(S)

State Farm Mutual Insurance
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

This Court, by mistake, signed an Order denying Summary Judgment on October 6, 2021 and filed October 19, 2021. The Court continues to evaluate the competing Orders requested of the parties from the hearing on September 27, 2021. Therefore, the Order signed on October 6, 2021 is to be rescinded as the Court continues to evaluate competing Orders.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☒ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 10/20/2021 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

[Clerk of Court] Please rescind the Order filed October 19, 2021 and signed October 6, 2021.



Marion Common Pleas

Case Caption: Kevin L Grant VS State Farm Mutual Insurance

Case Number: 2021CP3300342

Type: Order/Electronic Form 4

So Ordered

s/ The Honorable Michael G. Nettles #2140

Electronically signed on 2021-10-20 14:07:59 page 3 of 3

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF MARION	)	TWELFTH JUDICIAL CIRCUIT
KEVIN L. GRANT,	)	Civil Action No. 2021-CP-33-00342
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER
	)	
STATE FARM MUTUAL	)	
AUTOMOBILE INSURANCE	)	
COMPANY,	)	
	)	
Defendant.	)	
	)	

On September 27, 2021 this Court heard the Defendant's Motion to Dismiss under SCRCP 12(b)(6). For the following reasons this motion is GRANTED.

The Defendant's Motion presents one question – can the Plaintiff, having recovered underinsured motorist (UIM) benefits from GEICO, now recover UIM benefits from State Farm when no car insured by State Farm was involved in the Plaintiff's accident? There is no question that Plaintiff is attempting to stack UIM benefits. "Stacking" has been defined as an insured's recovery of damages under more than one policy until the insured satisfies all of his damages or exhausts the limits of all available policies. Continental Insurance Company v. Shives, 492 S.E.2d 808 (S.C. App. 1997); State Farm v. Moorner, 496 S.E.2d 875 (S.C. App. 1998); Auto Owner's Insurance Company v. Horne, 586 S.E.2d 865 (S.C. App. 2003); Burgess v. Nationwide, 644 S.E.2d 40 (S.C. 2007); Nakatsu v. Encompass Indemnity Company, 700 S.E.2d 283 (S.C. App. 2010); Nationwide Mutual Insurance Company v. Rhoden, 728 S.E.2d 477 (S.C. 2012) The fact that the involved vehicle was insured by a separate insurance company – here GEICO – than the insurance company insuring the at home vehicle – here State Farm – is insignificant under the

typical stacking analysis. Carter v. Standard Fire Insurance Company, 753 S.E.2d 515 (footnote 6) (S.C. 2013)

The circumstances under which stacking of UIM coverage is allowed is governed by § 38-77-160 of the South Carolina Code and the cases interpreting and applying that statute. Courts have consistently held to ascertain whether an insured may stack UIM benefits in accordance with § 38-77-160 the Court must determine whether the insured qualifies as a Class I or Class II insured. A Class I insured is an insured or a named insured who has a vehicle involved in the accident. National General Insurance Company v. Pena, 419 S.E.2d 375 (S.C. App. 1992); Ohio Casualty Insurance Company v. Hill, 473 S.E.2d 843 (S.C. App. 1996) A Class II insured is an insured whose vehicle was not involved in the accident. Although Class I insureds may stack UIM coverages, Class II insureds may not. Continental Insurance Company v. Shives, 492 S.E.2d 808 (S.C. App. 1997) In order to have a vehicle involved in the accident as a prerequisite to stacking, a person must be a Class I insured with respect to a vehicle involved in the accident. Auto Owner's Insurance Company v. Horne, 586 S.E.2d 865 (S.C. App. 2003)

In considering the Defendant's 12(b)(6) motion this Court must solely consider the allegations in the Complaint. Toussaint v. Ham, 357 S.E.2d 8 (S.C. 1987); Fabian v. Lindsay, 765 S.E.2d 132 (S.C. 2014) If matters outside the pleading are presented to and not excluded by the Court, the motion is treated as one for summary judgment. Patterson v. Witter, 871 S.E.2d 677, 684 (S.C. 2018) In opposing the Defendant's motion, Plaintiff has not submitted any affidavit to convert the Defendant's Rule 12(b)(6) motion to a motion for summary judgement. Accordingly, the merits of the Defendant's motion must be evaluated solely on the allegations in the Plaintiff's Complaint.

The Plaintiff's Complaint alleges the following:

- State Farm issued a policy on a 2012 Mercedes to the Plaintiff's wife (§ 3);
- The Plaintiff was an insured under the State Farm policy (§ 5);
- The State Farm policy provided \$25,000 of UIM coverage (§ 6);
- On July 16, 2018 while a pedestrian the Plaintiff was hit by a vehicle operated by one Hughes Sellers (§ 9);
- Sellers was insured with Integon National Insurance Company which paid the \$30,000 liability limits on that policy (§ 11);
- The Plaintiff had UIM coverage with GEICO which paid to the Plaintiff the UIM limits of that policy of \$100,000 (§ 12).

There is no allegation in the Complaint the 2012 Mercedes insured with State Farm was involved in the Plaintiff's accident with Sellers.

Two things are undisputed from the allegations in the Plaintiff's Complaint – the Plaintiff is a Class II insured with regard to UIM coverage under the State Farm policy and the Plaintiff is attempting to stack UIM coverage under the State Farm policy on \$100,000 of UIM benefits received from GEICO. The Plaintiff cannot escape the consequences of these allegations as parties are bound by the allegations in their pleadings. Charleston County School District v. Laidlaw Transit, 559 S.E.2d 362, 364 (S.C. App. 2001); Town of Kingstree v. Chapman, 747 S.E.2d 494, 509 (S.C. App. 2013); Dawkins v. Sell, opinion No. 5857, South Carolina Court of Appeals Sep. 1, 2021.

In opposing the Defendant's motion, Plaintiff argues this case presents an issue of novel impression because the Plaintiff was injured while a pedestrian and not as an occupant of a vehicle. It is true that novel questions of law should not ordinarily be resolved in a Rule 12(b)(6) motion. Chestnut v. AVX Corporation, 776 S.E.2d 82 (S.C. 2015) However, this general rule is

inapplicable where, as here, the determinative facts are not in dispute. Kubic v. MERSCORP, 785 S.E.2d 595, 598 (S.C. 2016) Here, the determinative facts are that the Plaintiff is attempting to stack UIM coverage from a State Farm policy on UIM benefits received from GEICO when the Plaintiff is a Class II insured with regard to the State Farm policy. The analysis of stacking is unaffected by whether the Plaintiff was a pedestrian standing adjacent to the vehicle insured with GEICO or was an occupant in the vehicle insured with GEICO at the time of the accident. Either way, the Plaintiff is attempting to do something the law forbids - stack UIM benefits when the Plaintiff is a Class II insured with regard to UIM coverage provided by State Farm. It is therefore irrelevant to this Court's analysis whether the Plaintiff was a pedestrian at the time of the accident or an occupant of a vehicle at the time of the accident. As our courts have observed, whatever does not make any difference does not matter. Spreeuw v. Barker, 682 S.E.2d 843, 849 (S.C. App. 2009); Powell v. Bank of America, 665 S.E.2d 237 (S.C. App. 2008)

This Court could deny the Defendant's Rule 12(b)(6) motion and give the parties an opportunity to engage in discovery and the Defendant could, after having conducted discovery, return to the Court with a motion for summary judgment. There is no reason to believe, however, that the facts germane to the merits of the Plaintiff's case will be any different in the context of a motion for summary judgment than in the context of a Rule 12(b)(6) motion. Simply denying the Defendant's Rule 12(b)(6) motion to allow the parties to engage in discovery when the facts relevant to the Defendant's motion are not in dispute will be wasteful to the parties and a waste of judicial resources.

The Plaintiff further argues that because UIM coverage is portable the Plaintiff should be allowed to recover UIM benefits under the State Farm policy notwithstanding the Plaintiff's status as a Class II insured and that the Plaintiff has already recovered UIM benefits from GEICO. This

argument confuses the concept of the portability of UIM coverage with the concept of stacking of UIM coverages. The seminal case on the portability of UIM coverage – Burgess v. Nationwide, 644 S.E.2d 40 (S.C. 2007) - did not involve stacking; instead, it involved the portability of UIM insurance. “These [stacking and portability] are two distinct concepts. Stacking is only allowed if the insured has the specific type of coverage on the vehicle involved in the accident. On the other hand, portability refers to a person’s ability to use his coverage on a vehicle not involved in an accident as a basis for recovery of damages sustained in the accident.” Nakatsu v. Encompass Indemnity Company, 700 S.E.2d 283, 288 (S.C. App. 2010) Indeed, acceptance of the Plaintiff’s argument would render meaningless the distinction between Class I and Class II insureds and would directly contravene the language in Section 38-77-160.

Finally, although not mentioned at the hearing of September 27, 2021, the Plaintiff’s memorandum in opposition to State Farm’s motion to dismiss quotes a part of paragraph 5 of State Farm’s policy in the section concerning UIM coverage. The part of the policy quoted in the Plaintiff’s memorandum, however, omits the first part of paragraph 5 which states that paragraph 5 is “subject to items 1, 2, 3, and 4 above...” None of these 5 paragraphs mention the word stacking nor do these provisions in the policy allow an insured to stack UIM benefits in circumstances under which the insured would otherwise be precluded from stacking UIM benefits. Instead, these paragraphs of the policy concern whether State Farm’s UIM coverage is primary or excess to other policies providing UIM coverage. While these provisions may determine primary vs. excess UIM coverage as between multiple insurers, this part of the policy provides no relief to the Plaintiff.

For the foregoing reasons the Defendant’s Rule 12(b)(6) motion is GRANTED and this case is dismissed with prejudice.

ALL OF WHICH IS SO ORDERED.



Marion Common Pleas

Case Caption: Kevin L Grant VS State Farm Mutual Insurance

Case Number: 2021CP3300342

Type: Order/Dismissal

So Ordered

s/ The Honorable Michael G. Nettles #2140

Electronically signed on 2021-11-08 08:44:36 page 7 of 7

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Marion
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2021CP3300342

Kevin L Grant
PLAINTIFF(S)

State Farm Mutual Insurance
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

After review of the pleadings and materials associated with this case, Plaintiff's Motion for Reconsideration under SCRPC 59 is denied.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 01/28/2022 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Marion Common Pleas

Case Caption: Kevin L Grant VS State Farm Mutual Insurance

Case Number: 2021CP3300342

Type: Order/Electronic Form 4

So Ordered

s/ The Honorable Michael G. Nettles #2140

Electronically signed on 2022-01-28 09:09:19 page 3 of 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS OF THE
	)	TWELFTH JUDICIAL CIRCUIT
COUNTY OF MARION	)	DOCKET No. 2020-CP-33-_____

KEVIN L. GRANT,	)	
	)	
PLAINTIFF,	)	
	)	
Vs.	)	SUMMONS
	)	
HUGHES HOYLE SELLERS,	)	
	)	
DEFENDANT.	)	

TO: THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the subscriber at his office in Florence, South Carolina, within THIRTY (30) DAYS after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

JERNIGAN LAW FIRM, P.A.

/S/Rodney C. Jernigan, Jr.
 Rodney C. Jernigan, Jr.
 602 Second Loop Road
 Post Office Box 2130
 Florence, South Carolina 29503
 (843) 664-0540 (Telephone)
 (843) 676-9931 (Fax)

Dated: July 9, 2021

Florence, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS OF THE
	)	TWELFTH JUDICIAL CIRCUIT
COUNTY OF MARION	)	DOCKET No. 2020-CP-33-_____

KEVIN L. GRANT,	)	
	)	
PLAINTIFF,	)	
	)	
Vs.	)	COMPLAINT
	)	
HUGHES HOYLE SELLERS	)	(Jury Trial Requested)
	)	
DEFENDANT	)	
	)	
	)	
	)	

The Plaintiff would respectfully allege and show unto this Honorable Court as follows:

1. The Plaintiff, Kevin L. Grant, hereinafter "Grant", is a citizen and resident of the County of Marion, State of South Carolina.
2. Upon information and belief, the Defendant, Hughes Hoyle Sellers, (hereinafter Sellers) is a citizen and resident of the County of Cabarrus, State of North Carolina, and at all times hereinafter mentioned, the Defendant, Sellers, was the operator of a 1997 Chevrolet SUV.
3. On or about July 16, 2018, the Plaintiff, a pedestrian, had crossed the Eastbound lanes of the US 76 near his home in the County of Marion, State of South Carolina. The Defendant, who was traveling in an Easterly direction on US 76, at a speed exceeding the posted limit, struck the Plaintiff just as he crossed the outermost lane marker of US 76 causing severe injuries and damages.

4. The resulting injuries sustained by the Plaintiff were due to, and caused by the negligent, careless, reckless, and willful acts and/or omissions on the part of the Defendant in one or more of the following particulars, to wit:
 - a. In then and there traveling too fast for the conditions present;
 - b. In then and there ignoring the pedestrian present;
 - c. In then and there failing to exercise that degree of care which a reasonable and prudent person would have exercised under the same or similar circumstances;
 - d. In then and there operating a 1997 Chevrolet SUV with a reckless disregard for the rights and safety of others;
 - e. In then and there failing to maintain proper control over the aforesaid 1997 Chevrolet SUV ;
 - f. In then and there failing to take any evasive action, by any means to keep from striking the pedestrian;
 - g. In then and there failing to take advantage of the last clear chance to avoid striking the pedestrian; and
 - h. In then and there operating or causing to be operated a 1997 Chevrolet SUV on a public highway of the State of South Carolina in such a manner as to the create a known and dangerous situation and in failing to take and use reasonable precaution to avoid striking a pedestrian.

All of which were the direct and proximate causes of the injuries and damages sustained by the Plaintiff herein, said acts being in violation of the case law and

statutory laws of the State of South Carolina.

5. As a direct and proximate result of the negligence, carelessness, recklessness, wantonness, willfulness, and unlawfulness of the Defendant, the Plaintiff sustained serious and painful injuries to his person.
6. The above said accident and the Plaintiff resulting injuries were proximately caused by one or more, of all of the above set forth depicts on the part of the Defendant, and, as a result of the same, the Plaintiff received severe and painful injuries and was forced to obtain treatment by physicians and has had to incur medical expense and pharmacy bills for medication as well as other related expenses.
7. As a further result, the Plaintiff has suffered and will continue to suffer in the future, physical pain and suffering and has been damaged in actual damages as follows:
 - a. Pre-trial medical expenses;
 - b. post-trial medical expenses;
 - c. pre-trial physical pain and suffering, mental pain and suffering, mental anguish and shock; and
 - d. post-trial physical pain and suffering.

Wherefore, the Plaintiff, Kevin L. Grant, prays for judgment against the Defendant, Hughes Hoyle Sellers, for actual damages, and for the costs of this action.

[signature page to follow]

JERNIGAN LAW FIRM, P.A.

/S/Rodney C. Jernigan, Jr.

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ATTORNEYS FOR THE PLAINTIFF

July 9, 2021

Florence, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF MARION)
IN THE COURT OF COMMON PLEAS OF THE
TWELFTH JUDICIAL CIRCUIT
DOCKET No. 2020-CP-33-_____

KEVIN L. GRANT,
PLAINTIFF,

Vs.

STATE FARM MUTUAL AUTOMOBILE INSURANCE
COMPANY,

DEFENDANT.

**SUMMONS
(Declaratory Judgment)**

TO: THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the subscriber at his office in Florence, South Carolina, within THIRTY (30) DAYS after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

JERNIGAN LAW FIRM, P.A.

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Dated: July 16, 2021

Florence, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS OF THE
	)	TWELFTH JUDICIAL CIRCUIT
COUNTY OF MARION	)	DOCKET No. 2020-CP-33-_____

KEVIN L. GRANT,	)	
	)	
PLAINTIFF,	)	
	)	
Vs.	)	COMPLAINT
	)	DECLARATORY JUDGMENT
STATE FARM MUTUAL AUTOMOBILE INSURANCE	)	(Jury Trial Requested)
COMPANY,	)	
	)	
	)	
DEFENDANT	)	
	)	

The Plaintiff brings this declaratory judgment action against Defendant and would respectfully allege and show unto this Honorable Court as follows:

1. The Plaintiff, Kevin L. Grant, hereinafter "Grant", is a citizen and resident of the County of Marion, State of South Carolina.
2. Defendant State Farm Mutual Automobile Insurance Company (hereinafter "State Farm") is an insurance company organized and existing under the laws of the State of Illinois with its principal place of business in Bloomington, Illinois. State Farm is licensed and authorized to issue policies of automobile insurance in the State of South Carolina, maintains agents, service and owns property in the State of South Carolina for the purpose of conducting business.
3. Upon information and belief, the Defendant, State Farm, sold and issued policy

#1490915527 (hereinafter "Policy") to Kaprisha Grant, wife of the Plaintiff, insuring a 2012 Mercedes C250 with the Plaintiff being listed as the principal driver of the said vehicle. A copy of the policy is attached as Exhibit 1.

4. At all times relevant and material to the allegations herein, Plaintiff was married to and resided with Kaprisha Grant at 4707 W. Highway 76, Marion, SC 29571.
5. Plaintiff is an insured as defined in the Policy.
6. Pursuant to the Policy, Defendant agreed to provide the Plaintiff with Underinsured Motorist coverage in the amount of Twenty-Five Thousand (\$25,000.00) Dollars.
7. A substantial part of the events or omissions giving rise to this claim occurred in Marion County, South Carolina.
8. Plaintiff has a cause of action against the Defendant for its failure to tender the Underinsured Motorist coverage in the amount of Twenty-Five Thousand (\$25,000.00) Dollars to the Plaintiff.
9. On or about July 16, 2018, the Plaintiff, a pedestrian, had crossed the Eastbound lanes of the US 76 near his home in the County of Marion, State of South Carolina. Hughes Hoyle Sellers, operating a 1997 Chevrolet SUV, was traveling in an Easterly direction on US 76, at a speed exceeding the posted limit, struck the Plaintiff just as he crossed the outermost lane marker of US 76 causing severe injuries and damages to the Plaintiff.
10. As a direct and proximate cause of the accident described above, the Plaintiff incurred medical expenses in the amount of Two Hundred Twelve Thousand Four Hundred Fifty-Seven and thirty three cents (\$212,457.33) Dollars, exclusive of pain,

suffering, and permanent injuries.

11. The at-fault party for the July 16, 2018 accident was insured by Integon National Insurance company who tendered its policy limits of Thirty Thousand (\$30,000.00) Dollars liability coverage to the Plaintiff on a covenant not to execute. A copy of the Integon Covenant Not to Execute is attached hereto as Exhibit #2.
12. Plaintiff had a policy of underinsured motorist coverage with Geico with policy limits of One Hundred Thousand (\$100,000) Dollars which has been tendered to Plaintiffs. A copy of the release executed with Geico is attached hereto as Exhibit #3.
13. Plaintiff's injuries far exceed the amount of Hughes' liability insurance coverage and Geico's insurance policy limits.
14. Plaintiff has filed suit against the at-fault driver Hughes Seller in this Honorable Court, in the case of Grant v. Sellers, C.A. # 21-CP-33-000320.
15. Subsequent thereto, the Plaintiff has a claim for underinsured motorist coverage and was denied said coverage by the Defendant.

FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment)

16. Plaintiff repeats and re-alleges each and every allegation contained in the above paragraphs as if repeated hereinafter verbatim.
17. This action is one for declaratory judgment pursuant to South Carolina Code Annotated Section 15-53-10 et seq. as amended for the purpose of determining a

question in controversy between the parties as more fully appears herein.

18. The Defendant, State Farm, sold and issued its policy of automobile insurance to the Plaintiff as described above providing Underinsured Motorist coverage in the amount of Twenty-Five Thousand (\$25,000.00) Dollars.
19. The policy was enforceable and a legally binding contract between the parties and implied covenant of good faith and fair dealing.
20. The Plaintiff made a claim to the Defendant for the Underinsured Motorist coverage of Twenty-Five Thousand (\$25,000.00) Dollars and the Defendant has failed to tender those policy limits.
21. Despite the Plaintiff's repeated demands the Defendant has refused to tender the Twenty-Five Thousand (\$25,000.00) Dollars Underinsured Motorist coverage provided by the policy.
22. Defendant contends that S.C. Code Ann. Sec. 38-77-160 prohibits the collection of multiple policies if an insured vehicle is not involved in the accident.
23. Defendant also contends that the language of the State Farm policy contains an exclusion that prohibits the payment
24. Plaintiff asserts that it is South Carolina's well-settled public policy that underinsured motorist coverage is personal and portable. *Nationwide Mutual Ins. Co. v. Rhoden*, 398 S.C. 393, 728 S.E.2d 477, (2012). Plaintiff contends that he can recover UIM under the policy because it is portable and there is no valid basis for an insurer to deny recovery from this portable coverage. *Id.*
25. Plaintiff is not attempting to stack coverage by collecting multiple coverages under

one policy. Plaintiff is merely attempting to collect on a policy of underinsured motorist coverage due to Plaintiff's involvement in an accident with an underinsured motorist.

26. South Carolina courts have long held that where an insurance contract is unambiguous, clear, and explicit, it must be construed according to the terms the parties have used. If the terms are ambiguous or conflicting, then the policy is construed liberally in favor of the insured and strictly against the insurer. See *USAA Property and Cas. Ins. Co. v. Clegg*, 377 S.C. 643 (2008).
27. The Plaintiff disputes Defendant's interpretation of its obligations leaving the parties uncertain as to any ongoing and future duties under the Underinsured Motorist Policy. In light of this active dispute, a declaration from this Court regarding the parties' rights and obligations under the Underinsured Motorist Policy with respect to the Underlying Lawsuit is both warranted and necessary.
28. This Court should inquire into this matter, which is a proper subject for declaratory judgment under Section 15-53-10 et seq. of the 1976 South Carolina Code as amended, and issue an order declaring that the Underinsured Motorist Policy issued by Defendant does provide coverage for the Underlying Plaintiff in the Underlying Lawsuit.
29. Plaintiff is entitled to judgment against the Defendant for the full amount of underinsured coverage.

FOR A SECOND CAUSE OF ACTION
(Bad Faith Refusal to Pay First Party Benefits Under and Insurance Policy)

30. Plaintiff repeats and re-alleges each and every allegation contained in the above paragraphs as if repeated hereinafter verbatim.
31. The Defendant has acted in bad faith and/or was negligent, reckless, willful and wanton in one or more of the following particulars, to-wit:
 - A. In engaging in improper claims practices by:
 1. Refusing to honor claims submitted for first party benefits within thirty days from reasonable proof of the claim;
 2. Unreasonably delaying payment of the Plaintiff's claims;
 3. Failing to communicate to the Plaintiff any reasonable justification for failing to honor the claims;
 4. Failing to attempt in good faith to affect a fair, prompt and equitable settlement of the claims;
 5. Compelling the Plaintiff to institute a lawsuit to recover lawful benefits due under the aforementioned policy; and,
 6. Failing to fully investigate and review the claims to determine whether or not the claims came within the coverage afforded by the Defendant's policy.
 - B. Throughout the course of dealings between the Plaintiff and the Defendants, in acting negligently, in bad faith, in unfair dealing and in reckless disregard of the rights of the insured.
32. Defendant has breached the contract in questing, and the implied covenant of good faith and fair dealing by refusing to issue payment for the full amount of the Underinsured Motorist coverage provided by the policy, thereby causing damage to

the Plaintiff

WHEREFORE, Plaintiff seeks judgment from the Court as follows:

- A. A declaration that Plaintiff is entitled to collect UIM coverage under the terms of the attached State Farm policy.
- B. Declaring that any policy provisions which purport to exclude Plaintiff from collecting the State Farm UIM coverage is null and void because any such provisions contravene South Carolina law and public policy;
- C. Judgment against Defendant, State Farm Mutual Automobile Insurance for actual damages, punitive damages, prejudgment interest, and attorneys' fees, for the costs and disbursements of this action not to exceed Seventy-Five Thousand (\$75,000.00) Dollars; and
- D. For other such relief as this Court may deem just and equitable.

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ATTORNEYS FOR THE PLAINTIFF

July 16, 2021

Florence, South Carolina

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF MARION	)	TWELFTH JUDICIAL CIRCUIT
KEVIN L. GRANT,	)	Civil Action No. 2021-CP-33-00342
	)	
Plaintiff,	)	
	)	
vs.	)	MOTION TO DISMISS
	)	
STATE FARM MUTUAL	)	
AUTOMOBILE INSURANCE	)	
COMPANY,	)	
	)	
Defendant.	)	
	)	

Pursuant to SCRCP 12(b)(6) State Farm Mutual Automobile Insurance Company ("State Farm") moves to dismiss the Complaint for failure to state facts sufficient to constitute a cause of action. The grounds for this motion are:

1. According to paragraph 9 of the Plaintiff's Complaint, the Plaintiff was a pedestrian when on July 16, 2018 he was hit by an automobile operated by Hughes Sellers.
2. According to paragraph 12 of the Plaintiff's Complaint the Plaintiff had underinsured motorist coverage (UIM) with GEICO and GEICO paid Plaintiff its UIM limits of \$100,000.
3. The Complaint does not allege any vehicle insured with State Farm was involved in the July 16, 2018 accident.
4. The law in South Carolina is that only Class I insureds can stack UIM coverage. State Farm Mutual Automobile Insurance Company v. James, 522 S.E.2d 345 (S.C. App. 1999); Concrete Services v. USF&G, 498 S.E.2d 865 (S.C. 1998); Auto Owner's Insurance Company v. Horne, 586 S.E.2d 865 (S.C. App. 2003)

5. A Class I insured is an insured or a named insured who has a vehicle involved in the accident. Auto Owners Insurance Company v. Horne, 586 S.E.2d 865 (S.C. App. 2003); Continental Insurance Company v. Shives, 492 S.E.2d 808 (S.C. App. 1997); Ohio Casualty Insurance Company v. Hill, 473 S.E.2d 843 (S.C. App. 1996) Vis a vis State Farm, the Plaintiff is not a Class I insured because the vehicle insured with State Farm was not involved in the accident.

6. Paragraph 25 of the Plaintiff's Complaint alleges the Plaintiff is not attempting to stack coverage "by collecting multiple coverages under one policy." What the Plaintiff is attempting is recovery of UIM coverage under more than one policy. This is the classic definition of stacking which is an insured's recovery of damages under more than one policy until the insured satisfies all of his damages or exhausts the limits of all available policies. Auto Owner's Insurance Company v. Horne, 586 S.E.2d 865 (S.C. App. 2003); Burgess v. Nationwide, 644 S.E.2d 40 (S.C. 2007); Nationwide Insurance Company v. Rhoden, 728 S.E.2d 477 (S.C. 2012); Carter v. Standard Fire Insurance Company, 753 S.E.2d 515 (S.C. 2014) Additionally, the fact the involved vehicle was insured by a separate insurance company (GEICO) is insignificant under the typical stacking analysis. Carter v. Standard Fire Insurance Company, footnote 6 Therefore, the fact Plaintiff's Complaint references UIM coverages with two different insurers – GEICO and State Farm – is of no consequence.

7. Paragraph 24 of the Plaintiff's Complaint conflates the concept of portability of UIM coverage with the concept of stacking of UIM coverage. As explained by the Court of Appeals in Nakatsu v. Encompass Indemnity Company, 700 S.E.2d 283 (S.C. App. 2010), stacking and portability "are two distinct concepts. Stacking is only allowed if the insured has the specific type of coverage on the vehicle involved in the accident. On the other hand, portability refers to a

person's ability to use his coverage on the vehicle not involved in an accident as a basis for recovery of damages sustained in the accident." 700 S.E.2d at 288.

8. Quite simply, Plaintiff is not entitled to stack UIM coverage under a State Farm policy with UIM coverage under a GEICO policy under South Carolina law. This is exactly the relief Plaintiff seeks in his Complaint. Consequently, Plaintiff is not, as a matter of law, entitled to the declaratory relief requested. Further, an element of a bad faith claim is refusal by an insurer to pay benefits due under the contract of insurance. Crossley v. State Farm Mutual Automobile Insurance Company, 415 S.E.2d 393 (S.C. 1992) Because State Farm does not owe any UIM benefits under South Carolina law, it cannot be liable for bad faith and Plaintiff's second cause of action also must be dismissed.

This Motion to Dismiss is based upon the allegations in the Plaintiff's Complaint and applicable statutes and cases.

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Attorneys for Defendant

Charleston, South Carolina
 August 12, 2021

STATE OF SOUTH CAROLINA

COUNTY OF MARION

Kevin L. Grant

Plaintiff,

VS.

State Farm Mutual Automobile
Insurance Company,
Defendant.

)
) IN THE COURT OF COMMON PLEAS
) TWELFTH JUDICIAL CIRCUIT
)
) CIVIL ACTION NO: 2021-CP-33-00342
)
)
)
)
)
PLAINTIFFS' MEMORANDUM IN
OPPOSITION TO DEFENDANT STATE
FARMS' MOTION FOR SUMMARY
JUDGMENT

The Plaintiff (hereinafter “Mr. Grant”) respectfully asks this Court to deny the Defendant State Farm Mutual Automobile Insurance Company’s (hereinafter “State Farm”) Motion for Summary Judgment based on South Carolina law and for reasons discussed below.

BACKGROUND FACTS

The issue in this declaratory judgment action is whether Mr. Grant may collect underinsured motorist coverage (hereinafter “UIM”) under State Farm’s insurance policy, policy number 572 5466-E15-40A¹ (Hereinafter “Policy”). The Policy included UIM coverage in the amount of twenty-five thousand (\$25,000) dollars in bodily injury coverage. Mr. Grant was listed as the principal driver of the insured vehicle and was also the spouse and resident relative of Mrs. Kaprishia Grant. Therefore, he is a named insured as defined in the policy. Mr. Grant was struck by another vehicle while returning to his truck on U.S. Highway 76 on July 16, 2018, in Marion, South Carolina. State Farm has denied Mr. Grant’s claim for UIM benefits as it claims that the

¹ The Complaint mistakenly referenced the State Farm Policy Payment Number of 1490915527 instead of the policy number of 572 5466-E15-40A.

insured is stacking UIM coverage and portable UIM coverage is inapplicable. Contrary to State Farm's assertions, there is a genuine issue of fact and summary judgment should be denied.

A. The July 16, 2018 accident

On July 16, 2018, Grant was involved in an accident when he attempted to retrieve a lost hat from the middle of a roadway. At the time of the accident Grant was driving a 2004 Freightliner truck that he was in the process of returning to the FedEx terminal for his job at JMK Logistics. After leaving his residence, Grant noticed that a lady had dropped a hat in the road. Grant put the 2004 Freightliner in park, pulled the handbrake, put the emergency flashers on and went to retrieve the lady's hat. Grant was on his way back to the truck when a vehicle struck him.

Grant sustained serious and painful injuries as a result of this accident. (Compl. ¶16). The at-fault party, Hughes Sellers, was insured by Integon National Insurance Company who tendered the limits of \$30,000 coverage to Grant, on a Covenant Not to Exclude. (Compl. ¶16). Mr. Grant did resolve a UIM claim with GEICO on a covenant not to execute which insured different vehicles than those insured by State Farm. Following the accident, Grant made a claim for UIM coverage pursuant to the State Farm policy, and Defendant State Farm failed to tender the UIM coverage in the amount of twenty-five thousand (\$25,000) to the Mr. Grant. (Compl. ¶ 8). Grant then filed a Declaratory Judgment which is the subject of the 12(b)(6) Motion to Dismiss *sub judice*.

STANDARD OF REVIEW

Under Rule 12(b)(6), SCRCP, a defendant may move to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action. In considering such a motion, the trial court must base its ruling solely on allegations set forth in the complaint. If the facts and inferences drawn from the facts alleged in the complaint, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory, then the grant of a motion to

dismiss for failure to state a claim is improper. *Baird v. Charleston County*, 333 S.C. 519, 511 S.E.2d 69 (1999). A motion to dismiss under Rule 12(b)(6) should not be granted if facts alleged and inferences reasonably deducible therefrom entitle the plaintiff to relief under any theory. *Id.* Furthermore, the complaint should not be dismissed merely because the court doubts the plaintiff will prevail in the action. *Toussaint v. Ham*, 292 S.C. 415, 357 S.E.2d 8 (1987).

ARGUMENT

The purpose of UIM is to allow an insured to obtain coverage for himself when an at fault damages exceed the amount of coverage purchased by the at-fault. “Essentially, the insured is buying insurance coverage for situations, as where he is a passenger in another's vehicle or is a pedestrian, where he cannot otherwise insure himself.” *Burgess v. Nationwide Mut. Ins. Co.*, 373 S.C. 37, 644 S.E.2d 40 (2007). This is the basis for the public policy of allowing UIM coverage to be both personal and portable.

In this case, Mr. Grant asserts that he was covered for UIM under a policy on a vehicle not involved in the collision. Although Mr. Grant has already received benefits from an UIM policy from Geico, he can recover UIM under the State Farm policy because it is portable and there is no valid basis for an insurer to deny recovery from this portable coverage. *Id.* To the extent that State Farm argues that *Concrete Services, Inc. v. United States Fidelity & Guar. Co.*, 331 S.C. 506, 498 S.E.2d 865 (1998) prevents the stacking of this coverage, it is important to note that the Plaintiffs are not attempting to stack coverage by collecting multiple coverages under one policy. Plaintiffs are merely attempting to collect on a policy of underinsured motorist coverage due to Plaintiffs involvement in an accident with an underinsured motorist.

Under South Carolina's well-settled public policy, UIM coverage is personal and portable; therefore, Plaintiff is entitled to such UIM coverage. *See Nationwide Mut. Ins. Co. v. Rhoden*, 398

S.C. 393, 396, 728 S.E.2d 477, 479 (2012). South Carolina appellate courts have long recognized recoveries under multiple policies in situations that are not characterized as “stacking”. *South Carolina Farm Bureau Mut. Ins. Co. v. United States Fidelity & Guar. Ins. Co.*, 320 S.C. 489, 465 S.E.2d 777 (Ct. App. 1995) (acknowledging an injured Class II claimant, if his damages were sufficient, could recover liability coverage from an at-fault motorist, UIM coverage on the vehicle he occupied at the time of the collision, as primary UIM coverage, and UIM coverage he had on an “at home” vehicle, as excess UIM coverage); *see also Burgess v. Nationwide Mut. Ins. Co.*, 373 S.C. 37, 41, 644 S.E.2d 40, 42 (2007) (explaining “as a general proposition, UIM coverage follows the individual insured rather than the vehicle insured, that is, UIM coverage, like UM, is ‘personal and portable.’”).

Stacking is defined as “the insured’s recovery of damages under more than one policy until all of his damages are satisfied or the limits of all available policies are met.” *Giles v. Whitaker*, 297 S.C. 267, 376 S.E.2d 278 (1989); *see also* S.C. Code Ann. 38-77-160. On the other hand, portability refers to coverage “follow[ing] the individual insured and not the insured vehicle.” *Sessions v. State Farm Mut. Auto. Ins. Co.*, No. 4:18-CV-03306-SAL, 2020 WL 1027343, at *2 (D.S.C. Mar. 3, 2020) (quoting *Burgess v. Nationwide Mut. Ins. Co.*, 373 S.C. 37, 40, 644 S.E.2d 40, 42 (2007)). Nowhere was it suggested that the claimant’s potential “recovery of damages under more than one policy until all claimant’s damages are satisfied” constituted stacking or triggered any limitations on stacking. *Accord Whitmire v. Nationwide Mut. Ins.*, 254 S.C. 184, 174 S.E.2d 391 (1970).

The Supreme Court has held that underinsured motorist coverage is personal and portable; thus, entitled automobile insureds may recover underinsured motorist benefits under their policy arising out of an accident while riding in a car owned and operated by resident relative, despite the

portability limitation provision in the insured's policy. *Nationwide Mut. Ins. Co. v. Rhoden*, 398 S.C. 393, 728 S.E.2d 477, (2012). Notwithstanding the portability limitation contained in the insurance contract, the court determined that public policy is offended by a limitation on UIM portability when applied to resident relatives who do not own the vehicle involved in the accident. *Id.* at 398, 728 S.E.2d at 480.

Conversely, the Court held where a single policy covers multiple vehicles, the limit of UIM coverage for each vehicle cannot be stacked. *Hostettler v. Auto-Owners Ins. Co.*, 744 F. Supp. 2d 543, 546 (E.D. Va. 2010). The language of the policy clearly and unambiguously communicates that the "each person" limit identified in the declarations is the most coverage provided, "regardless of the number of ... [v]ehicles or premiums shown in the Declarations." *Id.* at 548.

Here, Mr. Grant is insured with coverage under different policies with different carriers, and he is not seeking recovery for multiple coverages under multiple policies from the same carrier. Because Mr. Grant did not "have" a vehicle involved in the collision, the stacking rules do not govern. *Merck v. Nationwide Ins. Co.* 318 S.C. 22, 455 S.E.2d 697 (1995). Mr. Grant had UIM coverage through both Geico and State Farm on a vehicle not involved in the collision. Mr. Grant concedes that he cannot stack multiple UIM coverages under the Geico policy, and concedes that he cannot stack multiple UIM coverages from all the vehicles insured under the State Farm policy, however, he is entitled to collect *one* of the UIM coverages under the State Farm policy pursuant to the Court's holding in *Rhoden*, which acknowledges the personal and portable nature of UIM coverage.

Furthermore, the language in State Farm's own policy seems to contemplate and endorse the idea that the insured can collect UIM from more than one policy. Under the clause "If Other Underinsured Motor Vehicle Coverage Applies" is paragraph 5: which states:

...if this policy and one or more other sources provide underinsured motor vehicle coverage for the same damages on a:

- a) Primary basis, then we will pay the proportion of damages payable as primary that the applicable limit of this coverage under this policy bears to the sum of such amount and the limits of all other underinsured motor vehicle coverage that apply as primary coverage;

Or;

- b) excess basis, then we will pay the proportion of damages payable as excess that the applicable limit of this coverage under this policy bears to the sum of such amount and the limits of all other underinsured motor vehicle coverage that apply as excess coverage.

This language seems to explicitly contemplate situations in which there would be multiple layers of UIM coverage from which an insured can collect beyond the State Farm UIM coverage and provides a formula on the amount of coverage that should be paid. To the extent the language of the policy is vague, it is well settled that “[w]here the contract's language is clear and unambiguous, the language alone determines the contract's force and effect.” *McGill v. Moore*, 381 S.C. 179, 185, 672 S.E.2d 571, 574. However, in cases such as this where the language suggests that the insured can collect UIM coverage beyond that paid by another carrier, “[i]t is a question of law for the court whether the language of a contract is ambiguous.” *McGill*, 381 S.C. at 185, 672 S.E.2d at 574. “Ambiguous or conflicting terms in an insurance policy must be construed liberally in favor of the insured and strictly against the insurer.” *USAA Prop. & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 655, 661 S.E.2d 791, 797 (quoting *Diamond State Ins. Co. v. Homestead Indust., Inc.*, 318 S.C. 231, 236, 456 S.E.2d 912, 915 (1995)). The language in State Farm’s own policy therefore support Mr. Grant’s contention that he is entitled to UIM coverage under the State Farm policy.

CONCLUSION

As detailed above, Defendant's Motion to Dismiss should be denied as Mr. Grant has sufficiently alleged facts alleged and inferences reasonably deducible therefrom which would entitle him to recovery. This Court should reject the application of inapplicable stacking principles and decide this case based upon the portability principles as required by the *Rhoden* decision.

Respectfully submitted,

s/ Allison P. Sullivan

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September 17, 2021

Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF MARION	)	TWELFTH JUDICIAL CIRCUIT
KEVIN L. GRANT,	)	Civil Action No. 2021-CP-33-00342
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANT'S MOTION FOR
	)	RECONSIDERATION UNDER SCRCP 59
STATE FARM MUTUAL	)	
AUTOMOBILE INSURANCE	)	
COMPANY,	)	
	)	
Defendant.	)	
	)	

Pursuant to SCRCP 59(e) State Farm Mutual Automobile Insurance Company ("State Farm") moves for an Order to alter or amend the attached order of Judge Michael J. Nettles dated October 6, 2021 which counsel for State Farm received for the first time October 18, 2021. The ground for this motion is that the Order signed October 6, 2021 contains an error of law in that it concludes stacking is only prohibited when an insured seeks to collect damages from more than one **coverage** under a single policy. (emphasis in original) This is an error of law because a Class I insured may stack UIM benefits from different companies. Nakatsu v. Encompass Indemnity Company, 700 S.E.2d 283 (S.C. App. 2010) (holding an insured was entitled to stack UIM benefits from different insurance companies); Nationwide Mutual Insurance Company v. Howard, 339 S.E.2d 501 (S.C. 1985) (permitting stacking of multiple UM policies from two different insurance companies); Busby v. State Farm Mutual Automobile Insurance Company, 312 S.E.2d 716, 717 (footnote 1)(S.C. App. 1984) ("the term 'stacking' as used here means the adding of insurance benefits provided by separate insurance coverages, whether by different or the same insurance companies or policies of insurance.") Thus, stacking can involve collecting damages from

multiple policies held by separate insurance companies. Accordingly, the Plaintiff's argument that seeking to recover UIM benefits under policies with different insurance companies does not constitute stacking is incorrect. Also, the Order incorrectly indicates the "portability" of UIM coverage can allow stacking by Class II insureds. It is undisputed in connection with underinsurance motorist (UIM) coverage under the State farm policy the Plaintiff is a class II insured and, as such, is not entitled to stack UIM benefits. Additionally, as set forth in State Farm's 12(b)(6) Motion, stacking and portability are two distinct concepts. The fact of portability of UIM coverage does not allow a Class II insured to recover UIM benefits under multiple policies with multiple insurers. Nakatsu v. Encompass Indemnity Company, 700 S.E.2d 283 (S.C. App. 2010) Any rule otherwise will render the distinction between Class I and Class II insureds in the context of entitlement to UIM benefits meaningless.

Additionally, although the Order implies stacking only refers to collection of UIM benefits on more than one coverage under a single policy, the Order goes on to state the question of whether a pedestrian involved in a car accident may recover UIM damages under multiple policies held by separate insurance carriers "is a novel legal issue" and it is inappropriate to dismiss this case based on a Rule 12(b)(6) Motion to Dismiss. If, as the Order states, the Defendant's Rule 12(b)(6) Motion is premature because of the need to further develop facts through discovery, the Order should simply state the motion is premature and not make any references to the law.

[signature to follow]

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October 19, 2021

STATE OF SOUTH CAROLINA

COUNTY OF MARION

Kevin L. Grant

Plaintiff.

VS.

State Farm Mutual Automobile
Insurance Company,
Defendant.

)
) IN THE COURT OF COMMON PLEAS
) TWELFTH JUDICIAL CIRCUIT
)
) CIVIL ACTION NO: 2021-CP-33-00342
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PLAINTIFF’S MOTION FOR
RECONSIDERATION UNDER SCRCP 59
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Pursuant to SCRCP 59(e) Plaintiff Kevin L. Grant moves for an Order to alter or amend the attached order of Judge Michael J. Nettles dated November 8, 2021,¹ which counsel for Kevin L. Grant received for the first time on November 8, 2021. The ground for this motion is that it contains an error of law in that it decides a matter concerning a novel issue of law on a Motion to Dismiss. Plaintiff also contends it was an error as a matter of law to find that Plaintiff's underinsured motorist coverage with State Farm was not personal and portable.

Under Rule 12(b)(6), SCRCP, a defendant may move to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action. In considering such a motion, the trial court must base its ruling solely on allegations set forth in the complaint. If the facts and inferences drawn from the facts alleged in the complaint, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory, then the grant of a motion to dismiss

¹ Counsel for the undersigned initially received a signed but unfiled Order dated October 6, 2021, from the Court denying Defendant's Motion to Dismiss on or about October 15, 2021. Counsel's office subsequently filed this Order with the Marion County Clerk of Court on October 19, 2021, following inquiry to Judge Nettles' chambers. Counsel for the parties were advised on October 20, 2021, that the Order was inadvertently signed October 6, 2021, and that Judge Nettles would file a Form 4 Order rescinding the Order filed on October 19, 2021, and would continue to take the matter under advisement. Plaintiff further contends that rescension of the October 19, 2021, Order was improper.

for failure to state a claim is improper. *Baird v. Charleston County*, 333 S.C. 519, 511 S.E.2d 69 (1999). A motion to dismiss under Rule 12(b)(6) should not be granted if facts alleged and inferences reasonably deducible therefrom entitle the plaintiff to relief under any theory. *Id.* The question of whether a pedestrian, involved in a car accident, may recover UIM damages under multiple policies, held by separate insurance carriers, is a novel legal issue. “[A]s a general rule, important questions of novel impression should not be decided on a motion to dismiss.” *Unisys Corp. v. South Carolina Budget and Control Bd.*, 346 S.C. 158, 165, 551 S.E.2d 263, 267 (2001).

In this case, Mr. Grant asserts that he was covered for UIM under a policy on a vehicle not involved in the collision. Although Mr. Grant has already received benefits from an UIM policy from Geico, he can recover UIM under the State Farm policy because it is portable and there is no valid basis for an insurer to deny recovery from this portable coverage. *Id.* To the extent that State Farm argues that *Concrete Services, Inc. v. United States Fidelity & Guar. Co.*, 331 S.C. 506, 498 S.E.2d 865 (1998) prevents the stacking of this coverage, it is important to note that the Plaintiffs are not attempting to stack coverage by collecting multiple coverages under one policy. Plaintiffs are merely attempting to collect on a policy of underinsured motorist coverage due to Plaintiffs involvement in an accident with an underinsured motorist. Under South Carolina’s well-settled public policy, UIM coverage is personal and portable; therefore, Plaintiff is entitled to such UIM coverage. *See Nationwide Mut. Ins. Co. v. Rhoden*, 398 S.C. 393, 396, 728 S.E.2d 477, 479 (2012).

CONCLUSION

For all of the foregoing reasons, the Court should reconsider its Order of November 8, 2021, and should deny 12(b)(6) Defendant’s Motion to Dismiss.

Respectfully submitted,

s/ Allison P. Sullivan

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ATTORNEYS FOR PLAINTIFF KEVIN GRANT

November 18, 2021

Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF MARION	)	TWELFTH JUDICIAL CIRCUIT
KEVIN L. GRANT,	)	Civil Action No. 2021-CP-33-00342
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANT'S MEMORANDUM IN
	)	OPPOSITION TO PLAINTIFF'S RULE 59
STATE FARM MUTUAL	)	MOTION
AUTOMOBILE INSURANCE	)	
COMPANY,	)	
	)	
Defendant.	)	
	)	

The Plaintiff's motion should be denied because it raises no new issues and fails to demonstrate the order granting State Farm's motion is an error of law. The issues in the Plaintiff's Rule 59 motion – the portability of UIM coverage and the propriety of adjudicating alleged novel issues of law in the context of a Rule 12 (b)(6) motion – are addressed and explained in the court's order granting State Farm's Rule 12(b)(6) motion. Post-trial motions are not necessary to preserve issues that have been ruled upon at trial; they are used to preserve those that have been raised to the trial court but not yet ruled upon by it. Eubank v. Eubank, 555 S.E.2d 413 (S.C. 2001) An aggrieved party who is confident his issues and arguments were sufficiently raised to and ruled upon by the trial court may simply file and serve a timely notice of appeal. Elam v. South Carolina Department of Transportation, 602 S.E.2d 772 (S.C. 2004) Because the issues in the Plaintiff's Rule 59 motion have already been addressed, the Plaintiff's motion is unnecessary.

The only new issue in the Plaintiff's Rule 59 Motion is in footnote 1 where the Plaintiff claims it was improper for the court to rescind a clerical error inadvertently denying State Farm's

motion. Surely, courts have discretion to correct clerical errors and footnote 1 of the Plaintiff's motion cites no law to the contrary.

For all of these reasons, State Farm respectfully requests the Plaintiff's Rule 59 motion be denied.

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Attorneys for Defendant

Charleston, South Carolina
December 8, 2021



Please read the policy carefully. If there is an accident, contact your State Farm agent or one of our Claim Offices at once. (See "INSURED'S DUTIES" in this policy booklet.)

Georgia-South Carolina Office
11350 Johns Creek Parkway
Duluth, GA 30098-0001
Phone: (770) 418-5000

State Farm® Car Policy Booklet

South Carolina
Policy Form 9840A

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THIS POLICY

1. This policy consists of:
 - a. the most recently issued Declarations Page;
 - b. the policy booklet version shown on that Declarations Page; and
 - c. any endorsements that apply, including those listed on that Declarations Page as well as those issued in connection with any subsequent renewal of this policy.
2. This policy contains all of the agreements between all named insureds who are shown on the Declarations Page and all applicants and:
 - a. *us*; and
 - b. any of *our* agents.
3. *We* agree to provide insurance according to the terms of this policy:
 - a. based on payment of premium for the coverages chosen; and
 - b. unless otherwise stated in "EXCEPTIONS, POLICY BOOKLET, & ENDORSEMENTS" on the Declarations Page, in reliance on the following statements:
 - (1) The named insured shown on the Declarations Page is the sole owner of *your car*.
 - (2) Neither *you* nor any member of *your* household has, within the past three years, had:
 - (a) vehicle insurance canceled or nonrenewed by an insurer; or
 - (b) either:
 - (i) a license to drive; or
 - (ii) a vehicle registration suspended, revoked, or refused.

- (3) *Your car* is used for pleasure and business.
4. All named insureds shown on the Declarations Page and all applicants agree by acceptance of this policy that:
 - a. the statements in 3.b. above are made by such named insured or applicant and are true; and
 - b. *we* provide this insurance on the basis those statements are true.
5. *Your* purchase of this policy may allow *you* to purchase certain coverages, coverage options, coverage deductibles, coverage limits, or coverage terms on other policies from the *State Farm Companies*, subject to their applicable eligibility rules.

DEFINITIONS

We define certain words and phrases below for use throughout the policy. Each coverage includes additional definitions only for use with that coverage. These definitions apply to the singular, plural, possessive, and any other form of these words and phrases. Defined words and phrases are printed in boldface italics.

Bodily Injury means bodily injury to a *person* and sickness, disease, or death that results from it.

Car means a land motor vehicle with four or more wheels, designed for use primarily on public roads. *Car* does not include:

1. Any vehicle while located for use as a dwelling or other premises; or
2. A truck-tractor designed to pull any type of trailer.

Car Business means a business or job where the purpose is to sell, lease, rent, repair, service, modify, transport, store, or park land motor vehicles or any type of trailer.

Financial Responsibility Act means the Motor Vehicle Financial Responsibility Act of South Carolina.

Fungi means any type or form of fungus or fungi and includes:

1. Mold;
2. Mildew; and

3. Any of the following that are produced or released by fungi:
 - a. Mycotoxins;
 - b. Spores;
 - c. Scents; or
 - d. Byproducts.

Newly Acquired Car means a *car* newly owned by *you*. A *car* ceases to be a ***newly acquired car*** on the earlier of:

1. the effective date and time of a policy, including any binder, issued by *us* or any other company that describes the *car* as an insured vehicle; or
2. the end of the 14th calendar day immediately following the date the *car* is delivered to *you*.

If a ***newly acquired car*** is not otherwise afforded comprehensive coverage or collision coverage by this or any other policy, then this policy will provide Comprehensive Coverage or Collision Coverage for that ***newly acquired car***, subject to a deductible of \$500. Any coverage provided as a result of this paragraph will apply only until the end of the 5th calendar day immediately following the date the ***newly acquired car*** is delivered to *you*.

Non-Owned Car means a *car* that is in the lawful possession of *you* or any *resident relative* and that neither:

1. is **owned by**:
 - a. **you**;
 - b. any **resident relative**;
 - c. any other **person** who resides primarily in **your** household; or
 - d. an employer of any **person** described in a., b., or c. above; nor
2. has been operated by, rented by, or in the possession of:
 - a. **you**; or
 - b. any **resident relative**
 during any part of each of the 31 or more consecutive days immediately prior to the date of the accident or **loss**.

Occupying means in, on, entering, or exiting.

Our means the Company issuing this policy as shown on the Declarations Page.

Owned By means:

1. owned by;
2. registered to; or
3. leased, if the lease is written for a period of 31 or more consecutive days, to.

Pedestrian means a **person** who is not **occupying**:

1. a motorized vehicle; or
2. a vehicle designed to be pulled by a motorized vehicle.

Person means a human being.

Private Passenger Car means:

1. a **car** of the private passenger type, other than a pickup truck, van, minivan, or sport utility vehicle, designed primarily to carry **persons** and their luggage; or
2. a pickup truck, van, minivan, or sport utility vehicle:
 - a. that is not used for:
 - (1) wholesale; or
 - (2) retail

pickup or delivery; and

- b. that has a Gross Vehicle Weight Rating of 10,000 pounds or less.

Resident Relative means a **person**, other than **you**, who resides primarily with the first **person** shown as a named insured on the Declarations Page and who is:

1. related to that named insured or his or her spouse by blood, marriage, or adoption, including an unmarried and unemancipated child of either who is away at school and otherwise maintains his or her primary residence with that named insured; or
2. a ward or a foster child of that named insured, his or her spouse, or a **person** described in 1. above.

State Farm Companies means one or more of the following:

1. State Farm Mutual Automobile Insurance Company;
2. State Farm Fire and Casualty Company; and
3. Subsidiaries or affiliates of either 1. or 2. above.

Temporary Substitute Car means a **car** that is in the lawful possession of the **person** operating it and that:

1. replaces **your car** for a short time while **your car** is out of use due to its:
 - a. breakdown;
 - b. repair;
 - c. servicing;
 - d. damage; or
 - e. theft; and
2. neither **you** nor the **person** operating it own or have registered.

If a **car** qualifies as both a **non-owned car** and a **temporary substitute car**, then it is considered a **temporary substitute car** only.

Trailer means:

1. a trailer:
 - a. designed to be pulled by a *private passenger car*;
 - b. not designed to carry *persons*; and
 - c. while not used as premises for office, store, or display purposes; or
2. a farm implement or farm wagon while being pulled on public roads by a *car*.

Us means the Company issuing this policy as shown on the Declarations Page.

We means the Company issuing this policy as shown on the Declarations Page.

You or **Your** means the named insured or named insureds shown on the Declarations Page. If a named insured shown on the Declarations Page is a *person*, then "*you*" or "*your*"

includes the spouse of the first *person* shown as a named insured if the spouse resides primarily with that named insured.

Your Car means the vehicle shown under "YOUR CAR" on the Declarations Page. *Your car* does not include a vehicle that *you* no longer own or lease.

If a *car* is shown on the Declarations Page under "YOUR CAR", and *you* ask *us* to replace it with a *car* newly *owned by you*, then the *car* being replaced will continue to be considered *your car* until the earliest of:

1. the end of the 30th calendar day immediately following the date the *car* newly *owned by you* is delivered to *you*;
2. the date this policy is no longer in force; or
3. the date *you* no longer own or lease the *car* being replaced.

LIABILITY COVERAGE

This policy provides Liability Coverage if "A" is shown under "SYMBOLS" on the Declarations Page.

Additional Definition

Insured means:

1. *you* and *resident relatives* for:
 - a. the ownership, maintenance, or use of:
 - (1) *your car*;
 - (2) a *newly acquired car*; or
 - (3) a *trailer*; and
 - b. the maintenance or use of:
 - (1) a *non-owned car*; or
 - (2) a *temporary substitute car*;
2. the first *person* shown as a named insured on the Declarations Page and that named insured's spouse who resides primarily with that named insured for the maintenance or
3. use of a *car* that is *owned by*, or furnished by an employer to, a *person* who resides primarily in *your* household, but only if such *car* is neither *owned by*, nor furnished by an employer to, the first *person* shown as a named insured on the Declarations Page or that *person's* spouse;
4. any other *person* for his or her use of:
 - a. *your car*;
 - b. a *newly acquired car*;
 - c. a *temporary substitute car*; or
 - d. a *trailer* while attached to a *car* described in a., b., or c. above.

Such vehicle must be used with the expressed or implied consent of *you*; and

5. any other *person* or organization vicariously liable for the use of a vehicle by an *insured* as defined in 1., 2., or 3. above, but only for such vicarious liability. This

provision applies only if the vehicle is neither **owned by**, nor hired by, that other **person** or organization.

Insured does not include the United States of America or any of its agencies.

Insuring Agreement

1. **We** will pay:

- a. damages an **insured** becomes legally liable to pay because of:
 - (1) **bodily injury** to others; and
 - (2) damage to property caused by an accident that involves a vehicle for which that **insured** is provided Liability Coverage by this policy;
- b. attorney fees for attorneys chosen by **us** to defend an **insured** who is sued for such damages; and
- c. court costs charged to an **insured** and resulting from that part of a lawsuit:
 - (1) that seeks damages payable under this policy's Liability Coverage; and
 - (2) against which **we** defend an **insured** with attorneys chosen by **us**.

We have no duty to pay attorney fees and court costs incurred after **we** deposit in court or pay the amount due under this policy's Liability Coverage.

2. **We** have the right to:

- a. investigate, negotiate, and settle any claim or lawsuit;
- b. defend an **insured** in any claim or lawsuit, with attorneys chosen by **us**; and
- c. appeal any award or legal decision for damages payable under this policy's Liability Coverage.

Supplementary Payments

We will pay, in addition to the damages, fees, and costs described in the **Insuring Agreement**

above, the interest, premiums, costs, and expenses listed below that result from such accident:

1. Interest on damages owed by the **insured** that accrues:

- a. before a judgment, where owed by law, but only on that part of the judgment **we** pay; and
- b. after a judgment. **We** will not pay interest on damages paid or payable by a party other than the **insured** or **us**.

We have no duty to pay interest that accrues after **we** deposit in court, pay, or offer to pay, the amount due under this policy's Liability Coverage;

2. Premiums for bonds, provided by a company chosen by **us**, required to appeal a decision in a lawsuit against an **insured**. **We** have no duty to:

- a. pay for bonds that exceed this policy's applicable Liability Coverage limit;
- b. furnish or apply for any bonds; or
- c. pay premiums for bonds purchased after **we** deposit in court, pay, or offer to pay, the amount due under this policy's Liability Coverage; and

3. The following costs and expenses if related to and incurred after a lawsuit has been filed against an **insured**:

- a. Loss of wages or salary, but not other income, up to \$200 for each day an **insured** attends, at **our** request:
 - (1) an arbitration;
 - (2) a mediation; or
 - (3) a trial of a lawsuit; and
- b. Reasonable expenses incurred by an **insured** at **our** request other than loss of wages, salary, or other income.

The amount of any of the costs or expenses listed above that are incurred by an **insured** must be reported to **us** before **we** will pay such incurred costs or expenses.

Limits

1. The Liability Coverage limits for **bodily injury** are shown on the Declarations Page under "Liability Coverage – Bodily Injury Limits – Each Person, Each Accident."
 - a. The limit shown under "Each Person" is the most **we** will pay for all damages resulting from **bodily injury** to any one **person** injured in any one accident. "**Bodily injury** to any one **person**" includes all injury and damages to other **persons** resulting from that **bodily injury**, and all emotional distress resulting from that **bodily injury** sustained by other **persons** who do not sustain that **bodily injury**.
 - b. The limit shown under "Each Accident" is the most **we** will pay, subject to the limit for "Each Person", for all damages resulting from **bodily injury** to two or more **persons** injured in the same accident.
2. The Liability Coverage limit for damage to property is shown on the Declarations Page under "Liability Coverage – Property Damage Limit – Each Accident". The limit shown is the most **we** will pay for all damages resulting from damage to property in any one accident.
3. These Liability Coverage limits are the most **we** will pay regardless of the number of:
 - a. **insureds**;
 - b. claims made;
 - c. vehicles insured; or
 - d. vehicles involved in the accident.

Nonduplication

We will not pay any damages or expenses under Liability Coverage that have already been paid under Uninsured Motor Vehicle Coverage of any policy issued by the **State Farm Companies** to **you** or any **resident relative**.

Exclusions

THERE IS NO COVERAGE FOR AN **INSURED**:

1. TO THE EXTENT THE LIABILITY COVERAGE LIMITS OF THIS POLICY EXCEED THE LIABILITY COVERAGE LIMITS REQUIRED BY THE **FINANCIAL RESPONSIBILITY ACT** IF SUCH **INSURED** INTENTIONALLY CAUSES **BODILY INJURY** OR DAMAGE TO PROPERTY;
2. OR FOR THAT **INSURED'S** INSURER FOR ANY OBLIGATION UNDER ANY TYPE OF WORKERS' COMPENSATION, DISABILITY, OR SIMILAR LAW;
3. FOR **BODILY INJURY** TO THAT **INSURED'S** EMPLOYEE WHICH ARISES OUT OF THAT EMPLOYEE'S EMPLOYMENT. This exclusion does not apply to that **insured's** household employee who is neither covered, nor required to be covered, under workers' compensation insurance;
4. FOR **BODILY INJURY** TO THAT **INSURED'S** FELLOW EMPLOYEE WHILE THE FELLOW EMPLOYEE IS IN THE COURSE AND SCOPE OF HIS OR HER EMPLOYMENT. This exclusion does not apply to **you** and **resident relatives** who are legally liable for **bodily injury** to fellow employees;
5. FOR DAMAGES ARISING OUT OF THE OWNERSHIP, MAINTENANCE, OR USE OF A VEHICLE WHILE IT IS RENTED TO OR LEASED TO OTHERS BY AN **INSURED**;
6. FOR DAMAGES ARISING OUT OF THE OWNERSHIP, MAINTENANCE, OR USE OF A VEHICLE WHILE IT IS BEING USED TO CARRY **PERSONS** FOR A CHARGE. This exclusion does not apply to the use of a **private passenger car** on a share-the-expense basis;
7. WHILE MAINTAINING OR USING A VEHICLE IN CONNECTION WITH

THAT **INSURED'S** EMPLOYMENT IN OR ENGAGEMENT OF ANY KIND IN A **CAR BUSINESS**. This exclusion does not apply to:

- a. **you**;
- b. any **resident relative**; or
- c. any agent, employee, or business partner of **you** or any **resident relative**; or
- d. any **person** other than a **person** described in a., b., or c. above up to the liability coverage limits required by the **Financial Responsibility Act**;

while maintaining or using **your car**, a **newly acquired car**, a **temporary substitute car**, or a **trailer owned by you**;

8. WHILE THAT **INSURED** IS VALET PARKING A VEHICLE. This exclusion does not apply up to the liability coverage limits required by the **Financial Responsibility Act** while an **insured** is valet parking **your car**, a **newly acquired car**, a **temporary substitute car**, or a **trailer owned by you**;
9. WHILE MAINTAINING OR USING ANY VEHICLE OTHER THAN **YOUR CAR**, A **NEWLY ACQUIRED CAR**, A **TEMPORARY SUBSTITUTE CAR**, OR A **TRAILER** IN ANY BUSINESS OR OCCUPATION OTHER THAN A **CAR BUSINESS** OR VALET PARKING. This exclusion does not apply to the maintenance or use of a **private passenger car**;
10. FOR DAMAGE TO PROPERTY WHILE IT IS:
 - a. **OWNED BY**;
 - b. **RENTED TO**;
 - c. **USED BY**;
 - d. **IN THE CARE OF**; OR
 - e. **TRANSPORTED BY** **YOU**, A **RESIDENT RELATIVE**, OR THE **PERSON** WHO IS LEGALLY LIABLE FOR THE DAMAGE. This exclusion does not apply to damage to a:

- a. motor vehicle **owned by** the employer of **you** or any **resident relative** if such damage is caused by an **insured** while operating another motor vehicle;
- b. residence while rented to or leased to an **insured**; or
- c. private garage while rented to or leased to an **insured**;

11. FOR LIABILITY ASSUMED UNDER ANY CONTRACT OR AGREEMENT;
12. FOR ANY ORDER OF RESTITUTION ISSUED BY A COURT IN A CRIMINAL PROCEEDING OR EQUITABLE ACTION;
13. WHILE USING A **TRAILER** WITH A MOTOR VEHICLE IF THAT **INSURED** IS NOT PROVIDED LIABILITY COVERAGE BY THIS POLICY FOR THE USE OF THAT MOTOR VEHICLE;
14. FOR THE OWNERSHIP, MAINTENANCE, OR USE OF ANY VEHICLE WHILE IT IS:
 - a. OFF PUBLIC ROADS AND BEING PREPARED FOR, USED IN PRACTICE FOR, OR OPERATED IN ANY RACING CONTEST, SPEED CONTEST, HILL-CLIMBING CONTEST, JUMPING CONTEST, OR ANY SIMILAR CONTEST; OR
 - b. ON A TRACK DESIGNED PRIMARILY FOR RACING OR HIGH-SPEED DRIVING. This exclusion (14.b.) does not apply if the vehicle is being used in connection with an activity other than racing, high-speed driving, or any type of competitive driving.

This exclusion (14.) does not apply to **your car** up to the liability coverage limits required by the **Financial Responsibility Act**; OR

15. WHO IS AN EMPLOYEE OF THE UNITED STATES OF AMERICA OR ANY OF ITS AGENCIES, IF THE PROVISIONS OF THE FEDERAL TORT CLAIMS ACT APPLY.

If Other Liability Coverage Applies

1. If Liability Coverage provided by this policy and one or more other Car Policies issued to *you* or any *resident relative* by the *State Farm Companies* apply to the same accident, then:
 - a. the Liability Coverage limits of such policies will not be added together to determine the most that may be paid; and
 - b. the maximum amount that may be paid from all such policies combined is the single highest applicable limit provided by any one of the policies. *We* may choose one or more policies from which to make payment.
2. The Liability Coverage provided by this policy applies as primary coverage for the ownership, maintenance, or use of *your car* or a *trailer* attached to it.
 - a. If:
 - (1) this is the only Car Policy issued to *you* or any *resident relative* by the *State Farm Companies* that provides Liability Coverage which applies to the accident as primary coverage; and
 - (2) liability coverage provided by one or more sources other than the *State Farm Companies* also applies as primary coverage for the same accident,then *we* will pay the proportion of damages payable as primary that *our* applicable limit bears to the sum of *our* applicable limit and the limits of all other liability coverage that apply as primary coverage.
 - b. If:
 - (1) more than one Car Policy issued to *you* or any *resident relative* by the *State Farm Companies* provides Liability Coverage which applies to the accident as primary coverage; and
 - (2) liability coverage provided by one or more sources other than the *State Farm Companies* also applies as primary coverage for the same accident,then the *State Farm Companies* will pay the proportion of damages payable as primary that the maximum amount that may be paid by the *State Farm Companies* as determined in 1. above bears to the sum of such amount and the limits of all other liability coverage that apply as primary coverage.
3. Except as provided in 2. above, the Liability Coverage provided by this policy applies as excess coverage.
 - a. If:
 - (1) this is the only Car Policy issued to *you* or any *resident relative* by the *State Farm Companies* that provides Liability Coverage which applies to the accident as excess coverage; and
 - (2) liability coverage provided by one or more sources other than the *State Farm Companies* also applies as excess coverage for the same accident,then *we* will pay the proportion of damages payable as excess that *our* applicable limit bears to the sum of *our* applicable limit and the limits of all other liability coverage that apply as excess coverage.
 - b. If:
 - (1) more than one Car Policy issued to *you* or any *resident relative* by the *State Farm Companies* provides Liability Coverage which applies to the accident as excess coverage; and
 - (2) liability coverage provided by one or more sources other than the *State Farm Companies* also applies as excess coverage for the same accident,

then the *State Farm Companies* will pay the proportion of damages payable as excess that the maximum amount that may be paid by the *State Farm Companies* as determined in 1. above bears to the sum of such amount and the limits of all other liability coverage that apply as excess coverage.

Required Out-of-State Liability Coverage

If:

1. an *insured* is in another state of the United States of America, a territory or possession of the United States of America, the District of Columbia, or any province or territory of Canada, and as a nonresident becomes subject to its motor vehicle compulsory insurance law,

financial responsibility law, or similar law; and

2. this policy does not provide at least the minimum liability coverage required by such law for such nonresident,

then this policy will be interpreted to provide the minimum liability coverage required by such law.

This provision does not apply to liability coverage required by law for motor carriers of passengers or motor carriers of property.

Financial Responsibility Certification

When this policy is certified under any law as proof of future financial responsibility, and while required during the policy period, this policy will comply with such law to the extent required.

PERSONAL INJURY PROTECTION COVERAGE

This policy provides Personal Injury Protection Coverage if "P" with a number beside it is shown under "SYMBOLS" on the Declarations Page. "P" with a number beside it is *your* "coverage symbol".

Check *your* coverage symbol with the **Schedule** in the provision titled **Limits** for the choice of coverage *you* made.

Additional Definitions

Insured means:

1. *you* and *resident relatives*:
 - a. while *occupying a motor vehicle* other than a motorcycle; or
 - b. if struck as a *pedestrian* by a *motor vehicle*; or
2. any other *person* while *occupying*:
 - a. *your car*;
 - b. a *newly acquired car*;

- c. a *temporary substitute car*; or

- d. a *trailer* while attached to a *car* described in a., b., or c. above.

Such vehicle must be used with the expressed or implied consent of *you*.

Medical Expenses mean *reasonable expenses* for *medical services*.

Medical Services mean treatments, procedures, products, and other services that are:

1. necessary to achieve maximum medical improvement for the *bodily injury*;
2. rendered by a healthcare provider:
 - a. who is licensed as a healthcare provider if a license is required by law; and
 - b. within the legally authorized scope of that healthcare provider's practice;
3. commonly and customarily recognized throughout the medical profession and

within the United States of America as appropriate for the treatment of the ***bodily injury***;

4. primarily designed to serve a medical purpose;
5. not experimental; and
6. not for research purposes.

Motor Vehicle means a vehicle or trailer of a kind required to be registered under South Carolina law.

Reasonable Expenses mean the lowest one of the following charges:

1. The usual and customary fees charged by a majority of healthcare providers who provide similar ***medical services*** in the geographical area in which the charges were incurred;
2. The fee specified in any fee schedule:
 - a. applicable to medical payments coverage, no-fault coverage, or personal injury protection coverage included in motor vehicle liability policies issued in the state where ***medical services*** are provided; and
 - b. as prescribed or authorized by the law of the state where ***medical services*** are provided;
3. The fees agreed to by both the ***insured's*** healthcare provider and ***us***; or
4. The fees agreed upon between the ***insured's*** healthcare provider and a third party when ***we*** have a contract with such third party.

Insuring Agreement

Medical Expenses and **Funeral Expenses** apply to all Personal Injury Protection Coverages. **Loss of Income** and **Essential Services Expenses** apply only to coverages with coverage symbol P1, P2, P3, P4, P5, P6, and P7.

1. Medical Expenses

We will pay ***medical expenses*** incurred because of ***bodily injury*** that is sustained by an ***insured*** and caused by accident resulting from the maintenance or use of a ***motor vehicle*** as a vehicle if:

- a. that ***insured*** is first provided ***medical services*** within one year immediately following the date of the accident; and
- b. such ***medical expenses*** are for ***medical services*** that are provided within three years immediately following the date of the accident.

2. Funeral Expenses

We will pay funeral expenses incurred for an ***insured*** who dies within three years immediately following the date of a ***motor vehicle*** accident if the death is a direct result of ***bodily injury*** sustained in such accident.

3. Loss of Income

We will pay 85% of an ***insured's*** actual loss of earnings from work due to ***bodily injury*** that is sustained by an ***insured*** and caused by a ***motor vehicle*** accident. This applies only if the ***insured*** was receiving earnings from work at the time of the accident. The loss must be incurred within three years of the date of the accident and while the ***insured*** is living.

4. Essential Services Expenses

We will pay reasonable expenses incurred for needed services the ***insured*** would have done for his or her family, but is unable to do because of ***bodily injury*** that is sustained by that ***insured*** and caused by a ***motor vehicle*** accident. This benefit applies only if the ***insured*** was not receiving earnings from work at the time of the accident. The expense must be incurred within three years of the date of the accident and while the ***insured*** is living.

Determining Medical Expenses

We have the right to:

1. obtain and use:
 - a. utilization reviews;
 - b. peer reviews; and
 - c. medical bill reviewsto determine if the incurred charges are *medical expenses*;
2. use a medical examination of the *insured* to determine if:
 - a. the *bodily injury* was caused by a *motor vehicle* accident; and
 - b. the expenses incurred are *medical expenses*; and
3. enter into a contract with a third party that has an agreement with the *insured's* healthcare provider to charge fees as determined by that agreement.

Arbitration

1. If there is a disagreement as to:
 - a. whether incurred charges are *medical expenses*; or
 - b. the amount due under this coverage for Funeral Expenses, Loss of Income, or Essential Services Expenses

then the disagreement will be resolved by arbitration upon written request of the *insured* or *us*.

2. The arbitration will take place in the county in which the *insured* resides unless the parties agree to another location.

The *insured* and *we* will each select a competent arbitrator. These two arbitrators will select a third competent arbitrator. If they are unable to agree on the third arbitrator within 30 days, then either the *insured* or *we* may petition a court that has jurisdiction to select the third arbitrator.

Each party will pay the cost of its own arbitrator, attorneys, and expert witnesses, as well as any other expenses incurred by that party. Both parties will share equally the cost of the third arbitrator.

3. The arbitrators shall only decide whether incurred charges are *medical expenses* and the amount due under this coverage for Funeral Expenses, Loss of Income, or Essential Services Expenses. Arbitrators shall have no authority to decide any other questions of fact, decide any questions of law, or conduct arbitration on a class-wide or class-representative basis.
4. A written decision that is both agreed upon by and signed by any two arbitrators, and that also contains an explanation of how they arrived at their decision, will be binding on:
 - a. *us*;
 - b. the *insured*;
 - c. any assignee of the *insured*; and
 - d. any *person* or organization with whom the *insured* expressly or impliedly contracts for *medical services*, funeral services, or essential services.
5. Subject to 1., 2., 3., and 4. above, state court rules governing procedure and admission of evidence will be used.
6. *We* do not waive any of *our* rights by submitting to arbitration.

Limits

1. The most *we* will pay is the amount shown under "Aggregate Limit" in the **Schedule** for *your* coverage symbol. This limit is the most *we* will pay for all loss and expense combined, incurred by or on behalf of any one *insured* as a result of any one accident, regardless of the number of:
 - a. insureds;
 - b. claims made;
 - c. vehicles insured; or
 - d. vehicles involved in the accident.
2. Subject to the aggregate limit shown in the **Schedule** for *your* coverage symbol, the most *we* will pay for funeral expenses incurred for any one *insured* is \$3,000.

3. Schedule

Coverage Symbol	Medical Expenses	Funeral Expenses	Loss of Income	Essential Services Expenses	Aggregate Limit
P1	Yes	Yes	Yes	Yes	\$1,000
P2	Yes	Yes	Yes	Yes	\$1,500
P3	Yes	Yes	Yes	Yes	\$2,000
P4	Yes	Yes	Yes	Yes	\$2,500
P5	Yes	Yes	Yes	Yes	\$5,000
P6	Yes	Yes	Yes	Yes	\$10,000
P7	Yes	Yes	Yes	Yes	\$25,000
P8	Yes	Yes	No	No	\$1,000
P9	Yes	Yes	No	No	\$1,500
P10	Yes	Yes	No	No	\$2,000
P11	Yes	Yes	No	No	\$2,500
P12	Yes	Yes	No	No	\$5,000
P13	Yes	Yes	No	No	\$10,000
P14	Yes	Yes	No	No	\$25,000

Exclusions

THERE IS NO COVERAGE FOR AN **INSURED**:

1. WHO INTENTIONALLY CAUSES AN ACCIDENT WHICH RESULTS IN THAT **INSURED'S BODILY INJURY**;
2. WHILE VOLUNTARILY **OCCUPYING** A **MOTOR VEHICLE** KNOWN BY THAT **PERSON** TO BE STOLEN;
3. WHILE COMMITTING A FELONY;
4. WHILE ATTEMPTING TO ELUDE A POLICE OFFICER;
5. WHILE **OCCUPYING**, USING, OR MAINTAINING A MOTORCYCLE;
6. WHO IS EITHER **OCCUPYING** OR STRUCK AS A **PEDESTRIAN** BY A VEHICLE, **OWNED BY** THAT **INSURED**, **YOU**, OR ANY **RESIDENT RELATIVE** IF IT IS NOT **YOUR CAR** OR A **NEWLY ACQUIRED CAR**;
7. WHO IS **OCCUPYING** A VEHICLE WHILE IT IS RENTED TO OR LEASED TO OTHERS BY AN **INSURED**;
8. WHO IS **OCCUPYING** A VEHICLE WHILE IT IS BEING USED TO CARRY **PERSONS** FOR A CHARGE. This exclusion does not apply to:
 - a. the use of a **private passenger car** on a share-the-expense basis; or
 - b. an **insured** while **occupying** a **non-owned car** as a passenger;
9. WHILE MAINTAINING OR USING A VEHICLE IN CONNECTION WITH THAT **INSURED'S** EMPLOYMENT IN OR ENGAGEMENT OF ANY KIND IN A **CAR BUSINESS**. This exclusion does not apply to:
 - a. **you**;
 - b. any **resident relative**; or
 - c. any agent, employee, or business partner of a. or b. above

while maintaining or using **your car**, a **newly acquired car**, a **temporary substitute car**, or a **trailer owned by you**;

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10. WHILE THAT **INSURED** IS VALET PARKING A VEHICLE;
11. WHILE MAINTAINING OR USING A **NON-OWNED CAR** IN ANY BUSINESS OR OCCUPATION OTHER THAN A **CAR BUSINESS** OR VALET PARKING. This exclusion does not apply to the maintenance or use of a *private passenger car*;
12. WHO IS EITHER **OCCUPYING** OR STRUCK AS A **PEDESTRIAN** BY A VEHICLE THAT:
 - a. IS DESIGNED FOR USE PRIMARILY OFF PUBLIC ROADS WHILE OFF PUBLIC ROADS;
 - b. RUNS ON RAILS OR CRAWLER-TREADS; OR
 - c. IS LOCATED FOR USE AS A DWELLING OR OTHER PREMISES;
13. WHOSE **BODILY INJURY** RESULTS FROM WAR OF ANY KIND;
14. WHOSE **BODILY INJURY** RESULTS FROM:
 - a. NUCLEAR REACTION;
 - b. RADIATION OR RADIOACTIVE CONTAMINATION FROM ANY SOURCE; OR
 - c. THE ACCIDENTAL OR INTENTIONAL DETONATION OF, OR RELEASE OF RADIATION FROM, ANY NUCLEAR OR RADIOACTIVE DEVICE;
15. WHOSE **BODILY INJURY** RESULTS FROM THE DISCHARGE OF A FIRE-ARM;
16. WHOSE **BODILY INJURY** RESULTS FROM EXPOSURE TO **FUNGI**; OR
17. WHO IS **OCCUPYING** A VEHICLE WHILE IT IS:
 - a. BEING PREPARED FOR, USED IN PRACTICE FOR, OR OPERATED IN ANY RACING CONTEST, SPEED CONTEST, HILL-CLIMBING CONTEST, JUMPING CONTEST, OR ANY SIMILAR CONTEST; OR
 - b. ON A TRACK DESIGNED PRIMARILY FOR RACING OR HIGH-SPEED DRIVING. This exclusion (17.b.) does not apply if the vehicle is being used in connection with an activity other than racing, high-speed driving, or any type of competitive driving.

If Other Personal Injury Protection Coverage or Similar Vehicle Insurance Applies

1. An **insured** shall not recover for the same expense or loss under both this coverage and other similar vehicle insurance.
2. If Personal Injury Protection Coverage is provided by this policy and one or more other vehicle policies issued to **you** or any **resident relative** by the **State Farm Companies** apply to the same **bodily injury**, then:
 - a. the Personal Injury Protection Coverage limits of such policies shall not be added together to determine the most that may be paid; and
 - b. the maximum amount that may be paid from all such policies combined is the single highest applicable limit provided by any one of the policies. **We** may choose one or more policies from which to make payment.
3. The Personal Injury Protection Coverage provided by this policy applies as primary coverage for an **insured** who sustains **bodily injury** while **occupying your car** or a **trailer** attached to it.
 - a. If:
 - (1) this is the only vehicle policy issued to **you** or any **resident relative** by the **State Farm Companies** that provides Personal Injury Protection Coverage or other similar vehicle insurance which applies to the accident as primary coverage; and
 - (2) personal injury protection coverage or other similar vehicle insurance provided by one or more sources other than the **State Farm Companies** also applies as primary coverage for the same accident,

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then *we* will pay the proportion of expenses or loss payable as primary that *our* applicable limit bears to the sum of *our* applicable limit and the limits of all other personal injury protection coverage or similar vehicle insurance that apply as primary coverage.

b. If:

- (1) more than one vehicle policy issued to *you* or any *resident relative* by the *State Farm Companies* provides Personal Injury Protection Coverage or other similar vehicle insurance which applies to the accident as primary coverage; and
- (2) personal injury protection coverage or other similar vehicle insurance provided by one or more sources other than the *State Farm Companies* also applies as primary coverage for the same accident,

then the *State Farm Companies* will pay the proportion of expenses or loss payable as primary that the maximum amount that may be paid by the *State Farm Companies* as determined in 2. above bears to the sum of such amount and the limits of all other personal injury protection coverage or similar vehicle insurance that apply as primary coverage.

4. Except as provided in 3. above, the Personal Injury Protection Coverage provided by this policy applies as excess coverage, but only in the amount by which the limits of this coverage exceed the primary coverage.

a. If:

- (1) this is the only vehicle policy issued to *you* or any *resident relative* by the *State Farm Companies* that provides Personal Injury Protection Coverage or other similar vehicle insurance which applies to the accident as excess coverage; and
- (2) personal injury protection coverage or other similar vehicle insurance

provided by one or more sources other than the *State Farm Companies* also applies as excess coverage for the same accident,

then *we* will pay the proportion of expenses or loss payable as excess that *our* applicable limit bears to the sum of *our* applicable limit and the limits of all other personal injury protection coverage or similar vehicle insurance that apply as excess coverage.

b. If:

- (1) more than one vehicle policy issued to *you* or any *resident relative* by the *State Farm Companies* provides Personal Injury Protection Coverage or other similar vehicle insurance which applies to the accident as excess coverage; and
- (2) personal injury protection coverage or other similar vehicle insurance provided by one or more sources other than the *State Farm Companies* also applies as excess coverage for the same accident,

then the *State Farm Companies* will pay the proportion of expenses or loss payable as excess that the maximum amount that may be paid by the *State Farm Companies* as determined in 2. above bears to the sum of such amount and the limits of all other personal injury protection coverage or similar vehicle insurance that apply as excess coverage.

Workers' Compensation Coordination

Any Personal Injury Protection Coverage provided by this policy applies as excess over any benefits recovered under any workers' compensation law or any other similar law.

Our Payment Options

We may, at *our* option, make payment to one or more of the following:

1. The *insured*;
2. The *insured's* surviving spouse;

3. A parent or guardian of the *insured*, if the *insured* is a minor or an incompetent *person*;
4. A *person* authorized by law to receive such payment; or
5. Any *person* or organization that provides the *medical services*, funeral services, or other services payable under this coverage.

MEDICAL PAYMENTS COVERAGE

This policy provides Medical Payments Coverage if "C" is shown under "SYMBOLS" on the Declarations Page.

Additional Definitions

Insured means:

1. *you* and *resident relatives*:
 - a. while *occupying*:
 - (1) *your car*;
 - (2) a *newly acquired car*;
 - (3) a *temporary substitute car*;
 - (4) a *non-owned car*; or
 - (5) a *trailer* while attached to a *car* described in (1), (2), (3), or (4) above; or
 - b. if struck as a *pedestrian* by a motor vehicle or any type of trailer; and
2. any other *person* while *occupying*:
 - a. *your car*;
 - b. a *newly acquired car*;
 - c. a *temporary substitute car*; or
 - d. a *trailer* while attached to a *car* described in a., b., or c. above.

Such vehicle must be used with the expressed or implied consent of *you*.

Medical Expenses mean *reasonable expenses* for *medical services*.

Medical Services mean treatments, procedures, products, and other services that are:

1. necessary to achieve maximum medical improvement for the *bodily injury*;
2. rendered by a healthcare provider:
 - a. who is licensed as a healthcare provider if a license is required by law; and
 - b. within the legally authorized scope of that healthcare provider's practice;
3. commonly and customarily recognized throughout the medical profession and within the United States of America as appropriate for the treatment of the *bodily injury*;
4. primarily designed to serve a medical purpose;
5. not experimental; and
6. not for research purposes.

1. The usual and customary fees charged by a majority of healthcare providers who provide similar *medical services* in the geographical area in which the charges were incurred;
2. The fee specified in any fee schedule:
 - a. applicable to medical payments coverage, no-fault coverage, or personal injury protection coverage included in motor vehicle liability policies issued in the state where *medical services* are provided; and
 - b. as prescribed or authorized by the law of the state where *medical services* are provided;
3. The fees agreed to by both the *insured's* healthcare provider and *us*; or

Reasonable Expenses mean the lowest one of the following charges:

4. The fees agreed upon between the *insured's* healthcare provider and a third party when *we* have a contract with such third party.

Insuring Agreement

We will pay:

1. *medical expenses* incurred because of *bodily injury* that is sustained by an *insured* and caused by accident resulting from the maintenance or use of a motor vehicle as a vehicle if:
 - a. that *insured* is first provided *medical services* within one year immediately following the date of the accident; and
 - b. such *medical expenses* are for *medical services* that are provided within three years immediately following the date of the accident; and
2. funeral expenses incurred for an *insured* who dies within three years immediately following the date of a motor vehicle accident if the death is a direct result of *bodily injury* sustained in such accident.

Determining Medical Expenses

We have the right to:

1. obtain and use:
 - a. utilization reviews;
 - b. peer reviews; and
 - c. medical bill reviewsto determine if the incurred charges are *medical expenses*;
2. use a medical examination of the *insured* to determine if:
 - a. the *bodily injury* was caused by a motor vehicle accident; and
 - b. the expenses incurred are *medical expenses*; and
3. enter into a contract with a third party that has an agreement with the *insured's* healthcare provider to charge fees as determined by that agreement.

Arbitration

1. If there is a disagreement as to whether incurred charges are *medical expenses*, then the disagreement will be resolved by arbitration upon written request of the *insured* or *us*.

2. The arbitration will take place in the county in which the *insured* resides unless the parties agree to another location.

The *insured* and *we* will each select a competent arbitrator. These two arbitrators will select a third competent arbitrator. If they are unable to agree on the third arbitrator within 30 days, then either the *insured* or *we* may petition a court that has jurisdiction to select the third arbitrator.

Each party will pay the cost of its own arbitrator, attorneys, and expert witnesses, as well as any other expenses incurred by that party. Both parties will share equally the cost of the third arbitrator.

3. The arbitrators shall only decide whether incurred charges are *medical expenses*. Arbitrators shall have no authority to decide any other questions of fact, decide any questions of law, or conduct arbitration on a class-wide or class-representative basis.
4. A written decision that is both agreed upon by and signed by any two arbitrators, and that also contains an explanation of how they arrived at their decision, will be binding on:
 - a. *us*;
 - b. the *insured*;
 - c. any assignee of the *insured*; and
 - d. any *person* or organization with whom the *insured* expressly or impliedly contracts for *medical services*.
5. Subject to 1., 2., 3., and 4. above, state court rules governing procedure and admission of evidence will be used.
6. *We* do not waive any of *our* rights by submitting to arbitration.

Limit

The Medical Payments Coverage limit is shown on the Declarations Page under "Medical Payments Coverage – Limit – Each Person". This limit is the most *we* will pay for the *medical expenses* and funeral expenses combined, incurred by or on behalf of any one *insured* as a result of any one accident, regardless of the number of:

1. *insureds*;
2. claims made;
3. vehicles insured; or
4. vehicles involved in the accident.

Subject to the limit shown on the Declarations Page, the most *we* will pay for funeral expenses incurred for any one *insured* is \$3,000.

Exclusions

THERE IS NO COVERAGE FOR AN *INSURED*:

1. WHO IS STRUCK AS A *PEDESTRIAN* BY A MOTOR VEHICLE, *OWNED BY* THAT *INSURED* OR *YOU*, IF IT IS NOT *YOUR CAR* OR A *NEWLY ACQUIRED CAR*;
2. IF ANY WORKERS' COMPENSATION LAW OR ANY SIMILAR LAW APPLIES TO THAT *INSURED'S BODILY INJURY*;
3. WHO IS *OCCUPYING* A VEHICLE WHILE IT IS RENTED TO OR LEASED TO OTHERS BY AN *INSURED*;
4. WHO IS *OCCUPYING* A VEHICLE WHILE IT IS BEING USED TO CARRY *PERSONS* FOR A CHARGE. This exclusion does not apply to:
 - a. the use of a *private passenger car* on a share-the-expense basis; or
 - b. an *insured* while *occupying* a *non-owned car* as a passenger;
5. WHILE MAINTAINING OR USING A VEHICLE IN CONNECTION WITH THAT *INSURED'S* EMPLOYMENT IN

OR ENGAGEMENT OF ANY KIND IN A *CAR BUSINESS*. This exclusion does not apply to:

- a. *you*;
- b. any *resident relative*; or
- c. any agent, employee, or business partner of a. or b. above

while maintaining or using *your car*, a *newly acquired car*, a *temporary substitute car*, or a *trailer owned by you*;

6. WHILE THAT *INSURED* IS VALET PARKING A VEHICLE;
7. WHILE MAINTAINING OR USING A *NON-OWNED CAR* IN ANY BUSINESS OR OCCUPATION OTHER THAN A *CAR BUSINESS* OR VALET PARKING. This exclusion does not apply to the maintenance or use of a *private passenger car*;
8. WHO IS EITHER *OCCUPYING* OR STRUCK AS A *PEDESTRIAN* BY A VEHICLE THAT IS LOCATED FOR USE AS A DWELLING OR OTHER PREMISES;
9. WHO IS STRUCK AS A *PEDESTRIAN* BY A VEHICLE THAT:
 - a. IS DESIGNED FOR USE PRIMARILY OFF PUBLIC ROADS WHILE OFF PUBLIC ROADS; OR
 - b. RUNS ON RAILS OR CRAWLER-TREADS;
10. WHOSE *BODILY INJURY* RESULTS FROM WAR OF ANY KIND;
11. WHOSE *BODILY INJURY* RESULTS FROM:
 - a. NUCLEAR REACTION;
 - b. RADIATION OR RADIOACTIVE CONTAMINATION FROM ANY SOURCE; OR
 - c. THE ACCIDENTAL OR INTENTIONAL DETONATION OF, OR RELEASE OF RADIATION FROM, ANY NUCLEAR OR RADIOACTIVE DEVICE;

12. WHOSE **BODILY INJURY** RESULTS FROM THE DISCHARGE OF A FIRE-ARM;
13. WHOSE **BODILY INJURY** RESULTS FROM EXPOSURE TO **FUNGI**; OR
14. WHO IS **OCCUPYING** A VEHICLE WHILE IT IS:
 - a. BEING PREPARED FOR, USED IN PRACTICE FOR, OR OPERATED IN ANY RACING CONTEST, SPEED CONTEST, HILL-CLIMBING CONTEST, JUMPING CONTEST, OR ANY SIMILAR CONTEST; OR
 - b. ON A TRACK DESIGNED PRIMARILY FOR RACING OR HIGH-SPEED DRIVING. This exclusion (14.b.) does not apply if the vehicle is being used in connection with an activity other than racing, high-speed driving, or any type of competitive driving.

If Other Medical Payments Coverage or Similar Vehicle Insurance Applies

1. An *insured* shall not recover for the same *medical expenses* or funeral expenses under both this coverage and other medical payments coverage or similar vehicle insurance.
2. If Medical Payments Coverage provided by this policy and one or more other vehicle policies issued to *you* or any *resident relative* by the *State Farm Companies* apply to the same *bodily injury*, then:
 - a. the Medical Payments Coverage limits of such policies shall not be added together to determine the most that may be paid; and
 - b. the maximum amount that may be paid from all such policies combined is the single highest applicable limit provided by any one of the policies. *We* may choose one or more policies from which to make payment.
3. If other medical payments coverage, personal injury protection coverage, or similar

vehicle insurance applies, then the Medical Payments Coverage provided by this policy applies as excess coverage.

- a. If:
 - (1) this is the only vehicle policy issued to *you* or any *resident relative* by the *State Farm Companies* that provides Medical Payments Coverage or other similar vehicle insurance which applies to the accident as excess coverage; and
 - (2) medical payments coverage or other similar vehicle insurance provided by one or more sources other than the *State Farm Companies* also applies as excess coverage for the same accident,

then *we* will pay the proportion of *medical expenses* and funeral expenses payable as excess that *our* applicable limit bears to the sum of *our* applicable limit and the limits of all other medical payments coverage or similar vehicle insurance that apply as excess coverage.

- b. If:
 - (1) more than one vehicle policy issued to *you* or any *resident relative* by the *State Farm Companies* provides Medical Payments Coverage or other similar vehicle insurance which applies to the accident as excess coverage; and
 - (2) medical payments coverage or other similar vehicle insurance provided by one or more sources other than the *State Farm Companies* also applies as excess coverage for the same accident,

then the *State Farm Companies* will pay the proportion of *medical expenses* and funeral expenses payable as excess that the maximum amount that may be paid by the *State Farm Companies* as determined in 2. above

bears to the sum of such amount and the limits of all other medical payments coverage or similar vehicle insurance that apply as excess coverage.

Our Payment Options

We may, at *our* option, make payment to one or more of the following:

1. The *insured*;
2. The *insured's* surviving spouse;
3. A parent or guardian of the *insured*, if the *insured* is a minor or an incompetent *person*;
4. A *person* authorized by law to receive such payment; or
5. Any *person* or organization that provides the *medical services* or funeral services.

UNINSURED MOTOR VEHICLE COVERAGE

This policy provides Uninsured Motor Vehicle Coverage if "U" is shown under "SYMBOLS" on the Declarations Page.

Additional Definitions

Insured means:

1. *you*;
2. *resident relatives*;
3. any other *person* while *occupying* or using:
 - a. *your car*;
 - b. a *newly acquired car*; or
 - c. a *temporary substitute car*;with the expressed or implied consent of *you*; and
4. any *person* to the extent he or she may recover damages under a state wrongful death statute because of the death of an *insured* under 1., 2., or 3. above.

Motor Vehicle means a self-propelled vehicle or trailer designed for use on public roads, but does not include tractor engines, road rollers, farm trailers, tractor cranes, power shovels, well drillers, or electric trolleys.

Property Damage means damage to property of the *insured*.

Uninsured Motor Vehicle means a *motor vehicle*:

1. the ownership, maintenance, and use of which is:

- a. not insured or bonded for bodily injury and property damage liability at the time of the accident; or
- b. insured or bonded for bodily injury and property damage liability at the time of the accident; but
 - (1) the limits are less than required by the *Financial Responsibility Act*;
 - (2) the insuring company:
 - (a) denies that its policy provides liability coverage for damages that result from the accident; or
 - (b) is or becomes insolvent; or
 - (3) a cause of action for the *bodily injury* or *property damage* is barred by the South Carolina Tort Claims Act; or

2. the owner and driver of which remain unknown, but only if:
 - a. the *bodily injury* or *property damage* was caused by physical contact with the unknown vehicle, or the accident was witnessed by someone other than the owner or driver of the insured vehicle. The witness must sign an affidavit attesting to the truth of the facts of the accident contained in the affidavit; and

- b. the *insured* was not negligent in failing to determine the identity of the other vehicle and the driver of the other vehicle at the time of the accident.

Uninsured Motor Vehicle does not include a motor vehicle *owned by*:

1. a self-insurer in accordance with the applicable provisions of law; or
2. the State or any of its political subdivisions when the vehicle is operated by a *person* with proper authorization.

Insuring Agreement

We will pay damages for *bodily injury* and *property damage* an *insured* is legally entitled to recover from the owner or driver of an *uninsured motor vehicle*. The *bodily injury* must be sustained by an *insured*. The *bodily injury* and *property damage* must be caused by an accident that involves the operation, maintenance, or use of an *uninsured motor vehicle*.

Our Right to Defend

We have the right to appear and defend in the name of the owner and driver of the *uninsured motor vehicle* on the issues of legal liability of, and the damages owed by, such owner or driver.

Limits

1. The Uninsured Motor Vehicle Coverage limits for *bodily injury* are shown on the Declarations Page under "Uninsured Motor Vehicle Coverage – Bodily Injury Limits – Each Person, Each Accident".
 - a. The most *we* will pay for all damages resulting from *bodily injury* to any one *person* injured in any one accident is the lesser of:
 - (1) the amount of all damages resulting from that *bodily injury* reduced by the sum of all payments for damages resulting from that *bodily injury* made by or on behalf of any *person* or organization who is or may be held legally liable for that *bodily injury*; or

- (2) the limit shown under "Each Person".

"*Bodily injury* to any one *person*" includes all injury and damages to other *persons* resulting from that *bodily injury*, and all emotional distress resulting from that *bodily injury* sustained by other *persons* who do not sustain that *bodily injury*.

- b. Subject to a. above, the most *we* will pay for all damages resulting from *bodily injury* to two or more *insureds* injured in the same accident is the limit shown under "Each Accident".
2. The Uninsured Motor Vehicle Coverage limit for *property damage* is shown on the Declarations Page under "Uninsured Motor Vehicle Coverage – Property Damage Limit – Each Accident". The most *we* will pay for *property damage* is the lesser of:
 - a. the amount of *property damage* reduced by the sum of all payments made by or on behalf of any *person* or organization who is or may be held legally liable for that *property damage*; or
 - b. the limit shown under "Each Accident".
3. These Uninsured Motor Vehicle Coverage limits are the most *we* will pay regardless of the number of:
 - a. *insureds*;
 - b. claims made;
 - c. vehicles insured; or
 - d. vehicles involved in the accident.

Nonduplication

We will not pay under Uninsured Motor Vehicle Coverage any damages:

1. that have already been paid to or for the *insured*:
 - a. by or on behalf of any *person* or organization who is or may be held legally liable for the *bodily injury* to the *insured*; or

- b. for ***bodily injury*** under Liability Coverage of any policy issued by the ***State Farm Companies*** to ***you*** or any ***resident relative***;
- 2. that:
 - a. have already been paid;
 - b. could have been paid; or
 - c. could be paid
 to or for the ***insured*** under any workers' compensation law, disability benefits law, or similar law; or
- 3. that are ***property damage*** paid or payable under any policy of property insurance.

Exclusions

THERE IS NO COVERAGE:

- 1. FOR AN ***INSURED*** WHO, WITHOUT ***OUR*** WRITTEN CONSENT, SETTLES WITH ANY ***PERSON*** OR ORGANIZATION WHO MAY BE LIABLE FOR THE ***BODILY INJURY*** OR ***PROPERTY DAMAGE*** AND THEREBY IMPAIRS ***OUR*** RIGHT TO RECOVER ***OUR*** PAYMENTS;
- 2. TO THE EXTENT THE UNINSURED MOTOR VEHICLE COVERAGE LIMITS OF THIS POLICY EXCEED THE COVERAGE LIMITS REQUIRED BY THE ***FINANCIAL RESPONSIBILITY ACT***:
 - a. FOR AN ***INSURED*** WHO SUSTAINS ***BODILY INJURY*** WHILE ***OCCUPYING*** A MOTOR VEHICLE ***OWNED BY YOU*** OR ANY ***RESIDENT RELATIVE*** IF:
 - (1) THE MOTOR VEHICLE IS NOT ***YOUR CAR*** OR A ***NEWLY ACQUIRED CAR***; AND
 - (2) IT WAS NOT INSURED FOR UNINSURED MOTOR VEHICLE COVERAGE AT THE TIME OF THE ACCIDENT;
- b. IF THE ***UNINSURED MOTOR VEHICLE*** IS ***OWNED BY YOU*** OR ANY ***RESIDENT RELATIVE***; OR
- c. FOR ***PROPERTY DAMAGE***:
 - (1) TO A MOTOR VEHICLE; OR
 - (2) IN A MOTOR VEHICLE ***OWNED BY YOU*** OR ANY ***RESIDENT RELATIVE*** IF THE MOTOR VEHICLE WAS NOT INSURED FOR UNINSURED MOTOR VEHICLE COVERAGE AT THE TIME OF THE ACCIDENT;
- 3. FOR ***PROPERTY DAMAGE*** THAT WAS PROXIMATELY CAUSED BY THE DRIVER OF ***YOUR CAR*** OR A ***NEWLY ACQUIRED CAR***;
- 4. FOR AN ***INSURED*** WHOSE ***BODILY INJURY*** RESULTS FROM THE DISCHARGE OF A FIREARM;
- 5. TO THE EXTENT IT BENEFITS:
 - a. ANY WORKERS' COMPENSATION OR DISABILITY BENEFITS INSURANCE COMPANY;
 - b. A SELF-INSURER UNDER ANY WORKERS' COMPENSATION LAW, DISABILITY BENEFITS LAW, OR SIMILAR LAW; OR
 - c. ANY PROPERTY INSURER;
- 6. FOR ANY ORDER OF RESTITUTION ISSUED BY A COURT IN A CRIMINAL PROCEEDING OR EQUITABLE ACTION; OR
- 7. FOR THE FIRST \$200 OF ***PROPERTY DAMAGE*** SUSTAINED BY EACH ***INSURED*** IN EACH ACCIDENT.

If Other Uninsured Motor Vehicle Coverage Applies

- 1. The Uninsured Motor Vehicle Coverage provided by this policy applies as primary coverage for an ***insured*** who sustains ***bodily injury*** or ***property damage*** while ***occupying your car***.

2. Except as provided in item 1. above, the Uninsured Motor Vehicle Coverage provided by this policy applies as excess coverage.

3. If:

a. *you* or any *resident relative* sustains *bodily injury* or *property damage*:

(1) while *occupying* a motor vehicle not *owned by you* or any *resident relative*; or

(2) while not *occupying* a motor vehicle; and

b. Uninsured Motor Vehicle Coverage provided by this policy and one or more other vehicle policies issued to *you* or any *resident relative* by the *State Farm Companies* apply to the same *bodily injury* or *property damage*, then

the maximum amount that may be paid from all such policies combined is the single highest limit provided by any one of the policies. *We* may choose one or more policies from which to make payment.

4. If *you* or any *resident relative* sustains *bodily injury* or *property damage* while *occupying* a motor vehicle other than *your car* that is *owned by you* or any *resident relative*, then this coverage applies only to the extent of the uninsured motor vehicle coverage applicable to the motor vehicle that the *insured* was *occupying*.

However, if the motor vehicle that the *insured* was *occupying* was not insured for uninsured motor vehicle coverage at the time of the accident, then the maximum amount that may be paid from all policies

combined that are issued to *you* or any *resident relative* by the *State Farm Companies* is the minimum limits required by the *Financial Responsibility Act*. *We* may choose one or more policies from which to make payment.

5. Subject to items 1., 2., 3., and 4. above, if this policy and one or more other sources provide uninsured motor vehicle coverage for the same damages on a:

a. primary basis, then *we* will pay the proportion of damages payable as primary that the applicable limit of this coverage under this policy bears to the sum of such amount and the limits of all other uninsured motor vehicle coverage that apply as primary coverage; or

b. excess basis, then *we* will pay the proportion of damages payable as excess that the applicable limit of this coverage under this policy bears to the sum of such amount and the limits of all other uninsured motor vehicle coverage that apply as excess coverage.

Our Payment Options

We may, at *our* option, make payment to one or more of the following:

1. The *insured*;
2. The *insured's* surviving spouse;
3. A parent or guardian of the *insured*, if the *insured* is a minor or an incompetent *person*; or
4. A *person* authorized by law to receive such payment.

UNDERINSURED MOTOR VEHICLE COVERAGE

This policy provides Underinsured Motor Vehicle Coverage if "W" is shown under "SYMBOLS" on the Declarations Page.

Additional Definitions

Insured means:

1. *you*;
2. *resident relatives*;
3. any other *person* while *occupying* or using:
 - a. *your car*;
 - b. a *newly acquired car*; or
 - c. a *temporary substitute car*;with the expressed or implied consent of *you*; and
4. any *person* to the extent he or she may recover damages under a state wrongful death statute because of the death of an *insured* under 1., 2., or 3. above.

Motor Vehicle means a self-propelled vehicle or trailer designed for use on public roads, but does not include tractor engines, road rollers, farm trailers, tractor cranes, power shovels, well drillers, or electric trolleys.

Property Damage means damage to property of the *insured*.

Underinsured Motor Vehicle means a *motor vehicle* the ownership, maintenance, and use of which is either:

1. insured or bonded for bodily injury and property damage liability at the time of the accident; or
2. self-insured under any motor vehicle financial responsibility law, any motor carrier law, or any similar law

in an amount that is at least equal to the amount required by the *Financial Responsibility Act* and:

1. the amount of the insurance, bonds, and self-insurance from all sources is less than the amount of the *insured's* damages; or

2. the *insured's* damages exceed any damages cap or limitation imposed by statute.

Underinsured Motor Vehicle does not include a motor vehicle while located for use as a dwelling or other premises.

Insuring Agreement

We will pay damages for *bodily injury* and *property damage* an *insured* is legally entitled to recover from the owner or driver of an *underinsured motor vehicle*. The *bodily injury* must be sustained by an *insured*. The *bodily injury* and *property damage* must be caused by an accident that involves the operation, maintenance, or use of an *underinsured motor vehicle*.

We will pay only if all bodily injury and property damage liability bonds, policies, and self-insurance plans that apply to the *insured's bodily injury* or *property damage* have been:

1. used up by payment of judgments or settlements; or
2. paid to the extent required by any damages cap or limitation imposed by statute.

Our Right to Defend

We have the right to appear and defend in the name of the owner and driver of the *underinsured motor vehicle* on the issues of legal liability of, and the damages owed by, such owner or driver.

Limits

1. The Underinsured Motor Vehicle Coverage limits are shown on the Declarations Page under "Underinsured Motor Vehicle Coverage – Bodily Injury Limits – Each Person, Each Accident".
 - a. The most *we* will pay for all damages resulting from *bodily injury* to any one *person* injured in any one accident is the lesser of:
 - (1) the amount of all damages resulting from that *bodily injury* reduced by the sum of all payments for damages resulting from that

bodily injury made by or on behalf of any **person** or organization who is or may be held legally liable for that **bodily injury**; or

- (2) the limit shown under "Each Person".

"**Bodily injury** to any one **person**" includes all injury and damages to other **persons** resulting from that **bodily injury**, and all emotional distress resulting from that **bodily injury** sustained by other **persons** who do not sustain that **bodily injury**.

- b. Subject to a. above, the most **we** will pay for all damages resulting from **bodily injury** to two or more **insureds** injured in the same accident is the limit shown under "Each Accident".
2. The Underinsured Motor Vehicle Coverage limit for **property damage** is shown on the Declarations Page under "Underinsured Motor Vehicle Coverage – Property Damage Limit – Each Accident". The most **we** will pay for **property damage** is the lesser of:
- a. the amount of **property damage** reduced by the sum of all payments made by or on behalf of any **person** or organization who is or may be held legally liable for that **property damage**; or
- b. the limit shown under "Each Accident".
3. These Underinsured Motor Vehicle Coverage limits are the most **we** will pay regardless of the number of:
- a. **insureds**;
- b. claims made;
- c. vehicles insured; or
- d. vehicles involved in the accident.

Nonduplication

We will not pay under Underinsured Motor Vehicle Coverage any damages:

1. that have already been paid to or for the **insured**:
- a. by or on behalf of any **person** or organization who is or may be held

legally liable for the **bodily injury** to the **insured**; or

- b. for **bodily injury** under Liability Coverage of any policy issued by the **State Farm Companies** to **you** or any **resident relative**;
2. that:
- a. have already been paid;
- b. could have been paid; or
- c. could be paid
- to or for the **insured** under any workers' compensation law, disability benefits law, or similar law; or
3. that are **property damage** paid or payable under any policy of property insurance.

Exclusions

THERE IS NO COVERAGE:

1. FOR AN **INSURED** WHO, WITHOUT **OUR** WRITTEN CONSENT, SETTLES WITH ANY **PERSON** OR ORGANIZATION WHO MAY BE LIABLE FOR THE **BODILY INJURY** OR **PROPERTY DAMAGE** AND THEREBY IMPAIRS **OUR** RIGHT TO RECOVER **OUR** PAYMENTS;
2. TO THE EXTENT THE UNDERINSURED MOTOR VEHICLE COVERAGE LIMITS OF THIS POLICY EXCEED THE COVERAGE LIMITS REQUIRED BY THE **FINANCIAL RESPONSIBILITY ACT**:
- a. FOR AN **INSURED** WHO SUSTAINS **BODILY INJURY** WHILE **OCCUPYING** A MOTOR VEHICLE **OWNED BY YOU** OR ANY **RESIDENT RELATIVE** IF:
- (1) THE MOTOR VEHICLE IS NOT **YOUR CAR** OR A **NEWLY ACQUIRED CAR**; AND
- (2) IT WAS NOT INSURED FOR UNDERINSURED MOTOR VEHICLE

- COVERAGE AT THE TIME OF THE ACCIDENT;
- b. IF THE **UNDERINSURED MOTOR VEHICLE IS OWNED BY YOU** OR ANY **RESIDENT RELATIVE**; OR
 - c. FOR **PROPERTY DAMAGE**:
 - (1) TO A MOTOR VEHICLE; OR
 - (2) IN A MOTOR VEHICLE **OWNED BY YOU** OR ANY **RESIDENT RELATIVE** IF THE MOTOR VEHICLE WAS NOT INSURED FOR UNDERINSURED MOTOR VEHICLE COVERAGE AT THE TIME OF THE ACCIDENT;
 3. FOR **PROPERTY DAMAGE** THAT WAS PROXIMATELY CAUSED BY THE DRIVER OF **YOUR CAR** OR A **NEWLY ACQUIRED CAR**;
 4. FOR AN **INSURED** WHOSE **BODILY INJURY** RESULTS FROM THE DISCHARGE OF A FIREARM;
 5. TO THE EXTENT IT BENEFITS:
 - a. ANY WORKERS' COMPENSATION OR DISABILITY BENEFITS INSURANCE COMPANY;
 - b. A SELF-INSURER UNDER ANY WORKERS' COMPENSATION LAW, DISABILITY BENEFITS LAW, OR SIMILAR LAW; OR
 - c. ANY PROPERTY INSURER; OR
 6. FOR ANY ORDER OF RESTITUTION ISSUED BY A COURT IN A CRIMINAL PROCEEDING OR EQUITABLE ACTION.
- If Other Underinsured Motor Vehicle Coverage Applies**
1. The Underinsured Motor Vehicle Coverage provided by this policy applies as primary coverage for an **insured** who sustain **bodily injury** or **property damage** while **occupying your car**.
 2. Except as provided in item 1. above, the Underinsured Motor Vehicle Coverage provided by this policy applies as excess coverage.
 3. If:
 - a. **you** or any **resident relative** sustains **bodily injury** or **property damage**:
 - (1) while **occupying** a motor vehicle not **owned by you** or any **resident relative**; or
 - (2) while not **occupying** a motor vehicle; and
 - b. Underinsured Motor Vehicle Coverage provided by this policy and one or more other vehicle policies issued to **you** or any **resident relative** by the **State Farm Companies** apply to the same **bodily injury** or **property damage**, then

the maximum amount that may be paid from all such policies combined is the single highest limit provided by any one of the policies. **We** may choose one or more policies from which to make payment.
 4. If **you** or any **resident relative** sustains **bodily injury** or **property damage** while **occupying** a motor vehicle other than **your car** that is **owned by you** or any **resident relative**, then this coverage applies only to the extent of the underinsured motor vehicle coverage applicable to the motor vehicle that the **insured** was **occupying**.

However, if the motor vehicle that the **insured** was **occupying** was not insured for underinsured motor vehicle coverage at the time of the accident, then the maximum amount that may be paid from all policies combined that are issued to **you** or any **resident relative** by the **State Farm Companies** is the minimum limits required by the **Financial Responsibility Act**. **We** may choose one or more policies from which to make payment.
 5. Subject to items 1., 2., 3., and 4. above, if this policy and one or more other sources

provide underinsured motor vehicle coverage for the same damages on a:

- a. primary basis, then *we* will pay the proportion of damages payable as primary that the applicable limit of this coverage under this policy bears to the sum of such amount and the limits of all other underinsured motor vehicle coverage that apply as primary coverage; or
- b. excess basis, then *we* will pay the proportion of damages payable as excess that the applicable limit of this coverage under this policy bears to the sum of such amount and the limits

of all other underinsured motor vehicle coverage that apply as excess coverage.

Our Payment Options

We may, at *our* option, make payment to one or more of the following:

1. The *insured*;
2. The *insured's* surviving spouse;
3. A parent or guardian of the *insured*, if the *insured* is a minor or an incompetent *person*; or
4. A *person* authorized by law to receive such payment.

PHYSICAL DAMAGE COVERAGES

The physical damage coverages are Comprehensive Coverage, Collision Coverage, Emergency Road Service Coverage, and Car Rental and Travel Expenses Coverage.

This policy provides:

1. Comprehensive Coverage if "D";
2. Collision Coverage if "G";
3. Emergency Road Service Coverage if "H";
4. Car Rental and Travel Expenses Coverage if "R1"

is shown under "SYMBOLS" on the Declarations Page.

If a deductible applies to Comprehensive Coverage, then it is shown on the Declarations Page. The deductible that applies to Collision Coverage is shown on the Declarations Page.

Additional Definitions

Covered Vehicle means:

1. *your car*;

2. a *newly acquired car*;
3. a *temporary substitute car*;
4. a camper that is designed to be mounted on a pickup truck and shown on the Declarations Page;
5. a *non-owned car* while it is:
 - a. being driven by an *insured*; or
 - b. in the custody of an *insured* if at the time of the *loss* it is:
 - (1) not being driven; or
 - (2) being driven by a *person* other than an *insured* and being *occupied* by an *insured*;
6. a *non-owned trailer* while it is being used by an *insured*; and
7. a *non-owned camper* while it is being used by an *insured*;

including its parts and its equipment that are common to the use of the vehicle as a vehicle. However, parts and equipment of *trailers* and

campers must be securely fixed as a permanent part of the **trailer** or camper.

Daily Rental Charge means the sum of:

1. the daily rental rate;
2. mileage charges; and
3. related taxes.

Insured means *you* and **resident relatives**.

Loss means:

1. direct, sudden, and accidental damage to; or
2. total or partial theft of

a **covered vehicle**. **Loss** does not include any reduction in the value of any **covered vehicle** after it has been repaired, as compared to its value before it was damaged.

Loss Caused By Collision means a **loss** caused by:

1. a **covered vehicle** hitting or being hit by another vehicle or another object; or
2. the overturning of a **covered vehicle**.

Any **loss** caused by missiles, falling objects, windstorm, hail, fire, explosion, earthquake, water, flood, total or partial theft, malicious mischief, vandalism, riot, civil commotion, or hitting or being hit by a bird or an animal is not a **Loss Caused By Collision**.

Non-Owned Camper means a camper designed to be mounted on a pickup truck that is in the lawful possession of an **insured** and that neither:

1. is **owned by**:
 - a. an **insured**;
 - b. any other **person** who resides primarily in *your* household; or
 - c. an employer of any **person** described in a. or b. above; nor
2. has been used by, rented by, or in the possession of an **insured** during any part of each of the 31 or more consecutive days immediately prior to the date of the **loss**.

Non-Owned Trailer means a **trailer** that is in the lawful possession of an **insured** and that neither:

1. is **owned by**:
 - a. an **insured**;
 - b. any other **person** who resides primarily in *your* household; or
 - c. an employer of any **person** described in a. or b. above; nor
2. has been used by, rented by, or in the possession of an **insured** during any part of each of the 31 or more consecutive days immediately prior to the date of the **loss**.

Insuring Agreements

1. Comprehensive Coverage

We will pay:

- a. for **loss**, except **loss caused by collision**, to a **covered vehicle**; and
- b. transportation expenses incurred by an **insured** as a result of the total theft of *your car* or a **newly acquired car**. These transportation expenses are payable:

(1) during the period that:

- (a) starts on the date *you* report the theft to *us*; and
- (b) ends on the earliest of:
 - (i) the date the vehicle is returned to *your* possession in a drivable condition;
 - (ii) the date *we* offer to pay for the **loss** if the vehicle has not yet been recovered; or
 - (iii) the date *we* offer to pay for the **loss** if the vehicle is recovered, but is a total loss as determined by *us*; and

(2) during the period that:

- (a) starts on the date the vehicle is left at a repair facility if the

stolen vehicle is recovered, returned to **your** possession in a drivable condition, and has unrepaired damage that resulted from the total theft; and

- (b) ends on the date the vehicle is repaired.

These transportation expenses must be reported to **us** before **we** will pay such incurred expenses.

2. Collision Coverage

We will pay for **loss caused by collision** to a **covered vehicle**.

3. Emergency Road Service Coverage

We will pay the fair cost incurred by an **insured** for:

- a. up to one hour of labor to repair a **covered vehicle** at the place of its breakdown;
- b. towing to the nearest repair facility where necessary repairs can be made if a **covered vehicle** is not drivable;
- c. towing a **covered vehicle** out of a location where it is stuck if the vehicle is on or immediately next to a public road;
- d. delivery of gas, oil, battery, or tire necessary to return a **covered vehicle** to driving condition. **We** do not pay the cost of the gas, oil, battery, or tire; and
- e. up to one hour of labor for locksmith services to unlock a **covered vehicle** if its key is lost, stolen, or locked inside the vehicle.

4. Car Rental and Travel Expenses Coverage

a. Car Rental Expense

We will pay the **daily rental charge** incurred when **you** rent a **car** from a **car business** while **your car** or a **newly acquired car** is:

- (1) not drivable; or

- (2) being repaired

as a result of a **loss** which would be payable under Comprehensive Coverage or Collision Coverage.

We will pay this **daily rental charge** incurred during a period that:

- (1) starts on the date:

- (a) the vehicle is not drivable as a result of the **loss**; or
- (b) the vehicle is left at a repair facility if the vehicle is drivable; and

- (2) ends on the earliest of:

- (a) the date the vehicle has been repaired or replaced;
- (b) the date **we** offer to pay for the **loss** if the vehicle is repairable but **you** choose to delay repairs; or
- (c) five days after **we** offer to pay for the **loss** if the vehicle is:
 - (i) a total loss as determined by **us**; or
 - (ii) stolen and not recovered.

The amount of any such **daily rental charge** incurred by **you** must be reported to **us** before **we** will pay such amount.

b. Travel Expenses

We will pay expenses for commercial transportation, lodging, and meals if **your car** or a **newly acquired car** is not drivable as a result of a **loss** which would be payable under Comprehensive Coverage or Collision Coverage. The **loss** must occur more than 50 miles from **your** home. **We** will only pay these expenses if they are incurred by:

- (1) an **insured** during the period that:

- (a) starts after the **loss** occurs; and
- (b) ends on the earlier of:

- (i) the *insured's* arrival at his or her destination or home if the vehicle is left behind for repairs; or
 - (ii) the repair of the vehicle if the *insured* waits for repairs before continuing on to his or her destination or returning home; and
- (2) *you*, or any *person you* choose, to travel to retrieve the vehicle and drive it to either the original destination or *your* home if the vehicle was left behind for repairs.

These expenses must be reported to *us* before *we* will pay such incurred expenses.

c. Rental Car – Repayment of Deductible Expense

We will pay the comprehensive deductible or collision deductible an *insured* is required to pay the owner of a *car* rented from a *car business*.

Supplementary Payments – Comprehensive Coverage and Collision Coverage

If the *covered vehicle* sustains *loss* for which *we* make a payment under Comprehensive Coverage or Collision Coverage, then *we* will pay reasonable expenses incurred to:

1. tow the *covered vehicle* immediately after the *loss*:
 - a. for a reasonable distance from the location of the *loss* to any one repair facility chosen by an *insured* or the owner of the *covered vehicle*, if the *covered vehicle* is not drivable; or
 - b. to any one repair facility or commercial storage facility, neither of which was chosen by an *insured* or the owner of the *covered vehicle*. *We* will also pay reasonable expenses incurred to tow the *covered vehicle* for a reasonable distance from this facility to any one repair facility chosen by an

insured or the owner of the *covered vehicle*, if the *covered vehicle* is not drivable;

2. store the *covered vehicle*, if it is not drivable immediately after the *loss*, at:
 - a. any one repair facility or commercial storage facility, neither of which was chosen by an *insured* or the owner of the *covered vehicle*; and
 - b. any one repair facility chosen by the owner of the *covered vehicle*, and *we* determine such vehicle is a total loss.

If the owner of the *covered vehicle* consents, then *we* may move the *covered vehicle* at *our* expense to reduce storage costs. If the owner of the *covered vehicle* does not consent, then *we* will pay only the storage costs that would have resulted if *we* had moved the damaged *covered vehicle*; and

3. clean up debris from the *covered vehicle* at the location of the *loss*. The most *we* will pay to clean up the debris is \$250 for any one *loss*.

Limits and Loss Settlement – Comprehensive Coverage and Collision Coverage

1. *We* have the right to choose to settle with *you* or the owner of the *covered vehicle* in one of the following ways:
 - a. Pay the cost to repair the *covered vehicle* minus any applicable deductible. The deductible amount does not apply to *loss* to safety glass.
 - (1) *We* have the right to choose one of the following to determine the cost to repair the *covered vehicle*:
 - (a) The cost agreed to by both the owner of the *covered vehicle* and *us*;
 - (b) A bid or repair estimate approved by *us*; or
 - (c) A repair estimate that is written based upon or adjusted to:

- (i) the prevailing competitive price;
- (ii) the lower of paintless dent repair pricing established by an agreement *we* have with a third party or the paintless dent repair price that is competitive in the market; or
- (iii) a combination of (i) and (ii) above.

The prevailing competitive price means prices charged by a majority of the repair market in the area where the *covered vehicle* is to be repaired as determined by a survey made by *us*. If asked, *we* will identify some facilities that will perform the repairs at the prevailing competitive price. The estimate will include parts sufficient to restore the *covered vehicle* to its pre-loss condition.

You agree with *us* that the repair estimate may include new, used, recycled, and reconditioned parts. Any of these parts may be either original equipment manufacturer parts or non-original equipment manufacturer parts.

You also agree that replacement glass need not have any insignia, logo, trademark, etching, or other marking that was on the replaced glass.

- (2) The cost to repair the *covered vehicle* does not include any reduction in the value of the *covered vehicle* after it has been repaired, as compared to its value before it was damaged.
- (3) If the repair or replacement of a part results in betterment of that part, then *you* or the owner of the

covered vehicle must pay for the amount of the betterment;

- b. Pay the actual cash value of the *covered vehicle* minus any applicable deductible.

- (1) The owner of the *covered vehicle* and *we* must agree upon the actual cash value of the *covered vehicle*. If there is disagreement as to the actual cash value of the *covered vehicle*, then the disagreement will be resolved by appraisal upon written request of the owner or *us*, using the following procedures:

- (a) The owner and *we* will each select a competent appraiser.
- (b) The two appraisers will select a third competent appraiser. If they are unable to agree on a third appraiser within 30 days, then either the owner or *we* may petition a court that has jurisdiction to select the third appraiser.
- (c) Each party will pay the cost of its own appraiser, attorneys, and expert witnesses, as well as any other expenses incurred by that party. Both parties will share equally the cost of the third appraiser.
- (d) The appraisers shall only determine the actual cash value of the *covered vehicle*. Appraisers shall have no authority to decide any other questions of fact, decide any questions of law, or conduct appraisal on a class-wide or class-representative basis.
- (e) A written appraisal that is both agreed upon by and signed by any two appraisers, and that also contains an explanation of how they arrived at their appraisal, will be binding on the

owner of the *covered vehicle* and *us*.

- (f) *We* do not waive any of *our* rights by submitting to an appraisal.

- (2) The damaged *covered vehicle* must be given to *us* in exchange for *our* payment, unless *we* agree that the owner may keep it. If the owner keeps the *covered vehicle*, then *our* payment will be reduced by the value of the *covered vehicle* after the *loss*; or

- c. Return the stolen *covered vehicle* to its owner and pay, as described in 1.a. above, for any direct, sudden, and accidental damage that resulted from the theft.

2. The most *we* will pay for transportation expenses under Comprehensive Coverage is \$25 per day subject to an aggregate limit of \$750 per *loss*.
3. The most *we* will pay for *loss* to a *non-owned trailer* or a *non-owned camper* is \$2,500.

Limits – Car Rental and Travel Expenses Coverage

1. Car Rental Expense

The limit for Car Rental Expense is shown on the Declarations Page under “Limit – Car Rental Expense – Each Day, Each Loss”.

- a. The limit shown under “Each Day” is the most *we* will pay for the *daily rental charge*. If:
- (1) a dollar amount is shown, then *we* will pay the *daily rental charge* up to that dollar amount;
- (2) a percentage amount is shown, then *we* will pay that percentage of the *daily rental charge*.
- b. Subject to the “Each Day” limit, the limit shown under “Each Loss” is the

most *we* will pay for Car Rental Expense incurred as a result of any one *loss*.

2. Travel Expenses

The most *we* will pay for Travel Expenses incurred by all *insureds* as a result of any one *loss* is \$500.

3. Rental Car – Repayment of Deductible Expense

The most *we* will pay for Rental Car – Repayment of Deductible Expense incurred as a result of any one *loss* is \$500.

Nonduplication

We will not pay for any *loss* or expense under the Physical Damage Coverages for which the *insured* or owner of the *covered vehicle* has already received payment from, or on behalf of, a party who is legally liable for the *loss* or expense.

Exclusions

THERE IS NO COVERAGE FOR:

1. ANY *COVERED VEHICLE* THAT IS:
- a. INTENTIONALLY DAMAGED; OR
- b. STOLEN
- BY OR AT THE DIRECTION OF AN *INSURED*;
2. ANY *COVERED VEHICLE* WHILE IT IS RENTED TO OR LEASED TO OTHERS BY AN *INSURED*;
3. ANY *COVERED VEHICLE* WHILE IT IS USED TO CARRY *PERSONS* FOR A CHARGE. This exclusion does not apply to the use of a *private passenger car* on a share-the-expense basis;
4. ANY *COVERED VEHICLE* DUE TO:
- a. THEFT;
- b. CONVERSION;
- c. EMBEZZLEMENT; OR
- d. SECRETION

- BY AN **INSURED**, A CONSIGNEE, AN AGENT OF A CONSIGNEE, OR A **PERSON** WHO OBTAINS POSSESSION OF THE **COVERED VEHICLE** WITH THE PERMISSION OF A CONSIGNEE OR AGENT OF A CONSIGNEE;
5. **LOSS TO YOUR CAR OR A NEWLY ACQUIRED CAR** IF AN **INSURED** VOLUNTARILY RELINQUISHES POSSESSION OF THAT **CAR** TO A **PERSON** OR ORGANIZATION UNDER AN ACTUAL OR PRESUMED SALES AGREEMENT;
 6. ANY **COVERED VEHICLE** TO THE EXTENT **OUR** PAYMENT WOULD BENEFIT ANY CARRIER OR OTHER BAILEE FOR HIRE THAT IS LIABLE FOR **LOSS** TO SUCH **COVERED VEHICLE**;
 7. **LOSS** TO ANY **COVERED VEHICLE** DUE TO **FUNGI**. THIS APPLIES REGARDLESS OF WHETHER OR NOT THE **FUNGI** RESULT FROM A **LOSS** THAT IS PAYABLE UNDER ANY OF THE PHYSICAL DAMAGE COVERAGES. **WE** WILL ALSO NOT PAY FOR ANY TESTING OR REMEDIATION OF **FUNGI**, OR ANY ADDITIONAL COSTS REQUIRED TO REPAIR ANY **COVERED VEHICLE** THAT ARE DUE TO THE EXISTENCE OF **FUNGI**;
 8. **LOSS** TO ANY **COVERED VEHICLE** THAT RESULTS FROM:
 - a. NUCLEAR REACTION;
 - b. RADIATION OR RADIOACTIVE CONTAMINATION FROM ANY SOURCE; OR
 - c. THE ACCIDENTAL OR INTENTIONAL DETONATION OF, OR RELEASE OF RADIATION FROM, ANY NUCLEAR OR RADIOACTIVE DEVICE;
 9. **LOSS** TO ANY **COVERED VEHICLE** THAT RESULTS FROM THE TAKING OF OR SEIZURE OF THAT **COVERED VEHICLE** BY ANY GOVERNMENTAL AUTHORITY;
 10. **LOSS** TO ANY **COVERED VEHICLE** THAT RESULTS FROM WAR OF ANY KIND;
 11. **YOUR CAR** WHILE SUBJECT TO ANY:
 - a. LIEN AGREEMENT;
 - b. RENTAL AGREEMENT;
 - c. LEASE AGREEMENT; OR
 - d. SALES AGREEMENTNOT SHOWN ON THE DECLARATIONS PAGE;
 12. ANY **NON-OWNED CAR** WHILE IT IS:
 - a. BEING MAINTAINED OR USED BY ANY **PERSON** WHILE THAT **PERSON** IS EMPLOYED IN OR ENGAGED IN ANY WAY IN A **CAR BUSINESS**; OR
 - b. USED IN ANY BUSINESS OR OCCUPATION OTHER THAN A **CAR BUSINESS**. This exclusion (12.b.) does not apply to a *private passenger car*;
 13. ANY PART OR EQUIPMENT OF A **COVERED VEHICLE** IF THAT PART OR EQUIPMENT:
 - a. FAILS OR IS DEFECTIVE; OR
 - b. IS DAMAGED AS A DIRECT RESULT OF:
 - (1) WEAR AND TEAR;
 - (2) FREEZING; OR
 - (3) MECHANICAL, ELECTRICAL, OR ELECTRONIC BREAKDOWN OR MALFUNCTIONOF THAT PART OR EQUIPMENT.This exclusion does not apply if the **loss** is the result of theft of the **covered vehicle**;
 14. ANY PART OR EQUIPMENT:
 - a. THAT IS NOT LEGAL FOR USE IN OR ON THE **COVERED VEHICLE**

IN THE JURISDICTION WHERE THE **COVERED VEHICLE** IS REGISTERED; OR

- b. THE USE OF WHICH IS NOT LEGAL IN THE JURISDICTION WHERE THE **COVERED VEHICLE** IS REGISTERED BECAUSE OF HOW OR WHERE THAT PART OR EQUIPMENT IS INSTALLED IN OR ON THE **COVERED VEHICLE**.

However, if there is a legal version of the part or equipment that is necessary for the safe operation of the **covered vehicle**, then **we** will pay the cost that **we** would otherwise have paid to repair the vehicle with the legal version of the part or equipment. **We** will not pay any cost necessary to modify the vehicle for installation of the legal version of the part or equipment;

- 15. TIRES. This exclusion does not apply if:
 - a. **loss** is caused by missiles, falling objects, windstorm, hail, fire, explosion, earthquake, water, flood, total or partial theft, malicious mischief, vandalism, riot, civil commotion, or hitting or being hit by a bird or an animal; or
 - b. **loss caused by collision** to another part of the **covered vehicle** causes **loss** to tires;
- 16. REMOVABLE PRODUCTS USED FOR STORAGE OF AUDIO, VIDEO, OR OTHER DATA, INCLUDING BUT NOT LIMITED TO TAPES, DISCS, AND MEMORY CARDS, NOR IS THERE COVERAGE FOR THE RECONSTRUCTION OF DATA CONTAINED THEREIN;
- 17. ANY EQUIPMENT USED TO DETECT OR INTERFERE WITH SPEED MEASURING DEVICES;
- 18. A CAMPER, INCLUDING ITS PARTS AND ITS EQUIPMENT, THAT IS:
 - a. DESIGNED TO BE MOUNTED ON A PICKUP TRUCK;

- b. **OWNED BY AN INSURED**; AND
- c. NOT SHOWN ON THE DECLARATIONS PAGE; OR

- 19. ANY **COVERED VEHICLE** WHILE IT IS:

- a. BEING PREPARED FOR, USED IN PRACTICE FOR, OR OPERATED IN ANY RACING CONTEST, SPEED CONTEST, HILL-CLIMBING CONTEST, JUMPING CONTEST, OR ANY SIMILAR CONTEST; OR
- b. ON A TRACK DESIGNED PRIMARILY FOR RACING OR HIGH-SPEED DRIVING. This exclusion (19.b.) does not apply if the vehicle is being used in connection with an activity other than racing, high-speed driving, or any type of competitive driving.

If Other Physical Damage Coverage or Similar Coverage Applies

- 1. If the same **loss** or expense is payable under more than one of the physical damage coverages provided by this policy, then only the one coverage that pays the most for that **loss** or expense applies.
- 2. If any of the physical damage coverages provided by this policy and one or more other policies issued to an **insured** by the **State Farm Companies** apply to the same **loss** or expense, then only one policy applies. **We** will select a policy that pays the most for the **loss** or expense.
- 3. The physical damage coverages provided by this policy apply as primary coverage for a **loss** to **your car**.

If similar coverage provided by one or more sources other than the **State Farm Companies** also applies as primary coverage for the same **loss** or expense, then the **State Farm Companies** will pay the proportion of the **loss** or expense payable as primary that the maximum amount that may be paid by the **State Farm Companies** bears to the sum of such amount and the limits of

all other similar coverage that applies as primary coverage.

4. Except as provided in 3. above; the physical damage coverages provided by this policy apply as excess coverage.

If similar coverage provided by one or more sources other than the *State Farm Companies* also applies as excess coverage for the same *loss* or expense, then the *State Farm Companies* will pay the proportion of the *loss* or expense payable as excess that the maximum amount that may be paid by the *State Farm Companies* bears to the sum of such amount and the limits of all other similar coverage that applies as excess coverage.

Financed Vehicle

1. If a creditor is shown on the Declarations Page, then any Comprehensive Coverage or Collision Coverage provided by this policy applies to that creditor's interest in *your car*. Coverage for the creditor's interest is only provided for a *loss* that is payable to *you*.

However, if this policy is cancelled or non-renewed, then *we* will provide coverage for the creditor's interest until *we* notify the creditor of the termination of such coverage. This coverage for the creditor's interest is only provided for a *loss* that would have been payable to *you* if this policy had not been cancelled or nonrenewed. The date such termination is effective will be at least 10 days after the date *we* mail or electronically transmit a notice of the termination to the creditor.

2. If *we* pay such creditor, then *we* are entitled to the creditor's right of recovery against *you* to the extent of *our* payment.

Our right of recovery does not impair the creditor's right to recover the full amount of its claim.

Our Payment Options

1. Comprehensive Coverage and Collision Coverage

- a. *We* may, at *our* option, make payment to one or more of the following for *loss* to a *covered vehicle owned by you*:

- (1) *You*;
- (2) The repairer; or
- (3) A creditor shown on the Declarations Page, to the extent of its interest.

- b. *We* may, at *our* option, make payment to one or more of the following for *loss* to a *covered vehicle not owned by you*:

- (1) *You*;
- (2) The owner of such vehicle;
- (3) The repairer; or
- (4) A creditor, to the extent of its interest.

2. Emergency Road Service Coverage and Car Rental and Travel Expenses Coverage

We may, at *our* option, make payment to one or more of the following:

- a. *You*;
- b. The *insured* who incurred the expense; or
- c. Any party that provided the service for which payment is owed.

DEATH, DISMEMBERMENT AND LOSS OF SIGHT COVERAGE

This policy provides Death, Dismemberment and Loss of Sight Coverage if "S" is shown under "SYMBOLS" on the Declarations Page.

Additional Definition

Insured means a *person* whose name is shown under "Death, Dismemberment and Loss of Sight Coverage – Persons Insured" on the Declarations Page.

Insuring Agreement

We will pay the highest applicable benefit shown in the following Death, Dismemberment and Loss of Sight Benefits Schedules if an *insured*:

1. dies; or
2. suffers dismemberment or permanent loss of sight, as described in the schedule

as the direct result of an accident that involves the use of a land motor vehicle or any type of trailer as a vehicle and not due to any other cause.

The *insured* must be *occupying* or be struck as a *pedestrian* by a land motor vehicle or any type of trailer at the time of the accident. The death, dismemberment, or permanent loss of sight must occur within 90 days immediately following the date of the accident.

Benefit

The applicable benefit shown in the schedule is the most *we* will pay for any one *insured* in any one accident. Any benefit paid or payable for dismemberment or permanent loss of sight reduces the death benefit.

The benefits shown in the schedules are doubled for an *insured* who at the time of the accident was *occupying a private passenger car* and using a seat belt in the manner recommended by the vehicle's manufacturer.

Death, Dismemberment and Loss of Sight Benefits Schedules

If the amount shown on the Declarations Page for the *insured* is \$5,000, then *we* will pay the applicable benefit shown below for death or for the described dismemberment or permanent loss of sight:

Death	\$5,000
Loss of both hands; both feet; all sight of both eyes; one hand and one foot; or one hand or one foot and all sight of one eye	\$5,000
Loss of one hand or one foot; or all sight of one eye	\$2,500
Loss of the thumb and a finger on one hand; or any three fingers	\$1,500
Loss of any two fingers	\$1,000

The hand must be cut off through or above the wrist. The foot must be cut off through or above the ankle. The whole thumb or finger must be cut off.

If the amount shown on the Declarations Page for the *insured* is \$10,000, then *we* will pay the applicable benefit shown below for death or for the described dismemberment or permanent loss of sight:

Death	\$10,000
Loss of both hands; both feet; all sight of both eyes; one hand and one foot; or one hand or one foot and all sight of one eye	\$10,000
Loss of one hand or one foot; or all sight of one eye	\$5,000
Loss of the thumb and a finger on one hand; or any three fingers	\$3,000
Loss of any two fingers	\$2,000

The hand must be cut off through or above the wrist. The foot must be cut off through or above the ankle. The whole thumb or finger must be cut off.

Exclusions

DEATH, DISMEMBERMENT AND LOSS OF SIGHT COVERAGE DOES NOT APPLY TO AN **INSURED**:

1. WHILE IN THE COURSE AND SCOPE OF HIS OR HER EMPLOYMENT IN A **CAR BUSINESS**;
2. WHILE **OCCUPYING**, LOADING, OR UNLOADING:
 - a. AN EMERGENCY VEHICLE IN THE COURSE AND SCOPE OF HIS OR HER EMPLOYMENT;
 - b. A VEHICLE, OTHER THAN AN EMERGENCY VEHICLE, WHILE USED IN THE:
 - (1) **INSURED'S** BUSINESS; OR
 - (2) COURSE AND SCOPE OF HIS OR HER EMPLOYMENT IN OTHER THAN A **CAR BUSINESS**.

This exclusion (2.b.) does not apply if the vehicle is a **private passenger car**;
 - c. A MILITARY VEHICLE; OR
 - d. A VEHICLE WHILE IT IS:
 - (1) BEING PREPARED FOR, USED IN PRACTICE FOR, OR OPERATED IN ANY RACING CONTEST, SPEED CONTEST, HILL-CLIMBING CONTEST, JUMPING CONTEST, OR ANY SIMILAR CONTEST; OR
 - (2) ON A TRACK DESIGNED PRIMARILY FOR RACING OR HIGH-SPEED DRIVING. This exclusion (2.d.(2)) does not apply if the vehicle is being used in connection with an activity other than racing, high-speed driving, or any type of competitive driving;
3. WHILE **OCCUPYING**, LOADING, UNLOADING, OR WHO IS STRUCK AS A **PEDESTRIAN** BY:

- a. A MOTOR VEHICLE THAT RUNS ON RAILS OR CRAWLER-TREADS;
 - b. A MOTOR VEHICLE THAT IS DESIGNED FOR USE PRIMARILY OFF PUBLIC ROADS WHILE OFF PUBLIC ROADS; OR
 - c. A MOTOR VEHICLE OR ANY TYPE OF TRAILER, EITHER OF WHICH IS LOCATED FOR USE AS A DWELLING OR OTHER PREMISES; OR
4. FOR DEATH, DISMEMBERMENT, LOSS OF SIGHT, OR **TOTAL DISABILITY** THAT RESULTS FROM:
 - a. WAR OF ANY KIND;
 - b. NUCLEAR REACTION, RADIATION OR RADIOACTIVE CONTAMINATION FROM ANY SOURCE, OR THE ACCIDENTAL OR INTENTIONAL DETONATION OF, OR RELEASE OF RADIATION FROM, ANY NUCLEAR OR RADIOACTIVE DEVICE;
 - c. THE DISCHARGE OF A FIREARM;
 - d. EXPOSURE TO **FUNGI**;
 - e. SUICIDE OR ATTEMPTED SUICIDE REGARDLESS OF WHETHER THE **INSURED** WAS SANE OR INSANE; OR
 - f. DISEASE except pus-forming infection due to **bodily injury** sustained in the accident.

Our Payment Options

We may, at **our** option, make payment to one or more of the following:

1. The **insured**;
2. The **insured's** surviving spouse;
3. A parent or guardian of the **insured**, if the **insured** is a minor or an incompetent **person**; or
4. A **person** or organization authorized by law to receive such payment.

INSURED'S DUTIES

1. Notice to Us of an Accident or Loss

The *insured* must give *us* or one of *our* agents notice of the accident or *loss* as soon as reasonably possible. The notice must give *us*:

- a. *your* name;
- b. the names and addresses of all *persons* involved in the accident or *loss*;
- c. the hour, date, place, and facts of the accident or *loss*; and
- d. the names and addresses of witnesses to the accident or *loss*.

2. Notice to Us of a Claim or Lawsuit

- a. If a claim is made against an *insured*, then that *insured* must immediately send *us* every demand, notice, and claim received.
- b. If a lawsuit is filed against an *insured*, then that *insured* must immediately send *us* every summons and legal process received.

3. Insured's Duty to Cooperate With Us

- a. The *insured* must cooperate with *us* and, when asked, assist *us* in:
 - (1) making settlements;
 - (2) securing and giving evidence;
 - (3) attending, and getting witnesses to attend, depositions, hearings, and trials; and
 - (4) preserving his or her right to recover damages from others.
- b. The *insured* must not, except at his or her own cost, voluntarily:
 - (1) make any payment to others; or
 - (2) assume any obligation to othersunless authorized by the terms of this policy.
- c. Any *person* or organization making claim under this policy must, when *we*

require, give *us* proof of loss on forms *we* furnish.

4. Questioning Under Oath

Under:

- a. Liability Coverage, each *insured*;
- b. Personal Injury Protection Coverage, Medical Payments Coverage, Uninsured Motor Vehicle Coverage, Underinsured Motor Vehicle Coverage, or Death, Dismemberment and Loss of Sight Coverage, each *insured*, or any other *person* or organization making claim or seeking payment; and
- c. Physical Damage Coverages, each *insured* or owner of a *covered vehicle*, or any other *person* or organization making claim or seeking payment;

must, at *our* option, submit to an examination under oath, provide a statement under oath, or do both, as reasonably often as *we* require. Such *person* or organization must answer questions under oath, asked by anyone *we* name, and sign copies of the answers. *We* may require each *person* or organization answering questions under oath to answer the questions with only that *person's* or organization's legal representative, *our* representatives, any *person* or *persons* designated by *us* to record the questions and answers, and no other *person* present.

5. Other Duties Under the Physical Damage Coverages

When there is a *loss*, *you* or the owner of the *covered vehicle* must:

- a. protect the *covered vehicle* from additional damage. *We* will pay any reasonable expense incurred to do so that is reported to *us*;
- b. make a prompt report to the police when the *loss* is the result of theft;
- c. allow *us* to:

- (1) inspect any damaged property before its repair or disposal;
 - (2) test any part or equipment before that part or equipment is removed or repaired; and
 - (3) move the *covered vehicle* at *our* expense in order to conduct such inspection or testing;
- d. provide *us* all:
- (1) records;
 - (2) receipts; and
 - (3) invoices
- that *we* request and allow *us* to make copies; and
- e. not abandon the *covered vehicle* to *us*.
- 6. Other Duties Under Personal Injury Protection Coverage, Medical Payments Coverage, Uninsured Motor Vehicle Coverage, Underinsured Motor Vehicle Coverage, and Death, Dismemberment and Loss of Sight Coverage**
- A *person* making claim under:
- a. Personal Injury Protection Coverage, Medical Payments Coverage, Uninsured Motor Vehicle Coverage, Underinsured Motor Vehicle Coverage, or Death, Dismemberment and Loss of Sight Coverage must:
 - (1) notify *us* of the claim and give *us* all the details about the death, injury, treatment, and other information that *we* may need as soon as reasonably possible after the injured *insured* is first examined or treated for the injury. If the *insured* is unable to give *us* notice, then any other *person* may give *us* the required notice;
 - (2) be examined as reasonably often as *we* may require by physicians chosen and paid by *us*. A copy of the report will be sent to the *person* upon written request;
 - (3) provide written authorization for *us* to obtain:
 - (a) medical bills;
 - (b) medical records;
 - (c) wage, salary, and employment information; and
 - (d) any other information *we* deem necessary to substantiate the claim.

If an injured *insured* is a minor, unable to act, or dead, then his or her legal representative must provide *us* with the written authorization.

If the holder of the information refuses to provide it to *us* despite the authorization, then at *our* request the *person* making claim or his or her legal representative must obtain the information and promptly provide it to *us*; and
 - (4) allow *us* to inspect the vehicle that the *insured occupied* in the accident;
 - b. Uninsured Motor Vehicle Coverage must report an accident, involving a motor vehicle whose owner and driver remain unknown, to the police and to *us* within a reasonable period of time; and
 - c. Uninsured Motor Vehicle Coverage and Underinsured Motor Vehicle Coverage must:
 - (1) send *us* immediately a copy of all lawsuit papers if the *insured* files a lawsuit against the party liable for the accident; and
 - (2) if making a claim for *property damage*:
 - (a) allow *us* to:
 - (i) inspect any *property damage* before its repair or disposal;

- (ii) test any part or equipment before that part or equipment is removed or repaired; and
- (iii) move the damaged property at *our* expense in order to conduct such inspection or testing; and
- (b) protect the damaged property from additional damage. *We* will pay any reasonable expense incurred to do so that is reported to *us*;
- (c) provide *us* all:
 - (i) records;
 - (ii) receipts; and
 - (iii) invoices
- (d) not abandon the damaged property to *us*; and
- (e) give *us* sworn proof of claim within 60 days of the accident. This proof of claim must state:
 - (i) who owns the property and how much they own;
 - (ii) the amount of any claims or liens on the property;
 - (iii) the value of the property at the time of the accident;
 - (iv) details of the accident; and
 - (v) details of any other insurance applicable to the property.

GENERAL TERMS

1. When Coverage Applies

The coverages provided by this policy are shown on the Declarations Page and apply to accidents and *losses* that occur during the policy period. The policy period is shown on the Declarations Page and is for successive periods of six months each for which the renewal premium is paid. The policy period begins and ends at 12:01 AM Standard Time at the address shown on the Declarations Page.

2. Where Coverage Applies

The coverages provided by this policy are shown on the Declarations Page and apply to accidents and *losses* that occur:

- a. in the United States of America and its territories and possessions;
- b. in Canada; and
- c. while a vehicle for which coverage is provided by this policy is being

shipped between the ports of the United States of America, its territories, its possessions, and Canada.

The Liability Coverage, Personal Injury Protection Coverage, Medical Payments Coverage, and Physical Damage Coverages also apply in Mexico within 50 miles of the United States border. A Physical Damage Coverage *loss* in Mexico is determined on the basis of cost at the nearest United States point.

Death, Dismemberment and Loss of Sight Coverage applies anywhere in the world.

3. Newly Owned or Newly Leased Car

If *you* want to insure a *car* newly owned by *you* with the *State Farm Companies* after that *car* ceases to be a *newly acquired car*, then *you* must either:

- a. request *we* replace the *car* currently shown on the Declarations Page of this policy with the *car* newly owned by

you and pay *us* any added amount due. If *you* make such request while this policy is in force and:

- (1) before the *car* newly *owned by you* ceases to be a *newly acquired car*, then that *car* newly *owned by you* will be insured by this policy as *your car* beginning on the date the *car* newly *owned by you* is delivered to *you*. The added amount due will be calculated based on that date; or
- (2) after the *car* newly *owned by you* ceases to be a *newly acquired car*, then that *car* newly *owned by you* will be insured by this policy as *your car* beginning on the date and time *you* make the request. The added amount due will be calculated based on that date; or

- b. apply to the *State Farm Companies* for a separate policy to insure the *car* newly *owned by you*. Such policy will be issued only if both the applicant and the vehicle are eligible for coverage at the time of the application.

4. Changes to This Policy

a. Changes in Policy Provisions

We may only change the provisions of this policy by:

- (1) issuing a revised policy booklet, a revised Declarations Page, or an endorsement; or
- (2) revising this policy to give broader coverage without an additional premium charge. If any coverage provided by this policy is changed to give broader coverage, then *we* will give *you* the broader coverage as of the date *we* make the change effective in the state of South Carolina without issuing a revised policy booklet, a revised Declarations Page, or an endorsement.

b. Change of Interest

- (1) No change of interest in this policy is effective unless *we* consent in writing.
- (2) Except under Death, Dismemberment and Loss of Sight Coverage, if a named insured shown on the Declarations Page dies, then the definition of *insured* under each of the coverages provided by this policy is changed to include:
 - (a) any *person* with lawful custody of *your car*, a *newly acquired car*, or a *temporary substitute car* until a legal representative is qualified; and then
 - (b) the legal representative of the deceased named insured.

This only applies while such *person* is maintaining or using *your car*, a *newly acquired car*, or a *temporary substitute car*.

Policy notice requirements are met by mailing the notice to the most recent policy address that *we* have on record for the deceased named insured.

c. Joint and Individual Interests

If *you* consists of more than one *person* or entity, then each acts for all to change or cancel the policy.

d. Change of Policy Address

We may change the named insured's policy address as shown on the Declarations Page and in *our* records to the most recent address provided to *us* by:

- (1) *you*; or
- (2) the United States Postal Service.

5. Premium

- a. Unless as otherwise provided by an alternative payment plan in effect with the *State Farm Companies* with respect to the premium for this policy, the premium is due and payable in full on or before the first day of the policy period shown on the most recently issued Declarations Page or Renewal Notice.
- b. The renewal premium for this policy will be based upon the rates in effect, the coverages carried, the applicable limits, deductibles, and other elements that affect the premium that apply at the time of renewal.
- c. The premium for this policy may vary based upon the purchase of other insurance from the *State Farm Companies*.
- d. The premium for this policy is based upon information *we* have received from *you* or other sources. *You* must inform *us* if any information regarding the following is incorrect or incomplete, or changes during the policy period, and *you* must answer questions *we* ask regarding the following:
 - (1) *Your car*, or its use, including annual mileage;
 - (2) The *persons* who regularly drive *your car*, including newly licensed family members;
 - (3) *Your* marital status; or
 - (4) The location where *your car* is primarily garaged.

If the above information or any other information used to determine the premium is incorrect, incomplete, changes during the policy period, or is not provided to *us* when *we* ask, then *we* may decrease or increase the premium during the policy period. If *we* decrease the premium during the policy period, then *we* will provide a refund or a credit in

the amount of the decrease. If *we* increase the premium during the policy period, then *you* must pay the amount of the increase.

6. Renewal

We agree to renew this policy for the next policy period upon payment of the renewal premium when due, unless *we* mail or deliver a nonrenewal notice or a cancellation notice as set forth in 7. and 8. below.

7. Nonrenewal

If *we* decide not to renew this policy, then, at least 30 days before the end of the current policy period, *we* will mail or deliver a nonrenewal notice to the most recent policy address that *we* have on record for the named insured who is shown on the Declarations Page.

8. Cancellation

a. How You May Cancel

You may cancel this policy by providing to *us* advance notice of the date cancellation is effective. *We* may confirm the cancellation in writing.

b. How and When We May Cancel

We may cancel this policy by mailing or delivering a written notice to the most recent policy address that *we* have on record for the named insured who is shown on the Declarations Page. The notice will provide the date cancellation is effective.

- (1) If *we* mail or deliver a cancellation notice:

- (a) during the first 90 days following this policy's effective date; or

- (b) because the premium is not paid when due,

then the date cancellation is effective will be at least 15 days after the date *we* mail or deliver the cancellation notice.

Otherwise, the date cancellation is effective will be at least 20 days after the date *we* mail or deliver the cancellation notice.

- (2) After this policy has been in force for more than 90 days, *we* will not cancel this policy before the end of the current policy period unless:
 - (a) the premium is not paid when due; or
 - (b) *you*, any *resident relative*, or any other *person* who usually drives *your car* has had his or her driver's license under suspension or revocation:
 - (1) during the policy period; or
 - (2) if the policy is a renewal, during its policy period or the 90 days immediately preceding the last anniversary of the effective date of the policy.

c. Return of Unearned Premium

If *you* cancel this policy, then premium may be earned on a short rate basis. If *we* cancel this policy, then premium will be earned on a pro rata basis.

Any unearned premium may be returned within a reasonable time after cancellation. Delay in the return of any unearned premium does not affect the cancellation date.

9. Assignment

No assignment of benefits or other transfer of rights is binding upon *us* unless approved by *us*.

10. Bankruptcy or Insolvency of the Insured

Bankruptcy or insolvency of the *insured* or his or her estate will not relieve *us* of *our* obligations under this policy.

11. Concealment or Fraud

There is no coverage under this policy if *you* or any other *person* insured under this

policy has made false statements with the intent to conceal or misrepresent any material fact or circumstance in connection with any claim under this policy.

12. Our Right to Recover Our Payments

- a. Personal Injury Protection Coverage, Medical Payments Coverage, Underinsured Motor Vehicle Coverage, and Death, Dismemberment and Loss of Sight Coverage payments are not recoverable by *us*.
- b. To the extent allowed by law, under Uninsured Motor Vehicle Coverage:
 - (1) the right of recovery of the *insured* passes to *us*, to the extent of *our* payments;
 - (2) *we* will pay *our* share of the reasonable costs of any recovery. *Our* share is the percent that *our* recovery bears to the total recovery. *We* reserve the right to select an attorney to handle the recovery; and
 - (3) an *insured* making claim for *property damage* must assign to *us*, to the extent of *our* payments, the right to any other compensation for it. *We* do not have to make any payment until the *insured* has done this.
- c. Under all other coverages, the following apply:
 - (1) **Subrogation**

If *we* are obligated under this policy to make payment to or for a *person* or organization who has a legal right to collect from another *person* or organization, then *we* will be subrogated to that right to the extent of *our* payment.

The *person* or organization to or for whom *we* make payment must help *us* recover *our* payments by:

 - (a) doing nothing to impair that legal right;

- (b) executing any documents *we* may need to assert that legal right; and
- (c) taking legal action through *our* representatives when *we* ask.

(2) Reimbursement

If *we* make payment under this policy and the *person* or organization to or for whom *we* make payment recovers or has recovered from another *person* or organization, then the *person* or organization to or for whom *we* make payment must:

- (a) hold in trust for *us* the proceeds of any recovery; and
- (b) reimburse *us* to the extent of *our* payment.

13. Legal Action Against Us

Legal action may not be brought against *us* until there has been full compliance with all the provisions of this policy. In addition, legal action may only be brought against *us* regarding:

- a. Liability Coverage after the amount of damages an *insured* is legally liable to pay has been finally determined by:
 - (1) judgment after an actual trial, and any appeals of that judgment if any appeals are taken; or
 - (2) agreement between the claimant and *us*.
- b. Personal Injury Protection Coverage, Medical Payments Coverage, Uninsured Motor Vehicle Coverage, Underinsured Motor Vehicle Coverage, and Physical Damage Coverages if the legal action relating to these coverages is brought against *us* within three years immediately following the date of the accident.
- c. Underinsured Motor Vehicle Coverage if copies of the pleadings in the action

establishing liability are served upon *us* in the manner provided by law.

14. Choice of Law

Without regard to choice of law rules, the law of the state of:

- a. South Carolina will control, except as provided in b. below, in the event of any disagreement as to the interpretation and application of any provision in this policy; and
- b. Illinois will control in the event of any disagreement as to the interpretation and application of this policy's:
 - (1) Mutual Conditions provision found on the most recently issued Declarations Page, if this policy was issued by the State Farm Mutual Automobile Insurance Company; or
 - (2) Participating Policy provision found on the most recently issued Declarations Page, if this policy was issued by any subsidiary or affiliate of the State Farm Mutual Automobile Insurance Company.

15. Severability

If any provision of this policy is held invalid or unenforceable by a court that has jurisdiction, then:

- a. such provision will remain in full force to the extent not held invalid or unenforceable; and
- b. all other provisions of this policy will remain valid and enforceable.

16. Conformity to Law

The coverage provided by this policy is done so in accordance with South Carolina insurance law. If any provisions of this policy are in conflict with South Carolina statutes, the policy is amended to conform to the minimum requirements of the statutes.

6128DP AMENDATORY ENDORSEMENT

This endorsement is a part of the policy. Except for the changes this endorsement makes, all other provisions of the policy remain the same and apply to this endorsement.

1. DEFINITIONS

Newly Acquired Car is changed to read:

Newly Acquired Car means a *car* newly *owned by you* or a *resident relative*.

A *car* ceases to be a *newly acquired car* on the earlier of:

1. the effective date and time of a policy, including any binder, issued by *us* or any other company that describes the *car* as an insured vehicle; or
2. the end of the 14th calendar day immediately following the date the *car* is delivered to *you* or a *resident relative*.

If a *newly acquired car* is not otherwise afforded comprehensive coverage or collision coverage by this or any other policy, then this policy will provide Comprehensive Coverage or Collision Coverage for that *newly acquired car*, subject to a deductible of \$500.

2. LIABILITY COVERAGE

a. Additional Definition

Item 4. of *Insured* is changed to read:

Insured means any other *person* or organization vicariously liable for the use of a vehicle by an *insured* as defined in 1., 2., or 3. above, but only for such vicarious liability. This provision applies only if the vehicle is:

- a. neither *owned by*, nor hired by, that other *person* or organization; and

- b. neither available for, nor being used for, carrying *persons* for a charge.

b. Exclusions

(1) Exclusion 6. is changed to read:

THERE IS NO COVERAGE FOR AN *INSURED* FOR DAMAGES ARISING OUT OF THE OWNERSHIP, MAINTENANCE, OR USE OF A VEHICLE WHILE IT IS:

- a. MADE AVAILABLE; OR
- b. BEING USED

TO CARRY *PERSONS* FOR A CHARGE. This exclusion does not apply to the use of a *private passenger car* on a share-the-expense basis;

(2) The exception to exclusion 10. is changed to read:

This exclusion does not apply to damage to a:

- a. motor vehicle *owned by* the employer of *you* or the employer of any *resident relative* if such damage is caused by an *insured* while operating another motor vehicle;
- b. residence while rented to or leased to an *insured*; or
- c. private garage while rented to or leased to an *insured*;

3. **PERSONAL INJURY PROTECTION COVERAGE**

a. **Additional Definitions**

Item 1.a. of *Insured* is changed to read:

Insured means *you* and *resident relatives* while *occupying*:

- (1) *your car*;
- (2) *a newly acquired car*; or
- (3) *a motor vehicle*, other than a motorcycle, not *owned by you* or any *resident relative*; or

b. **Exclusions**

(1) Exclusion 6. is changed to read:

THERE IS NO COVERAGE FOR AN **INSURED** WHO IS STRUCK AS A PEDESTRIAN BY A **MOTOR VEHICLE**, **OWNED BY THAT INSURED OR YOU**, IF IT IS NOT **YOUR CAR OR A NEWLY ACQUIRED CAR**;

(2) Exclusion 8. is changed to read:

THERE IS NO COVERAGE FOR AN **INSURED** WHO IS **OCCUPYING** A VEHICLE WHILE IT IS:

- a. MADE AVAILABLE; OR
- b. BEING USED

TO CARRY **PERSONS** FOR A CHARGE. This exclusion does not apply to:

- a. the use of a *private passenger car* on a share-the-expense basis; or
- b. an *insured* while *occupying* a *non-owned car* as a passenger;

4. **MEDICAL PAYMENTS COVERAGE**

Exclusions

Exclusion 4. is changed to read:

THERE IS NO COVERAGE FOR AN **INSURED** WHO IS **OCCUPYING** A VEHICLE WHILE IT IS:

- a. MADE AVAILABLE; OR
- b. BEING USED

TO CARRY **PERSONS** FOR A CHARGE. This exclusion does not apply to:

- a. the use of a *private passenger car* on a share-the-expense basis; or
- b. an *insured* while *occupying* a *non-owned car* as a passenger;

5. **UNINSURED MOTOR VEHICLE COVERAGE**

a. **Exclusions**

Exclusion 2. is changed to read:

THERE IS NO COVERAGE FOR

- a. AN **INSURED** WHO SUSTAINS **BODILY INJURY** WHILE **OCCUPYING** A MOTOR VEHICLE **OWNED BY THAT INSURED** IF:

(1) THE MOTOR VEHICLE IS NOT **YOUR CAR OR A NEWLY ACQUIRED CAR**; AND

(2) IT WAS NOT INSURED FOR UNINSURED MOTOR VEHICLE COVERAGE AT THE TIME OF THE ACCIDENT; OR

- b. **PROPERTY DAMAGE** SUSTAINED BY AN **INSURED**:

(1) TO A MOTOR VEHICLE: OR

(2) IN A MOTOR VEHICLE
OWNED BY THAT INSURED
IF THE MOTOR VEHICLE
WAS NOT INSURED FOR
UNINSURED MOTOR VEHI-
CLE COVERAGE AT THE
TIME OF THE ACCIDENT;

b. **If Other Uninsured Motor Vehicle
Coverage Applies**

Item 4. is changed to read:

4. If:

a. *you* sustain ***bodily injury*** or
property damage while *oc-
cupying* a motor vehicle
other than *your car* that is
owned by:

(1) *you*, then this coverage
applies only to the ex-
tent of the uninsured
motor vehicle coverage
applicable to the motor
vehicle that *you* were
occupying; or

(2) any ***resident relative***,
then, in addition to the
amount paid from the
policy insuring the mo-
tor vehicle *you* were *oc-
cupying*, the maximum
amount that may be
paid from all other poli-
cies combined that are
issued to *you* or any
resident relative by the
State Farm Companies
is the single highest
limit provided by any
one of the policies. *We*
may choose one or
more policies from
which to make pay-
ment.

b. a ***resident relative*** sustains
bodily injury or ***property
damage*** while *occupying* a
motor vehicle other than
your car that is ***owned by:***

(1) *you*, then, in addition to
the amount paid from
the policy insuring the
motor vehicle that that
resident relative was
occupying, the maxi-
mum amount that may
be paid from all other
policies combined that
are issued to *you* or
any ***resident relative***
by the ***State Farm
Companies*** is the sin-
gle highest limit pro-
vided by any one of the
policies. *We* may
choose one or more
policies from which to
make payment;

(2) that ***resident relative***,
then this coverage ap-
plies only to the extent
of the uninsured motor
vehicle coverage appli-
cable to the motor vehi-
cle that that ***resident
relative*** was *occupying*;
or

(3) a different ***resident rel-
ative***, then, in addition
to the amount paid from
the policy insuring the
motor vehicle that that
resident relative was
occupying, the maxi-
mum amount that may
be paid from all other
policies combined that
are issued to *you* or
any ***resident relative***
by the ***State Farm***

Companies is the single highest limit provided by any one of the policies. *We* may choose one or more policies from which to make payment.

6. **UNDERINSURED MOTOR VEHICLE COVERAGE**

a. **Exclusions**

Exclusion 2. is changed to read:

THERE IS NO COVERAGE FOR

- a. AN *INSURED* WHO SUSTAINS **BODILY INJURY** WHILE **OCCUPYING** A MOTOR VEHICLE **OWNED BY** THAT *INSURED* IF:

(1) THE MOTOR VEHICLE IS NOT **YOUR CAR** OR A **NEWLY ACQUIRED CAR**; AND

(2) IT WAS NOT INSURED FOR UNDERINSURED MOTOR VEHICLE COVERAGE AT THE TIME OF THE ACCIDENT; OR

- b. **PROPERTY DAMAGE** SUSTAINED BY AN *INSURED*:

(1) TO A MOTOR VEHICLE: OR

(2) IN A MOTOR VEHICLE **OWNED BY THAT INSURED** IF THE MOTOR VEHICLE WAS NOT INSURED FOR UNDERINSURED MOTOR VEHICLE COVERAGE AT THE TIME OF THE ACCIDENT;

b. **If Other Underinsured Motor Vehicle Coverage Applies**

Item 4. is changed to read:

4. If:

- a. *you* sustain **bodily injury** or **property damage** while **occupying** a motor vehicle other than **your car** that is **owned by**:

(1) *you*, then this coverage applies only to the extent of the underinsured motor vehicle coverage applicable to the motor vehicle that *you* were **occupying**; or

(2) any **resident relative**, then, in addition to the amount paid from the policy insuring the motor vehicle *you* were **occupying**, the maximum amount that may be paid from all other policies combined that are issued to *you* or any **resident relative** by the **State Farm Companies** is the single highest limit provided by any one of the policies. *We* may choose one or more policies from which to make payment.

- b. a **resident relative** sustains **bodily injury** or **property damage** while **occupying** a motor vehicle other than **your car** that is **owned by**:

(1) *you*, then, in addition to the amount paid from the policy insuring the motor vehicle that that **resident relative** was **occupying**, the maximum amount that may be paid from all other

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policies combined that are issued to *you* or any *resident relative* by the *State Farm Companies* is the single highest limit provided by any one of the policies. *We* may choose one or more policies from which to make payment;

(2) that *resident relative*, then this coverage applies only to the extent of the underinsured motor vehicle coverage applicable to the motor vehicle that that *resident relative* was *occupying*; or

(3) a different *resident relative*, then, in addition to the amount paid from the policy insuring the motor vehicle that that *resident relative* was *occupying*, the maximum amount that may be paid from all other policies combined that are issued to *you* or any *resident relative* by the *State Farm Companies* is the single highest limit provided by any one of the policies. *We* may choose one or more policies from which to make payment.

7. PHYSICAL DAMAGE COVERAGES

a. The paragraph that reads:

If a deductible applies to Comprehensive Coverage, then it is shown

on the Declarations Page. The deductible that applies to Collision Coverage is shown on the Declarations Page.

is changed to read:

Deductible

1. If "D" is shown under "SYMBOLS" on the Declarations Page, then the deductible that applies to Comprehensive Coverage, if any, is the dollar amount shown on the Declarations Page next to the title of this coverage. However, *we* will not deduct more than \$500 for any *loss to a newly acquired car*.

2. If "G" is shown under "SYMBOLS" on the Declarations Page, then the deductible that applies to Collision Coverage is the dollar amount shown on the Declarations Page next to the title of this coverage. However, *we* will not deduct more than \$500 for any *loss caused by collision to a newly acquired car*.

b. Insuring Agreements

Car Rental and Travel Expenses Coverage

Item 4.a. Car Rental Expense is changed to read:

Car Rental Expense

We will pay the *daily rental charge* incurred when an *insured* rents a *car* from a *car business* while *your car* or a *newly acquired car* is:

- (1) not drivable; or
- (2) being repaired

as a result of a **loss** which would be payable under Comprehensive Coverage or Collision Coverage.

We will pay this **daily rental charge** incurred during a period that:

- (1) starts on the date:
 - (a) the vehicle is not drivable as a result of the **loss**; or
 - (b) the vehicle is left at a repair facility if the vehicle is drivable; and
- (2) ends on the earliest of:
 - (a) the date the vehicle has been repaired or replaced;
 - (b) the date **we** offer to pay for the **loss** if the vehicle is repairable but **you** choose to delay repairs; or
 - (c) seven days after **we** offer to pay for the **loss** if the vehicle is:
 - (i) a total loss as determined by **us**; or
 - (ii) stolen and not recovered.

The amount of any such **daily rental charge** incurred by an **insured** must be reported to **us** before **we** will pay such amount.

c. Exclusions

Exclusion 3. is changed to read:

THERE IS NO COVERAGE FOR ANY **COVERED VEHICLE** WHILE IT IS:

- a. MADE AVAILABLE; OR
- b. BEING USED

TO CARRY **PERSONS** FOR A CHARGE. This exclusion does not apply to the use of a **private passenger car** on a share-the-expense basis;

8. INSURED'S DUTIES

- a. Item 6.a.(3) is changed to read:

A **person** making claim under:

- a. Personal Injury Protection Coverage, Medical Payments Coverage, Uninsured Motor Vehicle Coverage, Underinsured Motor Vehicle Coverage, or Death, Dismemberment and Loss of Sight Coverage, must:

- (3) provide written authorization for **us** to obtain medical bills, medical records, wage information, salary information, employment information, and any other information **we** deem necessary to substantiate the claim.

Such authorizations must not:

- (a) restrict **us** from performing **our** business functions in:
 - (i) obtaining records, bills, information, and data; nor
 - (ii) using or retaining records, bills, information, and data collected or received by **us**;
- (b) require **us** to violate federal or state laws or regulations;

- (c) prevent *us* from fulfilling *our* data reporting and data retention obligations to insurance regulators; or
- (d) prevent *us* from disclosing claim information and data:
 - (i) to enable performance of *our* business functions;
 - (ii) to meet *our* reporting obligations to insurance regulators;
 - (iii) to meet *our* reporting obligations to insurance data consolidators; and
 - (iv) as otherwise permitted by law.

If an injured *insured* is a minor, unable to act, or dead, then his or her legal representative must provide *us* with the written authorization.

If the holder of the information refuses to provide it to *us* despite the authorization, then at *our* request the *person* making claim or his or her legal representative must obtain the information and promptly provide it to *us*; and

- b. The following is added to item 6.:

A *person* making claim under Personal Injury Protection Coverage, Medical Payments Coverage, Uninsured Motor Vehicle Coverage, Underinsured Motor Vehicle Coverage,

or Death, Dismemberment and Loss of Sight Coverage, must submit to *us* all information *we* need to comply with federal and state laws and regulations.

9. GENERAL TERMS

- a. The following is added to **Newly Owned or Newly Leased Car:**

If a *resident relative* wants to insure a *car* newly owned by the *resident relative* with the *State Farm Companies* after that *car* ceases to be a *newly acquired car*, then the *resident relative* must apply to the *State Farm Companies* for a separate policy to insure the *car* newly owned by the *resident relative*. Such policy will be issued only if both the applicant and the vehicle are eligible for coverage at the time of the application.

- b. The following are added to **GENERAL TERMS:**

Electronic Delivery

With *your* consent, *we* may, if allowed by law, electronically deliver any document or notice, including a notice to renew, nonrenew, or cancel, instead of mailing it or delivering it by other means. Proof of transmission will be sufficient proof of notice.

Our Rights Regarding Claim Information

- a. *We* will collect, receive, obtain, use, and retain all the items described in item b.(1) below and use and retain the information described in item b.(3)(b) below, in accordance with applicable federal and state laws and regulations and consistent with the performance of *our* business functions.

- b. Subject to a. above, *we* will not be restricted in or prohibited from:
 - (1) collecting, receiving, or obtaining records, receipts, invoices, medical bills, medical records, wage information, salary information, employment information, data, and any other information;
 - (2) using any of the items described in item b.(1) above; or
 - (3) retaining:
 - (a) any of the items in item b.(1) above; or
 - (b) any other information *we* have in *our* possession as a result of *our* processing, handling, or otherwise resolving claims submitted under this policy.
- c. *We* may disclose any of the items in item b.(1) above and any of the information described in item b.(3)(b) above:
 - (1) to enable performance of *our* business functions;
 - (2) to meet *our* reporting obligations to insurance regulators;
 - (3) to meet *our* reporting obligations to insurance data consolidators;
 - (4) to meet other obligations required by law; and
 - (5) as otherwise permitted by law.
- d. *Our* rights under a., b., and c. above shall not be impaired by any:
 - (1) authorization related to any claim submitted under this policy; or
 - (2) act or omission of an *insured* or a legal representative acting on an *insured's* behalf.

6940A AMENDATORY ENDORSEMENT

This endorsement is a part of the policy. Except for the changes this endorsement makes, all other provisions of the policy remain the same and apply to this endorsement.

1. THIS POLICY

Item 5. is changed to read:

Your purchase of this policy may allow:

- a. *you* to purchase or obtain certain coverages, coverage options, coverage deductibles, coverage limits, or coverage terms on other products from the *State Farm Companies*, subject to their applicable eligibility rules; or
- b. the premium or price for other products or services purchased by *you*, including non-insurance products or services, to vary. Such other products or services must be provided by the *State Farm Companies* or by an organization that has entered into an agreement or contract with the *State Farm Companies*. The *State Farm Companies* do not warrant the merchantability, fitness, or quality of any product or service offered or provided by that organization.

2. LIABILITY COVERAGE

Insuring Agreement and Supplementary Payments are replaced by the following:

Insuring Agreement

1. *We* will pay damages an *insured* becomes legally liable to pay because of:
 - a. *bodily injury* to others; and
 - b. damage to property caused by an accident that involves a vehicle for which that *insured* is

provided Liability Coverage by this policy.

2. *We* have the right to:

- a. investigate, negotiate, and settle any claim or lawsuit;
- b. defend an *insured* in any claim or lawsuit, with attorneys chosen by *us*; and
- c. appeal any award or legal decision

for damages payable under this policy's Liability Coverage.

Supplementary Payments

We will pay, in addition to the damages described in the **Insuring Agreement** of this policy's Liability Coverage, those items listed below that result from such accident:

1. Attorney fees for attorneys chosen by *us* to defend an *insured* who is sued for such damages. *We* have no duty to pay attorney fees incurred after *we* deposit in court or pay the amount due under the **Insuring Agreement** of this policy's Liability Coverage;
2. Court costs awarded by the court against an *insured* and resulting from that part of the lawsuit:
 - a. that seeks damages payable under this policy's Liability Coverage; and
 - b. against which *we* defend an *insured* with attorneys chosen by *us*.

We have no duty to pay court costs incurred after *we* deposit in court or pay the amount due under the **Insuring Agreement** of this policy's Liability Coverage;

3. Interest the *insured* is legally liable to pay on damages payable under the **Insuring Agreement** of this policy's Liability Coverage:
 - a. before a judgment, but only the interest on the lesser of:
 - (1) that part of the damages *we* pay; or
 - (2) this policy's applicable Liability Coverage limit; and
 - b. after a judgment.

We have no duty to pay interest that accrues after *we* deposit in court, pay, or offer to pay, the amount due under the **Insuring Agreement** of this policy's Liability Coverage. *We* also have no duty to pay interest that accrues on any damages paid or payable by a party other than the *insured* or *us*;

4. Premiums for bonds, provided by a company chosen by *us*, required to appeal a decision in a lawsuit against an *insured*. *We* have no duty to:
 - a. pay for any bond with a face amount that exceeds this policy's applicable Liability Coverage limit;
 - b. furnish or apply for any bonds; or
 - c. pay premiums for bonds purchased after *we* deposit in court, pay, or offer to pay, the amount due under the **Insuring Agreement** of this policy's Liability Coverage; and

5. The following costs and expenses if related to and incurred after a lawsuit has been filed against an *insured*:

- a. Loss of wages or salary, but not other income, up to \$200 for each day an *insured* attends, at *our* request:
 - (1) an arbitration;
 - (2) a mediation; or
 - (3) a trial of a lawsuit; and
- b. Reasonable expenses incurred by an *insured* at *our* request other than loss of wages, salary, or other income.

The amount of any of the costs or expenses listed above that are incurred by an *insured* must be reported to *us* before *we* will pay such incurred costs or expenses.

3. GENERAL TERMS

- a. The paragraph under **Where Coverage Applies** that reads:

Liability Coverage, Personal Injury Protection Coverage, Medical Payments Coverage, and Physical Damage Coverages also apply in Mexico within 50 miles of the United States of America border. A Physical Damage Coverage *loss* in Mexico is determined on the basis of cost at the nearest United States of America point.

is deleted.

- b. The following is added:

Limited Coverage in Mexico

This policy does not provide Mexican auto insurance and does not comply with Mexican auto insurance requirements. If *you* or any other *insured* plan to drive in Mexico, then auto insurance providing

coverage in Mexico should be purchased from a Mexican insurance company.

Subject to the above paragraph, the following coverages apply in Mexico, but only for accidents and *losses* that occur in Mexico within 50 miles of the United States of America border and only for *insureds* as defined under each of the following coverages:

a. **Liability Coverage**

For claims brought against an *insured* in Mexico, the **Supplementary Payments** provision of this policy's Liability Coverage is changed to read:

We may, in addition to the damages described in item 1. of the **Insuring Agreement** of this policy's Liability Coverage, pay or reimburse, at our option, reasonable attorney fees for an attorney licensed in Mexico to appear for and provide advice to *insureds* as defined under this policy's Liability Coverage. The amount of such attorney fees incurred by an *insured* must be reported to *us* before *we* will make payment.

b. **Personal Injury Protection Coverage**

c. **Medical Payments Coverage**

d. **Physical Damage Coverages**

Any amount payable for the repair or replacement of the *covered vehicle* under the **Limits and Loss Settlement – Comprehensive Coverage and Collision Coverage** provision of this policy will be limited to the cost to repair or replace the

covered vehicle in the United States of America.

WE HAVE NO DUTY TO PROVIDE A DEFENSE FOR *YOU* OR ANY OTHER *INSURED* IN ANY CRIMINAL, CIVIL, OR OTHER ACTION.

WE HAVE NO DUTY TO PAY ANY CLAIM OR COST THAT WOULD NOT BE PAYABLE UNDER THIS POLICY IF THE ACCIDENT OR *LOSS* HAD OCCURRED IN THE STATE OF SOUTH CAROLINA IN THE UNITED STATES OF AMERICA.

All other policy provisions not in conflict with the provisions in this **Limited Coverage in Mexico** provision of this policy apply.

If Other Coverage Applies

Any coverage provided by this **Limited Coverage in Mexico** provision is excess over any other applicable insurance.

Legal Action Against Us

Any legal action against *us* arising out of an accident or *loss* occurring in Mexico must be brought in a court that has jurisdiction in the state of South Carolina in the United States of America.

c. Paragraph c. of 5. **Premium** is changed to read:

c. The premium for this policy may vary based upon:

- (1) the purchase of other products or services from the **State Farm Companies**;
- (2) the purchase of products or services from an organization that has entered into an agreement or contract with

the *State Farm Companies*. The *State Farm Companies* do not warrant the merchantability, fitness, or quality of any product or service offered or provided by that organization; or

- (3) an agreement, concerning the insurance provided by this policy, that the *State Farm Companies* has with an organization of which *you* are a member, employee, subscriber, licensee, or franchisee.

6126MT AMENDATORY ENDORSEMENT

This endorsement is a part of the policy. Except for the changes this endorsement makes, all other provisions of the policy remain the same and apply to this endorsement.

THIS POLICY

The following has been added to item 5.:

Your purchase of this policy may allow *you* to purchase an excess and surplus lines policy from the *State Farm Companies*, subject to applicable eligibility rules.

**STATE OF SOUTH CAROLINA
COUNTY OF MARION
RELEASE, CONDITIONAL RELEASE AND
COVENANT NOT TO EXECUTE (Hereafter, "Agreement")**

RELEASE: In consideration of the payment of the sum of \$Thirty Thousand Dollars (30,000) which I/we, Kevin Grant (hereafter "the Undersigned") acknowledge receiving, and paid by Integon Indemnity Corporation (hereafter, "the Company") on behalf of Hughes Sellers, (hereafter "the Covenantee(s)"), I/we, and my/our heirs, executors, administrators and assigns, release, acquit and forever discharge the Company, its heirs, executors, administrators and assigns, from any and all actions, causes of actions, claims, demands, damages, costs, expenses, and compensation on account of, or growing out of, injuries claimed to have been received by the Undersigned by reason of an accident, incident, or casualty loss (hereafter, the "Accident"), which occurred on or about July 16, 2016 at or near Marion County.

CONDITIONAL RELEASE: In additional consideration of the payment recited in the first paragraph of this Agreement, I/we, and my/our heirs, executors, administrators and assigns, release, acquit and forever discharge Covenantee(s), his/her/their heirs, executors, administrators and assigns, from any and all actions, causes of actions, claims, demands, damages, costs, expenses, and compensation on account of, or growing out of, the Accident, upon the occurrence of the earliest to occur on the following events:

- (i) Settlement of the claim for underinsured motorist coverage proceeds, and receipts of payment;
- (ii) Adjudication that the Undersigned is/are entitled to recover underinsured motorist coverage proceeds; and receipt of payment;
- (iii) Adjudication that the Undersigned is/are not entitled to recover underinsured motorist coverage proceeds;
- (iv) Abandonment of the Undersigned's claim for underinsured motorist coverage proceeds; or
- (v) Expiration of a period of three (3) years after payment of the consideration being paid by the Company under this Agreement, provided that if, prior to the end of that period, claimant has initiated suit, that period is extended until verdict, settlement or abandonment.

PRESERVATION OF UNDERINSURED MOTORIST CLAIM: Nothing in this Agreement shall be construed to release, acquit, or discharge any UIMBI carrier (hereafter, the "UIM Insurer") or any other party or insurance carrier not referred to in this Agreement from any obligation on account of, or in any way growing out of, underinsured motorist coverage or any other coverage which may be applicable to the claims arising from this accident, incident or casualty loss, and the Undersigned specifically preserves his/her/their underinsured motorist claim against the UIM Insurer.

STATEMENT OF NONWAIVER OF UNDERINSURED MOTORIST CLAIM: Nothing in this Agreement shall be deemed to constitute any waiver nor shall this Undersigned be estopped with reference to any and all other rights or claims which he/she/they may have under the underinsured motorist provisions of the policy issued by the UIM Insurer under which he/she/they is/are entitled to coverage, all such rights being expressly reserved.

RETENTION OF RIGHT TO SUE: The Undersigned specifically retains his/her/their right to file and prosecute a lawsuit against the Covenantee(s), but in additional consideration of the payment recited in the first paragraph of this Agreement, the Undersigned covenants that he/she/they will do so only to the extent necessary to recover said underinsured motorist coverage.

CREDIT OF PAYMENT: In additional consideration of the payment recited in the first paragraph of this Agreement, the Undersigned covenants that should an action arising out of the Accident be tried to a conclusion and judgment entered against the Covenantee(s), such judgment shall be credited with the amount herein agreed to be paid.

COVENANT NOT TO ENFORCE JUDGMENT: In additional consideration of the payment recited in the first paragraph of this Agreement, the Undersigned covenants that he/she/they will not attempt to collect any sum from the Covenantee(s) by any means. Should an action be tried to a conclusion and a judgment entered against Covenantee(s) in excess of \$Thirty Thousand Dollars, which has been paid by the Company, the Undersigned will under no circumstances seek satisfaction of or attempt to collect such judgment by levy or execution upon the property of the Covenantee(s) or against the Covenantee(s) personally, nor shall the Undersigned initiate any proceedings for the enforcement of such judgment in any other manner against the Covenantee(s).

SATISFACTION OF JUDGMENT: In additional consideration of the payment recited in the first paragraph of this Agreement, the Undersigned covenants that at such time that his/her/their rights as against the UIM Insurer shall have been adjudicated by final judgment and he/she/their has recovered such amounts to which he/she/they may be entitled by reason of the underinsured motorist coverage, any judgment entered against the Covenantee(s) shall be canceled of record or marked "Satisfied in Full" in any and all counties in which the judgment has been entered.

COMPROMISE OF CLAIM: The Undersigned covenants that this Agreement and payment pursuant thereto is in compromise of a doubtful and disputed claim as to both questions of liability and as to the nature and extent of the injuries and damages, and that neither this Agreement, nor the payment pursuant thereto, shall be construed as an admission of liability, such being denied.

NON-RELIANCE: The Undersigned covenants that the injuries are or may be permanent and that recovery there from is uncertain and indefinite and in making this Agreement, it is understood and agreed that the undersigned rely(ies) wholly upon his/her/their judgment, belief and knowledge

of the nature, extent, effect, and duration of said injuries and liability, and is made without reliance upon any statement or representation of the Covenantantee(s) or the Company.

INDEMNIFICATION: In additional consideration of the payment recited in the first paragraph of this Agreement, the Undersigned covenants to indemnify the Covenantantee(s) and the Company and save them harmless from any and all further liability, loss, damage, expense, subrogation claims or liens against these funds, including but not limited to those from Medicare; Medicaid; workers compensation; government liens; military liens, claims of Bankruptcy Court; claims of hospitals, doctors and medical and hospital providers; claims of any self-funded ERISA plan; and claims of uninsured, underinsured motorist or collision insurance carriers, arising out of injuries and damages, and, if necessary in order to save them so harmless, to satisfy on their behalf any judgment against them arising in any way out of the Accident, excepting the judgment the Undersigned may receive against the Covenantantee(s) in his/her/their prosecution of the underinsured motorist claim.

ENTIRE AGREEMENT: The Undersigned covenants that no promise, inducement or agreement not herein expressed has been made to the Undersigned, and that this Agreement contains the entire agreement between the parties hereto, and that the terms of this Agreement are contractual and not a mere recital.

SECTION HEADINGS: The section headings used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

IN WITNESS WHEREOF, I/we hereunto set my hands on the date set out by my signature.

[Signature]
Name
4-22-19
Date

4/22/19
Date

Date

Witnesses:
[Signature] Name
[Signature] Name
Claim No. 3484300

4/22/19
Date
4/22/19
Date

POLICY RELEASE

CLAIM NUMBER: 013850614 0101 156

KNOWALL MEN BY THESE PRESENTS:

I/We, Kevin Grant, of the City of Marion, State of South Carolina, being of majority age, for and in consideration of one hundred thousand dollars (\$100,000.00), the receipt of which is hereby acknowledged, do release and forever discharge the Government Employees Insurance Company, hereinafter referred to as the Company, from any and all liability under the Uninsured and/or Underinsured Motorist Coverage of policy number 1232619104, issued in the name of Kevin Grant, by the Company, resulting from an accident which occurred on or about the 16th day of July, 2018, at or near Highway 76. It is understood and agreed that this is a full and final settlement of all claims for death, injuries, loss or damage, known or unknown, Kevin Grant, may have had under the Uninsured and/or Underinsured Motorist Coverage of policy 1232619104, issued in the name of Kevin Grant, by the Company.

It is expressly warranted and agreed that no promise or agreement not herein expressed has been made to me, and in executing this release, I am not relying upon any statement or representation made by anyone who has acted for the Company or on its behalf, but I am relying solely on my own judgment.

In witness whereof, I have hereunto set my hand and seal this X 13th day of May, 2019.

[Signature] (SEAL)

X _____ (SEAL)

SEALED AND DELIVERED IN THE PRESENCE OF:

Witness Michael McKnight Address Scranton, SC

County of Florence State of South Carolina

On this 13th day of May, 2019 before me personally came and appeared Kevin Grant, the person described in and who executed the foregoing instrument, and he (or she) acknowledged to me that he (or she) executed the same.

[Signature]
Official Title

Kalen Reed

From: Allison Sullivan
Sent: Tuesday, June 7, 2022 1:33 PM
To: Kalen Reed
Subject: FW: Kevin L. Grant v. State Farm Mutual Automobile Insurance Company - 2021CP3300342

From: Nettles, Michael G. Law Clerk (Jacob Hofferth) <MNettlesLC@sccourts.org>
Sent: Wednesday, October 20, 2021 1:34 PM
To: charles.norris@nelsonmullins.com; katie.mellen@nelsonmullins.com; Allison Sullivan <allison@bluesteinattorneys.com>; Rod Jernigan <Rod@jerniganlaw.net>
Cc: Nettles, Michael G. Secretary (Sherrie E. Byrd) <MNettlesSC@sccourts.org>; Nettles, Michael G. <mnettlesj@sccourts.org>
Subject: Kevin L. Grant v. State Farm Mutual Automobile Insurance Company - 2021CP3300342

[EXTERNAL EMAIL]

All,

On October 6th, 2021, Judge Nettles inadvertently signed an Order denying defendant State Farm's motion to dismiss. As the parties know, on September 27th, the Judge heard arguments from the parties and requested competing Orders. The Judge is still in the process of evaluating the Orders, and will issue a Form 4 detailing the mishap and redacting the October 6th Order.

We apologize for the inconvenience and confusion to the parties.

Thank you,

Jake Hofferth

Law Clerk to the Honorable Michael G. Nettles
181 N. Irby St., Suite 3610
Florence, SC 29501
(843) 292-7433 (Office)
(843) 292-7436 (Fax)
mnettleslc@sccourts.org

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## Kalen Reed

---

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**To:** Kalen Reed  
**Subject:** FW: Kevin L. Grant v. State Farm Mutual Automobile Insurance Company - 2021CP3300342

**From:** Nettles, Michael G. Law Clerk (Jacob Hofferth) <MNettlesLC@sccourts.org>  
**Sent:** Thursday, November 4, 2021 10:50 AM  
**To:** charles.norris@nelsonmullins.com; katie.mellen@nelsonmullins.com; Allison Sullivan <allison@bluesteinattorneys.com>; Rod Jernigan <Rod@jerniganlaw.net>  
**Cc:** Nettles, Michael G. Secretary (Sherrie E. Byrd) <MNettlesSC@sccourts.org>; Nettles, Michael G. <mnettlesj@sccourts.org>  
**Subject:** RE: Kevin L. Grant v. State Farm Mutual Automobile Insurance Company - 2021CP3300342

EXTERNAL EMAIL  
You don't often get email from [mnettleslc@sccourts.org](mailto:mnettleslc@sccourts.org). [Learn why this is important](#)

[EXTERNAL EMAIL]

All,

Judge Nettles has had time to review the Proposed Orders for this matter. Mr. Norris, please efile your Proposed Order for signature.

Thank you,

**Jake Hofferth**

Law Clerk to the Honorable Michael G. Nettles  
181 N. Irby St., Suite 3610  
Florence, SC 29501  
(843) 292-7433 (Office)  
(843) 292-7436 (Fax)  
[mnettleslc@sccourts.org](mailto:mnettleslc@sccourts.org)

**From:** Nettles, Michael G. Law Clerk (Jacob Hofferth)  
**Sent:** Wednesday, October 20, 2021 1:34 PM  
**To:** 'charles.norris@nelsonmullins.com' <charles.norris@nelsonmullins.com>; 'katie.mellen@nelsonmullins.com' <katie.mellen@nelsonmullins.com>; 'allison@bluesteinattorneys.com' <allison@bluesteinattorneys.com>; Rod Jernigan <Rod@jerniganlaw.net>  
**Cc:** Nettles, Michael G. Secretary (Sherrie E. Byrd) <MNettlesSC@sccourts.org>; Nettles, Michael G. <mnettlesj@sccourts.org>  
**Subject:** Kevin L. Grant v. State Farm Mutual Automobile Insurance Company - 2021CP3300342

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Law Clerk to the Honorable Michael G. Nettles  
181 N. Irby St., Suite 3610  
Florence, SC 29501  
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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM MARION COUNTY
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Case No. 2021-CP-33-00342
Appellate Case No. 2022-000232

RECEIVED

JUL 01 2022

SC Court of Appeals

Kevin L. Grant,. Appellant,

v.

State Farm Mutual Automobile
Insurance Company. Respondent.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material
proposed to be included by any of the parties and not any other material.

s/ Allison P. Sullivan
Allison P. Sullivan #73754
BLUESTEIN THOMPSON SULLIVAN, LLC
P.O. Box 7965
Columbia, SC 29202
(803) 779-7599
(803) 771-8097 (facsimile)
Allison@bluesteinattorneys.com

Attorney for Appellant

July 1, 2022

Kalen Reed

From: Kalen Reed
Sent: Friday, July 1, 2022 1:15 PM
To: charles@whelanmellen.com; katie@whelanmellen.com
Cc: Allison Sullivan; Rod Jernigan
Subject: Kevin L. Grant v. State Farm Mutual Automobile Insurance Company/Appellate Case No. 2022-000232
Attachments: Record on Appeal.pdf; Certificate of Counsel for ROA.pdf

Good afternoon,

Attached please find the Record on Appeal and Certificate of Counsel which are being served upon you in the above matter.

Thank you,



KALEN REED PARALEGAL

1614 TAYLOR STREET | PO BOX 7965
COLUMBIA, SOUTH CAROLINA 29202
O: 803.779.7599 F: 803.771.8097
KALEN@BLUESTEINATTORNEYS.COM
BLUESTEINATTORNEYS.COM



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