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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM WILLIAMSBURG COUNTY

Court of Common Pleas

Kristi F. Curtis, Circuit Court Judge

Appellate Case No: 2021-000494

South Carolina Farm Bureau Ins. Co, Appellant
v.

Marion L. Driggers, Shiralee Driggers, Tammy D. Floyd, Estate of Arthur McKenzie, The Travelers Home and Marine Insurance Company, The United States of America acting by and through Its agency, The Internal Revenue Service, and The South Carolina Tax Commission, Defendants,

Of Which The Travelers Home and Marine Insurance Company is the Respondent.

RECORD ON APPEAL

Volume III

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(3) To determine the amount of insurance required to equal 80% of the full replacement cost of the building immediately before the loss, do not include the value of:

(a) excavations, foundations, piers, or any supports which are below the under-surface of the lowest basement floor;

(b) those supports in (a) above which are below the surface of the ground inside the foundation walls, if there is no basement; and

(c) underground flues, pipes, wiring, and drains.

(4) **We** will pay no more than the **actual cash value** of the damage, up to the policy limit, until actual repair or replacement is completed.

(5) **You** may disregard the replacement cost loss settlement provisions and make claim under this policy for loss or damage to buildings on an **actual cash value** basis. **You** may then make claim within 180 days after loss for any additional liability on a replacement cost basis.

We do not guarantee an exact decorative match in texture or color for any roofing, exterior or interior building material, furniture, or upholstery.

4. **Loss to a Pair or Set.** In case of loss to a pair or set **we** may elect to:

a. repair or replace any part to restore the pair or set to its value before the loss; or

b. pay the difference between **actual cash value** of the property before and after the loss;

c. pay in any loss involving part of a series of panels or pieces the reasonable cost of:

(1) replacing or repairing the damaged part to match the remainder as closely as possible; or

(2) providing an acceptable decorative effect as may be necessary. However, **we** do not guarantee exact

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replacement availability. In the event of damage to a part, **we** are not liable for the value of or the repair or replacement of the entire series of panels or pieces.

5. **Glass Replacement.** Loss for damage to glass caused by a Peril Insured Against will be settled on the basis of replacement with safety glazing materials when required by ordinance or law.

6. **Appraisal.** If **you** and **we** fail to agree on the amount of loss, either one can demand that the amount of the loss be set by appraisal. If either makes a written demand for appraisal, each shall select a competent, independent appraiser and notify the other of the appraiser's identity within 20 days of receipt of the written demand. The two appraisers shall then select a competent, impartial umpire. If the two appraisers are unable to agree upon an umpire within 15 days, **you** or **we** can ask a judge of a court of record in the state where the **residence premises** is located to select an umpire. The appraisers shall then set the amount of loss. If the appraisers submit a written report of an agreement to **us,** the amount agreed upon shall be the amount of the loss. If the appraisers fail to agree within a reasonable time, they shall submit their differences to the umpire. Written agreement signed by any two of these three shall set the amount of the loss. Each appraiser shall be paid by the party selecting that appraiser. Other expenses of the appraisal and the compensation of the umpire shall be paid equally by **you** and **us**.

7. **Other Insurance.** If a loss covered by this policy is also covered by other insurance, a service contract or a warranty provision, **we** will pay only the proportion of the loss that the limit of liability that applies under this policy bears to the total amount of insurance covering the loss.

8. **Suit Against Us.** No action can be brought against **us** under this policy unless the policy provisions have been complied with and the action is started within the time allowed by law.

9. **Our Option. We** may repair or replace any part of the property damaged or stolen with equivalent property. Any property **we** pay for or replace becomes **our** property at **our** option.

10. **Loss Payment. We** will adjust all losses with **you. We** will pay **you** unless some other person is named in the policy or is legally entitled to receive payment. Loss will be payable 60 days after **we**:

    a. reach an agreement with **you**; or

    b. receive **your** proof of loss and reach an agreement with **you**; or

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c. there is an entry of a final judgment; or

d. there is a filing of an appraisal award with **us**.

11. **Abandonment of Property**. **We** need not accept any property abandoned to **us** by an **insured.**

12. **Mortgage Clause.** The word **mortgagee** includes trustee.

If a mortgagee is named in this policy, any loss payable under Property Coverages A or B will be paid to the mortgagee and **you**, as interests appear. If more than one mortgagee is named, the order of payment will be the same as the order of precedence of the mortgages.

If **we** deny **your** claim, that denial will not apply to a valid claim of the mortgagee caused by a Peril Insured Against, if the mortgagee:

a. notifies **us** of any change in ownership, occupancy or substantial change in risk of which the mortgagee is aware;

b. pays any premium due under this policy on demand if **you** have neglected to pay the premium; and

c. submits a signed, sworn statement of loss within 60 days after receiving notice from **us** of **your** failure to do so. Policy conditions relating to Appraisal, Suit Against **us** and Loss Payment apply to the mortgagee.

If the policy is cancelled or not renewed by **us,** the mortgagee will be notified at least 10 days before the date cancellation or nonrenewal takes effect.

If **we** pay the mortgagee for any loss and deny payment to **you**:

a. **We** are subrogated to all the rights of the mortgagee granted under the mortgage on the property; or

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

Subrogation will not impair the right of the mortgagee to recover the full amount of the mortgagee's claim.

13. **No Benefit to Bailee. We** will not recognize any assignment or grant any coverage that benefits a person or organization holding, storing

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or moving property for a fee regardless of any other provision of this policy.

14. Nuclear Hazard Clause.

    a. **Nuclear Hazard** means any nuclear reaction, radiation, or radioactive contamination, all whether controlled or uncontrolled or however caused, or any consequence of any of these.

    b. Loss caused by the **nuclear hazard** will not be considered loss caused by fire, explosion, or smoke, whether these perils are specifically named in or otherwise included within the Perils Insured Against.

    c. This policy does not apply to loss caused directly or indirectly by **nuclear hazard**, except that direct loss by fire resulting from the **nuclear hazard** is covered.

15. **Intentional Loss.** If **you** or any person insured under this policy causes or procures a loss to property covered under this policy for the purpose of obtaining insurance benefits, then this policy is void. **We** will not pay **you** or any other **insured** for this loss.

16. **Unearned Premium Clause.** If a loss under **our** policy is payable or has been paid, the Company has the option to:

    a. reduce **your** coverages by any sum up to the amount of the loss and refund to **you** within 30 days of **our** notice to **you** of the reduction in coverage the pro rata unearned premium as of the time of the loss; or

    b. retain the unearned premium and maintain **your** policy without regard to the loss; or

    c. terminate **your** policy and within 30 days of **our** notice refund to **you** any pro rata unearned premium as of the time of the loss.

17. **Valuation Clause.** For the perils of fire and lightning, **you** and **we** agree that the value of the building described in this policy is, and hereby fix the amount of insurance to be carried on the building as, the amount shown for Coverage A - Dwelling, on the Declarations of this policy. These agreed values are established for insurance purposes only. At any date the building is under construction, the maximum amount of insurance shall be the proportion of the value of the building that the **actual cash value** of the building, on that date, bears to the value of the building when completed.

18. **Loss Deductible Clause.** In case of a loss to a covered item, the

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deductible stated on **your** latest Declarations will be applied per **occurrence**. The deductible will apply separately to each covered item. It will be deducted from the amount of the covered loss. This loss deductible clause shall not apply to the Fire Department Service Charge, Arson Award, Loss Assessment, or Trees, Shrubs and other Plants.

19. Change in Ownership, Renting or Leasing. This policy does not apply if:

    a. there is a change in ownership of the dwelling to any other person or organization;

    b. **you** rent or lease an owner occupied dwelling to a person, other than a child or parent of the named **insured,** unless **you** notify **us** in writing of the change, rental or lease within 30 days.

20. **Report Increased Values. You** agree to notify **us** within 90 days of the start of any building valued at $5,000 or more or any additions to or remodeling of buildings that increases their value by $5,000 or more, and pay any additional premium for the increased value. If **you** fail to notify **us** within 90 days, or pay the additional premium, **we** will not cover any increased values.

B. The following Conditions also apply to this policy.

1. **Policy Period.** This policy applies only to loss which occurs during the policy period.

2. **Concealment or Fraud.** If **you** or any other **insured** under this policy has intentionally concealed or misrepresented any material fact or circumstance, or made false statements or engaged in fraudulent conduct relating to this insurance, whether before or after a loss, then this policy is void as to **you** and any other **insured.**

3. **Liberalization Clause.** If **we** make a change which broadens coverage under this edition of **our** policy without additional premium charge, that change will automatically apply to **your** insurance as of the date **we** implement the change, provided that this implementation date falls within 60 days prior to or during the policy period stated in the Declarations.

   This Liberalization Clause does not apply to changes implemented with a general program revision that includes both broadenings and restrictions in coverage, whether that general program revision is implemented through introduction of:

   a. a subsequent edition of this policy; or

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b. an amendatory endorsement.

4. **Waiver or Change of Policy Provisions.** A waiver or change of a policy provision must be in writing by **us** to be valid. **Our** request for an appraisal or examination will not waive any of **our** rights.

5. **Membership.** Membership in the Farm Bureau Federation is a condition precedent to coverage and that coverage may be canceled or nonrenewed for failure to maintain membership in the Farm Bureau Federation.

6. Cancellation.

   a. **You** may cancel this policy at any time by returning it to us or by notifying **us** in writing of the future date cancellation is to take effect.

   b. When the policy is cancelled, the premium for the period from the date of cancellation to the expiration date will be refunded. When **you** request cancellation, or if **we** cancel, the return premium will be pro rata.

   c. If the premium is not refunded with the notice of cancellation or when this policy is returned to **us, we** will refund it within a reasonable time after the date cancellation takes effect.

   d. **We** may cancel this policy by notifying **you** in writing. This cancellation notice may be delivered to **you**, or mailed to **you** at **your** mailing address shown in the Declarations. Proof of mailing will be sufficient proof of notice. The written notification will be:

      (1) 10 days in advance of the date of cancellation if the reason is for nonpayment of:

         (a) any premium due **us**; or

         (b) annual membership dues to the Farm Bureau Federation;

      (2) 30 days in advance of the date of cancellation for the reasons below:

         (a) misrepresentation, fraud or withholding of material when the policy was obtained or when a claim was submitted;

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(b) substantial change or increased hazard in the risk we originally agreed to insure;

(c) substantial breaches of **your** contractual duties, conditions or warranties;

(d) loss of **our** reinsurance covering a significant portion of **your** policy, or if the continuation of **your** policy would imperil **our** solvency or place **us** in violation of the insurance laws of this state.

(e) any other reason lawfully permitted;

e. Subsection (2) (a) through (d) above do not apply to this policy if it has been in effect for less than 90 days and is not a renewal of a previously existing policy. Policies in effect for less than 90 days may be cancelled for any reason by furnishing 30 days written notice of cancellation, unless the reason is for nonpayment of:

(1) any premium due **us**; or

(2) annual membership dues to the Farm Bureau Federation;

in which case **we** will furnish 10 days written notice.

7. **Nonrenewal. We** may elect not to renew this policy. **We** may do so by delivering to **you**, or mailing to **you** at **your** mailing address shown in the Declarations, written notice at least 30 days before the expiration date of this policy. Proof of mailing will be sufficient proof of notice.

8. **Automatic Termination.** If **we** offer to renew or continue this policy and **you** or **your** representative do not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that **you** have not accepted **our** offer. Then, a new application, subject to underwriting rules and payment of premium, may be required to obtain new coverage.

9. **Assignment**. Assignment of this policy will not be valid unless **we** give **our** written consent.

10. **Subrogation.** If **we** make a payment under this policy and the person to or for whom payment was made has a right to recover damages from another, **we** shall be subrogated to that right. That person shall:

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a. do whatever is necessary to enable **us** to exercise **our** rights; and do nothing after loss to prejudice them;

b. reimburse **us** to the extent of **our** payment if a recovery from another person or party responsible for the loss has been made; and

c. be required to repay **us** if any settlement or judgment duplicates **our** payments.

11. **Death.** If any person named in the Declarations or the spouse, if a resident of the same household, dies:

a. **we** insure the legal representative of the deceased but only with respect to the premises and property of the deceased covered under the policy at the time of death;

b. **insured** includes, with respect to **your** property, the person having proper temporary custody of the property until appointment and qualification of a legal representative.

12. **Payment of Premium.** Checks in payment of **your** premium are accepted subject to collection. If a check is returned to **us** uncollected for any reason, **your** premium is considered unpaid. If the check **you** gave **us** for payment of any premium due is returned unpaid, **we** are entitled to collect a lawful bad check fee. This fee is not considered premium and **your** payment of it does not reinstate the policy or provide any past or future coverage.

13. **Audit and Inspection Clause.** At **our** option, **we** may inspect **your** property and operations at any time. **We** do not assume any liability by exercising **our** right to inspect or audit. By **our** making an inspection or audit, **we** make no representation that **your** property or operations are safe, not harmful to health, or comply with any law, rule or regulation.

14. **Grace Period.** This grace period applies only to the premium due at the renewal inception date and does not apply to any subsequent payments due on your part of any installment or premium finance plan, nor any additional premium due to a policy change after renewal. If **your** premium due for renewal (including unpaid membership fees) is received by **the Company** within 15 days, exclusive of the due date, **your** policy will provide continuous protection without a lapse in coverage.

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15. **Fair Credit Reporting Act Statement.** At **our** option, **we** may conduct a credit investigation or obtain credit information on **you,** any **insured** or future **insured,** under this policy. This report will be used for underwriting purposes to determine if an offer of coverage will be made; if coverage may continue; or to determine rates, terms, or any other condition.

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MUTUAL POLICY CONDITIONS

Applies only to South Carolina Farm Bureau Mutual Insurance Company

This policy is issued by a mutual company having special regulations lawfully applicable to its organizations, membership, policies or contracts of insurance, of which the following shall apply to and form a part of this policy:

By virtue of this policy, the policyholder is a member of the Company. Each member shall be entitled to cast only one vote at all meetings of the Company. This vote may be in person or by proxy.

This insured is hereby notified that maintaining membership in the Farm Bureau Federation is a condition precedent to insurance coverage under this policy.

The policyholder shall participate in the return of unused premiums (dividends) to the extent and on the conditions determined, fixed and declared by the Board of Directors in accordance with the law.

This policy is Nonassessable. The holder of this policy is not subject to any contingent liability, nor liable to assessment.

The policyholder is hereby notified that by virtue of this policy he is a member of the South Carolina Farm Bureau Mutual Insurance Company and that the bylaws of the Company fix the annual meeting at 12:00 o'clock Noon on the last Thursday in October of each year at the Company's Home Office.

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

David M Wibles Jr

President

Clinton W. Sease

Secretary

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PARTICIPATING CONDITIONS

For Policies Issued in Palmetto Casualty Insurance Company Only.

While this policy is in force, the named insured is entitled to share in the distributable net earnings and savings of this **Company** in accordance with the dividends declared by the Board of Directors on this and like policies.

IN WITNESS WHEREOF, this **Company** has caused this policy to be signed by its President and Secretary and countersigned on the **Declarations** page by a duly authorized representative of this **Company**.

President

Secretary

PARTICIPATING CONDITIONS

For Policies Issued in Southern Farm Bureau Casualty Insurance Company Only.

While this policy is in force, the named insured is entitled to share in the distributable net earnings and savings of this **Company** in accordance with the dividends declared by the Board of Directors on this and like policies.

IN WITNESS WHEREOF, this **Company** has caused this policy to be signed by its President and Secretary and countersigned on the **Declarations** page by a duly authorized representative of this **Company**.

President -CEO

Secretary

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF WILLIAMSBURG	)	Case No: 2014CP4500132
South Carolina Farm Bureau Mutual Insurance Company,	)	
Plaintiff,	)	
vs.	)	**NOTICE OF MOTION & MOTION TO ALTER/AMEND/RECONSIDER AND/OR TO CLARIFY**
Marion L. Driggers, Shiralee Driggers, Tammy D. Floyd, Arthur McKenzie, a/k/a Auther McKenzie, The Travelers Home and Marine Insurance Company, The United States of America acting by and through its agency, The Internal Revenue Service and The South Carolina Tax Commission,	)	
Defendants.	)	

TO: THE PARTIES AND COUNSEL OF RECORD:

YOU WILL PLEASE TAKE NOTICE the undersigned counsel moves the Court to alter or amend its "**Order Allowing Funds To Be Deposited With The Court Pursuant To Rule 22(b), SCRCP"** (dated, filed and received January 5, 2021; hereinafter referred to as "the Order") and/or in the alternative that the Court grant Plaintiffs relief from "the Order", and/or that the Court reconsider "the Order" and/or that the Court clarify the Order, all within the meaning of the SC Rules of Civil Procedure, including Rules 59 and 60, and within the meaning of the statutes and common law of the state of South Carolina.

The grounds for this Motion are as follows:

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1. The Order errs in providing that the remaining coverage of $115,140.40 suffices to cover some or all of the claims asserted by some or all of the other Defendants. This errs in failing to consider the pending claims against Travelers by the Plaintiff. These include direct claims against Travelers for: (1) Application of the Pro Rata Statute; (2) Equitable Indemnity and (3) Attorney Fees and Costs.

2. In holding that upon Traveler's deposit of the funds that Traveler's would be discharged of liability as to such claims, with the claimants to assert their claims against the fund. This errs in: (1) discharging Traveler's from liability; (2) discharging Traveler's from liability to Farm Bureau; (3) operating as a grant of Summary Judgment to Traveler's as to Farm Bureau's claims against Traveler's without affording Farm Bureau due process or evaluating the pro rata statute factors and findings, the attorney fees and costs incurred by Farm Bureau or weighing the equities in the matter; and (4) in relieving Traveler's from liability to others, including Farm Bureau, prior to the completion of discovery.

3. If the Order does not discharge Traveler's from liability to Farm Bureau, then the undersigned seeks an Order clarifying and so stating.

4. If the Order does discharge Traveler's from liability to Farm Bureau, then the undersigned seeks an Order clarify, so stating, and providing Findings of Fact and Conclusions of Law addressing the specifics of the balancing of equities, the pro rata statute and attorney fees and costs.

This Motion is based upon the record in this cause and upon such further and additional arguments, affidavits, material or memoranda as may be hereafter submitted, and upon South Carolina law, common law, statutes and rules.

I SO MOVE:

s/ J. Dwight Hudson, Esq.
J. Dwight Hudson, Esquire
SC Bar # 2753
Hudson Law Offices
PO Box 70218
Myrtle Beach, SC 29572
(843) 692-9889

Attorney For: Plaintiff

Dated: January 14, 2021

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF WILLIAMSBURG	)	C/A NO.: 2014-CP-45-00132
	)	
South Carolina Farm Bureau Ins. Co.,	)	
	)	
Plaintiff,	)	
	)	**THE TRAVELERS HOME AND MARINE INSURANCE COMPANY'S RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION TO ALTER / AMEND / RECONSIDER AND/OR CLARIFY**
vs.	)	
	)	
Marion L. Driggers, Shiralee Driggers, Tammy D. Floyd, Arthur McKenzie, a/k/a Arther McKenzie, The Travelers Home and Marine Insurance Company, The United States of America acting by and through its agency, The Internal Revenue Service and The South Carolina Tax Commission	)	
	)	
Defendant.	)	

Defendant The Travelers Home and Marine Insurance Company ("Travelers") respectfully submits this Response to Plaintiff South Carolina Farm Bureau Insurance Company's ("Farm Bureau") motion to alter, amend, reconsider, and/or clarify brought pursuant to Rules 59 and 60, SCRCP, and requests that the motion be denied.

PROCEDURAL HISTORY

This Court heard several pending motions at a hearing on September 17, 2020, including Travelers's Motion for an Order Allowing Funds to be Deposited with the Court pursuant to Rule 22(b) SCRCP. This Court granted the Motion and filed an Order on January 5, 2021.

On January 14, 2012, Farm Bureau filed a Notice of Motion and Motion to Alter/Amend/Reconsider and/or Clarify this Court's Order granting Travelers's Motion. Farm Bureau's Motion seeks clarification regarding the discharge of any and all liability as to Travelers, including direct claims made by Farm Bureau against Travelers.

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APPLICABLE LAW

"The purpose of Rule 59(e), SCRCP, to alter or amend the judgment is to request the trial judge to 'reconsider matters properly encompassed in a decision on the merits.'" *Arnold v. State*, 309 S.C. 157, 172–73, 420 S.E.2d 834, 842 (1992) (quoting *Budinich v. Becton Dickinson and Co.*, 486 U.S. 196, 200, 108 S. Ct. 1717, 1720, 100 L.Ed.2d 178, 184 (1988)). Specifically, "[a] party may wish to file such a motion when []he believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it." *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004).

ARGUMENT

As an initial matter, Farm Bureau should have raised its objections at its earliest opportunity at the hearing and not during a motion to alter or amend an Order after the hearing. [1]

[1] At 4:55 p.m. on November 19, 2020, the Court sent the following email:

> At the hearing on the parties' respective outstanding motions, my notes indicate that I granted Travelers' motion for interpleader **with the consent of all of the parties** . . . Mr. Davis drafted a proposed order to that effect shortly after the hearing which was forwarded to the court and to all of the parties. Mr. Hudson, on behalf of the Plaintiff South Carolina Farm Bureau, objected to language in the proposed order which states Travelers was absolved of any further liability in the case. The main purpose of a motion for interpleader is of course to allow the party to pay the funds into court and then to have no further involvement in the case. SCFB argues that it is not proper to dismiss Travelers from the case until the court has determined the amount of the loss, determined the respective property interests of the parties, and has apportioned the insurance proceeds pursuant to S.C. Code Ann. § 38-75-20.
>
> By my calculations, the total amount of coverage on the house was $405,000. ($287,000 from the Travelers policy and $118,000 from the SCFB policy). SCFB's coverage is therefore approximately 29.14% of the total coverage and Travelers' coverage is approximately 70.86% of the total coverage. Defendants have alleged actual damages in the amount of $129,800.00. [amended complaint at para. 93] I have no idea what the value of the home was at the time of the loss, except to note that the contract of sale from Tammy Floyd recited consideration of $80,000 for the home and the land, and of course, SCFB insured the property for $118,000. Using my rough math and estimation, it seems clear that Traveler's obligation to cover 70.86% of the loss pursuant to S.C. Code § 38-75-20 would be covered by the deposit of $115,140.00 with the court under even a generous estimation of the value of the home. It's therefore my intention to sign the proposed order as submitted by Mr. Davis.

See Exhibit A; *See also* Exhibit B – Transcript of relevant portions of hearing on September 17,

See Hickman v. Hickman, 301 S.C. 455, 456–57, 392 S.E.2d 481, 482 (Ct. App. 1990) ("A party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not. *See Natural Resources Defense Council v. U.S. E.P.A.*, 705 F.Supp. 698, 701 (D.D.C.1989), *vacated on other grounds*, 707 F.Supp. 3 (D.D.C.1989) ('Rule 59(e) motions are not vehicles for bringing before the court theories or arguments that were not advanced earlier.'); *Smith v. Stoner*, 594 F.Supp. 1091, 1118 (N.D.Ind.1984) ('Issues which could have been presented to the court for consideration previously, but which were not, are not the proper subject of Rule 59(e) relief; the issues are waived.'); *Johnson v. City of Richmond*, 102 F.R.D. 623, 623 (E.D.Va.1984) ('I do not conceive of Fed.R.Civ.P. 59(e) as serving the office of providing a disappointed suitor with a post-judgment opportunity to argue that which could have been argued pre-judgment.'").

Moreover, this Court's rulings on these issues were correct, the relevant issues having been considered beforehand. A party potentially exposed to double or multiple liability may obtain interpleader by way of cross-claim or counterclaim. Rule 22(a), SCRCP. Upon depositing the amount claimed with the court, the party seeking interpleader may be discharged from liability as to such claims, pursuant to Rule 22(b), SCRCP. The primary purpose of interpleader is to allow a neutral stakeholder, usually a bank or an insurance company, to shield itself from liability for paying over the stake to the wrong party by bringing a single action in which all claimants are forced to litigate their claims to the stake. *First Union Nat. Bank of South Carolina v. FCVS Communications*, 321 S.C. 496, 499, 469 S.E.2d 613, 616 (Ct. App. 1996). Interpleader provisions are to be liberally construed so as to best effectuate their purposes. *Id*.

In *First Union*, four partners disputed the distribution of the balance of the assets of their partnership which had recently ceased doing business. *Id*. at 498. The bank holding the assets

2020.

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initiated an interpleader action regarding the assets and was dismissed from the action after depositing the funds with the court. *Id*. The partnership appealed both the lower court's grant of the interpleader action and the dismissal of the bank. *Id*. The partnership claimed that the bank should not have been dismissed from the action because the partnership had filed counterclaims against the bank, alleging it had wrongfully refused to follow instructions regarding the funds. *Id*.

The Court of Appeals upheld the lower court's grant of the interpleader, but held that the bank should not have been dismissed from the action as the partnership had counterclaims against it not predicated on its capacity as a stakeholder. *Id*. at 502. The Court of Appeals' decision was reversed by the South Carolina Supreme Court. *First Union Nat. Bank of South Carolina v. FCVS Communications*, 328 S.C. 290, 494 S.E.2d 429 (1997). The Court held that the bank should have been dismissed entirely. In so doing, the Court stated, "[i]n granting interpleader under Rule 22(a), SCRCP, however, the trial judge necessarily found Bank was entitled to protection from the conflicting claims of the majority and minority partners. Accordingly, under Rule 22(b), SCRCP, Bank was entitled to be 'discharged from liability as to such claims.'" *Id*. at 292.[2]

In the case at bar, Farm Bureau seeks a declaratory judgment and asserts a claim for

[2] While cases on South Carolina interpleader law are sparse, the Court of Appeals stated in *First Union*, "Rule 22(a), SCRCP, is substantially the same as its counterpart in the Federal Rules of Civil Procedure; therefore, in the absence of prior state law on the issue in question, federal cases interpreting the rule are persuasive." *First Union*, 321 S.C. at 499. One such case is *Phoenix Ins. Co. v. Small.* After a fire began in its insured's condominium, Liberty Mutual deposited its $300,000 policy limits with the court in an interpleader action for equitable subrogation amongst the insurance companies of other residents whose condominiums were damaged in the fire. *Phoenix Ins. Co. v. Small*, 307 F.R.D. 426, 429 (E.D.Penn. 2015). Allstate, one of the insurance companies entitled to an equitable share of the funds, also claimed that they were owed interest, costs incident to suit and attorney's fees and objected to Liberty Mutual's dismissal from action, demanding that it not be restricted from pursuing the balance of its full recovery. *Id*. at 435. The court held that Liberty Mutual should be dismissed from the suit despite Allstate's claims against it. *Id*. The court stated that Liberty Mutual's interest in the case is confined to the $300,000 limits of its insured's policy and does not change because of Allstate's claims for fees and costs. *Id*. "Allowing this interpleader action to proceed without Liberty Mutual does not harm Allstate or any other parties seeking relief beyond their equitable share of the deposited res." *Id*.

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equitable indemnity against Travelers. According to the Complaint, Travelers faced multiple claims, triggering the possibility of interpleader under Rule 22. Moreover, this Court has granted Travelers's motion for summary judgment as to the cross claims of Mr. and Mrs. Driggers and Tammy Floyd, which included allegations of delayed claim investigation and bad faith. Extra-contractual damages are no longer at issue against Travelers, and Travelers's potential liability is limited by its policy's limits.

Travelers investigated its insured's claims for both dwelling and contents. Travelers ultimately paid a compromised amount of $132,006.91 for the dwelling. Travelers has been the only entity to pay money in relation to the damages sustained to the building at issue. In fact, as this Court is aware based on the email it sent on November 19, 2020, attached hereto as Exhibit A, based on Farm Bureau's pro rata argument and Travelers's dwelling estimate, Travelers's interpleader amount is more than enough, and Farm Bureau has yet to pay its share.

Ultimately, it does not matter whether Travelers remains in the action or is dismissed. Farm Bureau's recovery is limited to the amount this Court determines that it is entitled to from the stake deposited by Travelers, if it can even successfully argue that it is owed anything from Travelers, considering it has paid nothing for the damages at issue. Farm Bureau's claims against Travelers are not independent from the funds at stake.

Stated another way, Farm Bureau argues that its pro rata declaration request and equitable indemnity assertions (if even viable[3]) have been destroyed by this Court's discharge of

[3] There is no special relationship between Travelers and Farm Bureau, and Farm Bureau is at least partly at fault for any damages allegedly sustained by its own insureds, Defendants Marion L. Driggers, Shiralee Driggers, and/or Tammy D. Floyd. See Fountain v. Fred's, Inc., 429 S.C. 533, 545, 839 S.E.2d 475, 481–82 (Ct. App. 2020), reh'g denied (Mar. 30, 2020), stating:

> "Equitable indemnity ... 'is based upon the specific relation of the indemnitee to the indemnitor in dealing with a third party.' Our courts "have allowed equitable indemnity in cases of imputed fault or where some special relationship exists between the first and second parties." In Stuck v. Pioneer Logging Machinery, Inc., our supreme court discussed the existence of a special relationship

Travelers's liability in its Order granting Travelers's interpleader request. This is not the case. Travelers seeks to pay a significant amount of money in to the Court against which Farm Bureau and the remaining parties may assert their claims. All the remaining parties claim to be the beneficiaries of all or some portion of the funds that Travelers seeks to deposit with the Court. Travelers is facing multiple liability based on the remaining claims, and the funds sought to be deposited with the Court are sufficient to cover all such claims. There is no reason for Travelers to remain in the action, and it was correctly dismissed pursuant to Rule 22, SCRCP.

CONCLUSION

Based on the above, Travelers therefore respectfully requests that Farm Bureau's Motion be denied.

s/William P. Davis
William P. Davis SC Bar No.: 1585
Mariel D. Norton SC Bar No.: 100198
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wdavis@brblegal.com; mnorton@brblegal.com
Our File: 7746.1749
Attorneys for Cross-Defendant The Travelers Home and Marine Insurance Company

February 17, 2021

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stating, "a right of indemnity exists whenever the relation between the parties is such that either in law or in equity there is an obligation on one party to indemnify the other ...." However, our courts have specified that "there must be some kind of relationship between the parties beyond the relationship established by virtue of one party alleging that he was sued because of another party's wrongdoing."

Travelers hereby incorporates its arguments made in conjunction with its Motion for Summary Judgment as to the Third Cause of Action for Equitable Indemnity of Plaintiff, filed April 11, 2019.

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From: Norton, Mariel
To: Norton, Mariel
Subject: FW: SC Farm Bureau v. Driggers et al., 2014-CP-45-00132
Date: Monday, February 15, 2021 3:05:27 PM

Mariel D. Norton
Baker, Ravenel, & Bender LLP
mnorton@brblegal.com

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From: Curtis, Kristi F. Law Clerk (Andrew Sippel) <kcurtislc@sccourts.org>
Sent: Monday, November 23, 2020 9:46 AM
To: Davis, William P. <WDavis@brblegal.com>; 'mgraham hudsonlawoffice.com' <mgraham@hudsonlawoffice.com>; Edward Pritchard <epritchard@pritchardlawgroup.com>; Daryl Corbin <dcorbin@corbinlawsc.com>
Cc: Marion Driggers <mldriggers@yahoo.com>; Jill Corbin <jcorbin@corbinlawsc.com>; Hunter Adams <hadams@brblegal.com>; Rosa Raspaldo <rraspaldo@pritchardlawgroup.com>; Greyson Land <wgland@pritchardlawgroup.com>
Subject: FW: SC Farm Bureau v. Driggers et al., 2014-CP-45-00132

Good Morning all,

Below is Judge Curtis' rulings with regard to the motions we previously heard and took under advisement.

Best regards,
Andrew Sippel
Law Clerk to the Honorable Kristi F. Curtis
The Circuit Court of South Carolina
Third Judicial Circuit
215 North Harvin Street
Sumter, SC 29150
Office: (803) 774-6160

From: Curtis, Kristi F. <kcurtisj@sccourts.org>

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Sent: Thursday, November 19, 2020 4:55 PM
To: Curtis, Kristi F. Law Clerk (Andrew Sippel) <kcurtislc@sccourts.org>
Subject: SC Farm Bureau v. Driggers et al., 2014-CP-45-00132

Dear all:

Travelers' Motion for Summary Judgment as to the cross-claims of defendants Marion Driggers, Shiralee Driggers, and Tammy Floyd is GRANTED. I find that these Defendants were not insureds under the Travelers policy and do not have standing to pursue causes of action for bad faith, breach of contract, or civil conspiracy. Mr. Davis, will you please draft a proposed order consistent with your Memorandum in Support of your motion?

At the hearing on the parties' respective outstanding motions, my notes indicate that I granted Travelers' motion for interpleader **with the consent of all of the parties**. As Mr. Davis indicated at the hearing, Travelers settled with its' insured Arthur McKenzie for $232,073.45. Travelers paid out $116,933.05 to Mr. McKenzie for attorney fees and costs, leaving a balance of the settlement funds in the amount of $115,140.40. Mr. Davis drafted a proposed order to that effect shortly after the hearing which was forwarded to the court and to all of the parties. Mr. Hudson, on behalf of the Plaintiff South Carolina Farm Bureau, objected to language in the proposed order which states Travelers was absolved of any further liability in the case. The main purpose of a motion for interpleader is of course to allow the party to pay the funds into court and then to have no further involvement in the case. SCFB argues that it is not proper to dismiss Travelers from the case until the court has determined the amount of the loss, determined the respective property interests of the parties, and has apportioned the insurance proceeds pursuant to S.C. Code Ann. § 38-75-20.

By my calculations, the total amount of coverage on the house was $405,000. ($287,000 from the Travelers policy and $118,000 from the SCFB policy). SCFB's coverage is therefore approximately 29.14% of the total coverage and Travelers' coverage is approximately 70.86% of the total coverage. Defendants have alleged actual damages in the amount of $129,800.00. [amended complaint at para. 93] I have no idea what the value of the home was at the time of the loss, except to note that the contract of sale from Tammy Floyd recited consideration of $80,000 for the home and the land, and of course, SCFB insured the property for $118,000. Using my rough math and estimation, it seems clear that Traveler's obligation to cover 70.86% of the loss pursuant to S.C. Code § 38-75-20 would be covered by the deposit of $115,140.00 with the court under even a generous estimation of the value of the home. It's therefore my intention to sign the proposed order as submitted by Mr. Davis.

Sincerely,
Kristi Curtis

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF WILLIAMSBURG) 2014-CP-45-00132

South Carolina Farm Bureau Mutual Insurance Company,	)	
Plaintiff,	)	**Transcript of Record**
vs.	)	
	)	SEPTEMBER 17, 2020
Marion L. Driggers, Shiralee Driggers, Tammy D. Floyd, Arthur McKenzie a/k/a Arther McKenzie, The Travelers Home And Marine Insurance Company, The United States of America Acting by and through its Agency The Internal Revenue Service, and the South Carolina Tax Commission,	)	*TRAVELERS INSURANCE MOTIONS*
Defendants.	)	

B E F O R E:

Honorable Kristi F. Curtis
Williamsburg County Courthouse
Kingstree, South Carolina

A P P E A R A N C E S:

John D. Hudson, Sr., Esquire
Attorney for Plaintiff

Marion L. Driggers
Pro Se Defendant

Edward K. Pritchard, III, Esquire
Attorney for Defendants Shiralee Driggers and Tammy Floyd

Daryl J. Corbin, Esquire
Attorney for Defendant Arthur McKenzie

William P. Davis, Esquire
Attorney for Defendant The Travelers Home and Marine Insurance Company

Sallie Beth Todd
Circuit Court Reporter

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
(THERE WERE NO WITNESSES CALLED DURING THIS HEARING.)				

COURT'S RULING - PAGE 12

Certificate of Court Reporter 14

E X H I B I T S

NO.	DESCRIPTION	ID	EV	PAGE
(THERE WERE NO EXHIBITS MARKED DURING THIS HEARING.)				

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THE COURT: Okay. I know we have a number of motions to hear this morning. It doesn't really matter to me what particular order we go in. But why don't we hear from Travelers first as to your motions.

MR. DAVIS: Thank you, Your Honor. Your Honor, I'm afraid I didn't ask this; is it okay if I leave my mask off?

THE COURT: I am -- if y'all are sitting next to each other as long as one of you have a mask on that's perfectly fine. When you're addressing the Court if you -- you can try it with the mask on, if you need to take your mask off while you're addressing me, that is fine. If you need to -- I'm fine also, Mr. Davis, if you want to move up here just so you can distance yourself a little more. That is perfectly fine as well.

MR. DAVIS: Thank you, Your Honor. I think probably our involvement is the least of all of the motions, the least complicated. We -- my client, Travelers, insured the subject property in the name of the decedent, Mr. McKenzie.

THE COURT: Now let me make sure, Mr. Driggers, can you hear okay?

MR. DRIGGERS: I can't hear him.

THE COURT: And I don't know if it will help at all, what about if we move Mr. Driggers over here so you're a little closer? Let's try that.

MR. DAVIS: Okay. Is this better? I was saying that my

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client Travelers insured the property that burned. They had issued a policy to the late Mr. McKenzie. And we adjusted and paid the loss pursuant to an agreement with his counsel obviously before his death. We did so pursuant to an agreement in light of the outstanding liens and I've got these figures here. But if I may consult with Mr. Corbin here just one second.

Your Honor, we settled with Mr. Corbin and his client Mr. McKenzie after determining that the amount of the loss was $232,073.45 from which we deducted -- of which we paid $116,933.05 to Mr. McKenzie and Mr. Corbin, I mean Mr. Corbin and Mr. McKenzie for attorney fees and expenses. That leaves $115,140.40 that we owe to somebody and we recognize that there are a lot of people asserting claims. So we filed a motion to pay those funds into court. And it's been a long time, but I'm pretty sure that that motion was heard by Judge James shortly before his ascension to the Supreme Court. So he never had the opportunity to rule on it. So we have argued that. I don't know, I guess we'll hear from the others. I don't know that there's any real dispute. What we'd like to do is just pay the money into the court and then let the others who want to assert claims against it do so.

THE COURT: Okay. I know that you had some motions, you had an additional motion for summary judgment as to Farm Bureau's cause of action for equitable indemnity and also as

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to the crossclaims of Shiralee Driggers and Tammy Floyd.

MR. DAVIS: Thank you for reminding me of that Your Honor. I'll start with the crossclaims first, if I may. I actually was thinking that I was responding to their motions on that, but the Court's right. I believe I did file those motions.

First of all with regard to Mr. Driggers crossclaim, he's crossclaimed for bad faith and a number of other, I think breach of contract. I think those arguments can be disposed of easily in that we have no contract with him. He's not insured under a policy, not listed as a lienholder. He has nothing to do with our contract.

Secondly, whatever claim that he wishes to assert if our motion to deposit the funds that are available into the court is granted, then he like anyone else who wishes to assert claims can do so against that fund. So I mean basically our position is that we have done what we're supposed to do. We've paid our insured. We recognize that there's a dispute over the remainder of the coverage. We just want to pay it into the court and get out.

As far as Farm Bureau's claim is concerned, we obviously disagree that they were entitled to equitable indemnity. We have no relationship with Farm Bureau. Farm Bureau -- in fact we didn't even insure the same insured. Farm Bureau has it's own policy with its own insured completely separate from ours.

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And so essentially, it's -- I guess what I'm arguing is that how we work this out with our own insured is not their concern. To the extent that they feel that it is their concern, they're in the same boat with Mr. Driggers in that they can assert a claim -- assuming that our motion to pay the funds into the court is granted, they can assert a claim against that as well. So bottom line is that -- our position is that we've done our duty, we did what we were supposed to do. A claim was asserted, we paid our insured. Mr. Driggers is not a loss payee on the policy. We have no duties to him at all. And all we want to do is pay our money into the court and get out.

THE COURT: And I assume your argument as to the crossclaims of Mr. Driggers is the same argument as to the crossclaims of Ms. Driggers and Ms. Floyd.

MR. DAVIS: Yes, ma'am.

THE COURT: Okay.

MR. DAVIS: Thank you.

THE COURT: Thank you. Let me figure out who all of my parties are again. Mr. Pritchard.

MR. PRITCHARD: I'll let Mr. Driggers go first.

THE COURT: Okay. Mr. Driggers, I'm glad to hear from you, sir. First of all as to Travelers motion to pay the funds into court. Tell me what your position is with respect to that.

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MR. DRIGGERS: Your Honor, he has denied owing me anything as he did right there as a mortgager, or a mortgagee. He's well aware that we've been mortgagee since 1996 because of the contract and also the Judge's order. And I have a paper right here that slipped through the cracks that they never sent us any kind of discovery or anything. But it tells about this -- I asked him to bring Ms. Tina Kennedy, his investigator and Ted Alexander, I guess the agent that handled it. But she has got this letter here, you should have it and they should have it, and it states that I also asked P.D., whoever that is, about the mortgage with Shiralee Driggers. He said it has been taken care of; it hasn't. It never had in 11 years; this has been 11 years. And this is the paper I sent it in with the paperwork that you required or asked for. So they have denied since the beginning a mortgagee a right that is stated in a contract, it's also stated in a Judge's order. So Mr. Davis is actually trying to override the Judge's order.

THE COURT: And how about -- let me hear from you as to their motion to -- for summary judgment on your crossclaim.

MR. DRIGGERS: On the what now?

THE COURT: Do you want to tell me what your position is with respect to their motion for summary judgment on your crossclaim against Travelers?

MR. DRIGGERS: Yes. I was asking punitive damages and

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all for holding this case up as long as it has been. They just denied access and I held up on it for three years on my own. I had a Farm Bureau policy we wrote because the guy was not dependable that had the contract and they were well aware of it that I was holding up until -- Farm Bureau was well aware of it also, until I see if Travelers is going to pay because Travelers is the one that should have to pay. I agree with Mr. Hudson on that.

THE COURT: So you're -- are you objecting to them paying this money into court?

MR. DRIGGERS: Am I objecting to what?

THE COURT: To their motion to pay the money into court?

MR. DRIGGERS: Yeah. The money from 2009 is not the same as money in 2020. I mean you know you can drag somebody's money out -- they should have paid us. It wasn't but a very small amount like $97,000 that they could have paid way back in 2009. They were notified in 2000 -- this date is 1-2 of 2010. Mr. Davis has denied ever -- ever owing us anything. He knows about the contract; he knows about the Judge's order. I've got copies if he needs to read it.

THE COURT: Okay. Thank you. All right. Mr. Pritchard.

MR. PRITCHARD: As I understand Travelers motion at least as regarding the court, is essentially an interpleader action; is that correct? I mean and we all get a right to make a claim on the fund. I see no reason not to let them do it. I

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mean the money is there, if it's ours we've got a right to go get it, but there's no reason for them to hang out. Let it start earning interest.

THE COURT: Okay. Do you want to speak to his motion for summary judgment as to the crossclaim for bad faith?

MR. PRITCHARD: You know candidly our bad faith claim is really against Farm Bureau. I think Mr. Davis is probably correct on the bad faith argument in that they didn't issue us a policy per se, and we weren't a loss payee. But we certainly claim we're entitled to the funds. I mean but I do think in terms of bad faith it's often difficult to put up evidence to support that.

MR. DRIGGERS: May I say something else, Judge?

THE COURT: Sure.

MR. DRIGGERS: I don't understand why Mr. Davis would pay Mr. Corbin and they're opposing attorneys. Mr. Corbin represented Mr. McKenzie. Why would they pay his -- to his lawyer the law fees? I don't understand that.

THE COURT: Well because Travelers has settled with their insured, I guess is what he's saying at this point. But your concern is noted for the record, sir.

MR. DRIGGERS: Okay.

THE COURT: And, Mr. Hudson, I don't know that you have a dog in that fight, but anything you want to say, sir, with respect to Travelers motions?

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MR. HUDSON: Nothing, Your Honor, other than I think we plead that just because everybody except Farm Bureau from the beginning seemed to have knowledge of this situation and adjusted -- Travelers then adjusted the claim by having Farm Bureau notified or a claim filed I should say, to where it could protect its own interest. That filters over into our other arguments, otherwise it seems like Travelers would have had a duty to let us know what was going on. Now here again, no depositions have -- extensive depositions need to be taken. We don't know when Travelers really had notice, exactly what happened and why nobody deemed it necessary to contact Farm Bureau. And it might have been that nobody let them know, but we haven't fully explored that. So that's the reason that we brought that action of equitable indemnity. We agree that we shouldn't have to be bringing this declaratory judgment action to find out things that we should have found out right after the filing. So we were not notified until -- and that was by Mr. Driggers for a claim made, until about three years later, 30 days before the statute of limitations would have run. (inaudible) nobody ever discussed it. But they affirmatively -- the Driggers, and we've got three of them; we've got husband, wife, and the daughter. They affirmatively, the evidence we have so far, is they affirmatively took Farm Bureau's sales agent, not a claims person or anything, that they didn't intent -- didn't want to make the claim on their

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policy because of various reasons, but that they were going to collect from the other company. At that time we didn't know who it was, it was Travelers. So we would think that we at least have an argument that needs to be more fully explored in discovery if this matter moves forward. There are a number of depositions that do need to be taken just to put all of the pieces of the puzzle together.

THE COURT: Okay. Tell me whose depositions still need to be taken and why we still haven't taken their depositions some six years later? I saw there was a scheduling order that had a trial not before some date in 2016.

MR. HUDSON: We had tried -- can you hear me okay, Your Honor? Do I need to step up here?

THE COURT: I can hear you.

MR. HUDSON: Okay. We have tried. It's not because we haven't tried to take depositions and there were discovery issues that remained outstanding that -- that when Judge James, now Justice James went off to the Supreme Court the ruling weren't made, and we were trying to get the rulings before the depositions were taken. But I think it's been pretty well unanimous that once the discovery issues are solved then we can move forward with depositions to complete. We tried depositions but for various reasons unusual things happened and they just weren't completed at all. So the key people i.e. Ms. Driggers has not been -- it was started but it

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wasn't completed. Mr. Driggers has not been deposed and their daughter Ms. Floyd has not been deposed. For those discovery -- lack of discovery reasons I would say, and in addition to the other folks because of the discovery motions that are out there, Farm Bureau folks, Travelers folks. We've just kind of been at a standstill.

THE COURT: Thank you.

MR. HUDSON: So I think the initial question was Travelers -- it would be because we think Travelers at least in this unusual factual situation would have had some duty of the pro rata approach as to coverages or whatever to at least contact us and let us know what was taking place.

THE COURT: Okay. Thank you.

MR. HUDSON: Thank you.

THE COURT: Mr. Corbin, do you want to address the Court about any of that?

MR. CORBIN: No, ma'am.

REPORTER'S NOTE: (THE HEARING CONTINUED WITH OTHER MOTIONS BEING HEARD. THESE WERE NOT REQUESTED TO BE TRANSCRIBED.)

****

REPORTER'S NOTE: (BELOW IS THE COURT'S RULING REGARDING TRAVELERS MOTIONS.)

THE COURT: Okay. As to Travelers motions, the motion basically for interpleader to pay the funds into court is

granted basically with the consent of parties.

The motion for summary judgment as to the crossclaims and the motion for summary judgment as to South Carolina Farm Bureau's equitable indemnity claim I'm going to take under advisement and look at that carefully.

REPORTER'S NOTE: (COURT'S RULING ON OTHER MOTIONS CONTINUED. THESE WERE NOT REQUESTED TO BE TRANSCRIBED.)

****(END OF REQUESTED PORTION.)****

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C E R T I F I C A T E

I, the undersigned, Sallie Beth Todd, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of the Transcript of Record of the hearing held in the interest of South Carolina Farm Bureau Mutual Insurance Company, et al versus Marion L. Driggers, et al in the Court of Common Pleas for Williamsburg County, Williamsburg County Courthouse, Kingstree, South Carolina, on September 17, 2020.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.

Sallie Beth Todd, CVR
Official Reporter

February 15, 2021.

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF WILLIAMSBURG	)	Case No: 2014-CP-45- 132

South Carolina Farm Bureau Mutual Insurance Company, Plaintiff, vs. Marion L. Driggers, Shiralee Driggers, Tammy D. Floyd, Arthur McKenzie, a/k/a Auther McKenzie, The Travelers Home and Marine Insurance Company, The United States of America acting by and through its agency, The Internal Revenue Service and The South Carolina Tax Commission, Defendants.	)	*Motion To Alter, Amend, Reconsider*

TO: DEFENDANTS AND THEIR COUNSEL OF RECORD:

YOU WILL PLEASE TAKE NOTICE that the undersigned counsel moves the Court to alter or its **Order** dated and filed March 30, 2021, (Hereinafter referred to as "the Order") and/or in the alternative that the Court grant the Plaintiff relief from "the Order", and/or that the Court reconsider "the Order", all within the meaning of the SC Rules of Civil Procedure, including Rules 59 and 60, and within the meaning of the statutes and common law of the state of South Carolina. The grounds for this Motion are that the Complaint states facts sufficient to state a valid cause of action; that there are genuine issues of material fact and that that Defendant Travelers is not entitled to Judgment as a matter of law. Further grounds for this Motion are as follows:

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1. **The Court's Order erred in holding that Farm Bureau had presented no deposition testimony, affidavit or otherwise to establish that Mr. Driggers made a claim under the Travelers policy, that Travelers knew of Driggers' interest in the property or that Travelers knew of Farm Bureau's interest.**

Summary Judgement is improper if discovery has not been completed. This holding includes a footnote that the lawsuit has been ongoing since 2014, but fails to note that during this action there has been changes in parties due to the death of McKenzie, and changes in counsel or the representation status, due to Mrs. Driggers and Ms. Floyd being represented by Attorney Pritchard while Mr. Driggers is now *pro se.* It fails to note or consider Mr. Driggers ongoing issues and conflict allegations as to Mr. Corbin's representation of McKenzie, or that those issues caused the previously attempted depositions of Mr/Mrs Driggers and Ms. Floyd to end with the deponents leaving. The finding further fails to note or consider that depositions, including that of Travelers, are being attempted and have been attempted, but there are issues with this scheduling as Mr. Driggers contends that he will not be deposed because he is *pro se* and acting as his own lawyer, so he refuses to be deposed unless all lawyers are deposed. Further, the finding fails to consider Mr. Driggers pleadings and motions, which are of record, and all claim that he did, in fact, make a claim under the Travelers policy based on the contractual obligation of Travelers named insured, McKenzie, to insure Driggers' interest in the property. By failing to honor this contractual obligation, Travelers exposed its insured to personal liability to Driggers.

Summary Judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery. *BPS, Inc. v. Worthy, 362 S.C. 319 (S.C. Ct. App. 2005), citing Doe v. Batson, 345 S.C. 316, 548 S.E.2d 854 (2001); Baughman v. American Tel. Tel. Co., 306*

S.C. 101, 410 S.E.2d 537 (1991); see also Schmidt v. Courtney, 357 S.C. 310, 319, 592 S.E.2d 326, 331 (Ct.App. 2003).

Given the complex facts of this case, the previously attempted depositions, Mr. Driggers pleadings confirming his prior claim as to the Travelers policy, the ongoing attempts to set depositions, and Mr. Driggers refusing to be deposed unless all lawyers are deposed, it was error for the Court to grant Summary Judgment to Travelers prior to the Plaintiff having a full and fair opportunity to complete discovery.

2. **The Court's Order erroneously held that Farm Bureau's claim for Equitable Indemnity against Travelers had no basis in fact. In so holding, the Court improperly states and limits Farm Bureau's factual basis for Equitable Indemnity, and it fails to consider the impact of deposition testimony on the Equitable Indemnity claim. Without Mr. Driggers testimony, the full basis of his claim against Travelers is unknown, and what he did or did not disclose to Travelers as to the Farm Bureau policy is also unknown. What is known is that Travelers had a timely claim made, an opportunity to investigate, and contact with Mr. Driggers which may have and should have revealed Farm Bureau's interest in the property. Further, after Travelers became aware of Farm Bureau's interest, and of the potential *pro rata* claim, Travelers acted in bad faith to Farm Bureau by settling with McKenzie and paying out a large part of its policy, all the while it had a claim for Interpleader pending.**

3. **The Court's Order held that Farm Bureau's claim for Equitable Indemnity had no basis in law and failed to consider or erroneously considered Farm Bureau's claim for contractual indemnity.**

Farm Bureau pled claims for contractual and equitable indemnity. As to equitable indemnity, South Carolina recognizes claims for equitable indemnification which is "that form of

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compensation in which a first party is liable to pay a second party for a loss or damage the second party incurs to a third party." *Town of Winnsboro v. Wiedeman-Singleton, Inc., 303 S.C. 52, 56, 398 S.E.2d 500, 502 (Ct. App. 1990), aff'd, 307 S.C. 128, 414 S.E.2d 118 (1992).* "A right to indemnity may arise by contract (express or implied) or by operation of law as a matter of equity between the first and second party." *Id. Simons v. Wal-Mart Stores E., L.P., Civil Action No.: 8:11-cv-03180-JMC (D.S.C. Feb. 1, 2013)*

A claim for Equitable Indemnity rests on proof that the indemnitor caused the damages of the indemnitee. *Builders Mut. Ins. Co. v. Bob Wire Elec., Inc., 817 S.E.2d 807 (S.C. Ct. App. 2018*. Here, had Travelers timely paid properly paid Driggers claim, Farm Bureau would not have been liable. Further, had Travelers properly approached Farm Bureau to advise of the claim and to negotiate the *pro rata* issues, Farm Bureau would not face sole liability in this action, and would not have incurred years of costs and attorney's fees associated with this case, due to the unusual issues and complex facts involved. The contract between Driggers and McKenzie imposed by prior Court action requiring McKenzie to insure Driggers interests should have been honored by Travelers, which should have paid Driggers for his losses. Had Travelers properly adjusted the claim, Farm Bureau would not be liable and would not have spent extensive funds for costs and attorney's fees in this action.

> A plaintiff may maintain an equitable indemnification action if he was compelled to pay damages because of negligence imputed to him as the result of another's tortious act. *VermeerCarolina's, Inc. v. Wood/Chuck Chipper Co.*, 336 S.C. 53, 518 S.E.2d 301 (Ct.App. 1999). A plaintiff asserting an equitable indemnification cause of action may recover damages if he proves: (1) the indemnitor was liable for causing the plaintiffs damages; (2) the indemnitee was exonerated from any liability for those damages; and (3) the indemnitee suffered damages as a result of the plaintiffs claims against it, which were eventually proven to be the fault of the indemnitor. *Id.*
> *Fowler v. Hunter*, 388 S.C. 355, 363 (S.C. 2010)

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In *Fowler*, the SC Supreme Court upheld a Court of Appeals decision reversing a grant of Summary Judgment in favor of an Insurance Agency as to an Equitable Indemnity claim by Selective Insurance. The claim arose out of the agency's failure to procure requested automobile insurance coverage as part of a commercial liability policy issued by Selective for an insured.. After various settlement's, the insured's claims for professional negligence and The agency claimed that Selective was not damaged because if the coverage had been procured, Selective would have owed significantly more in coverage, and Selective claimed that it would not have issued the policy. At issue were competing sets of guidelines. The Court of Appeals and the SC Supreme Court found that the competing guidelines presented a genuine issue of material fact precluding Summary Judgment. *Fowler v. Hunter, 388 S.C. 355 (S.C. 2010)* The Court of Appeals found that further inquiry into the facts might show that Selective would not have issued the policy to the insured, and in such case, Selective's claim for indemnification might prove viable. *Fowler v. Hunter, 380 S.C. 121 (S.C. Ct. App. 2008)*

The right of indemnity arises either by contract (express or implied) or by law as a matter of equity. *See Stuck v. Pioneer Logging Machinery, Inc., 279 SC 22, 24, 301 SE2d 552. Town of Winnsboro v. Wiedeman-Singleton, 303 SC 52 (SC App 1990).* Traditionally, the courts have allowed equitable indemnity in cases of imputed fault or where some special relationship exists between the first and second parties. In *Atlantic Coast Line R.R. Co. v. Whetstone,* 243 S.C. 61, 70, 132 S.E.2d 172, 176 (1963), our Supreme Court stated the rule applicable in imputed fault cases:

> "Ordinarily, if one person is compelled to pay damages because of negligence imputed to him as the result of a tort committed by another, he may maintain an action over for indemnity against the person whose wrong has thus been imputed to him; but this is subject to the provision that no personal negligence of his own has joined in causing the injury."

Town of Winnsboro v. Wiedeman-Singleton, 303 S.C. 52, 57 (S.C. Ct. App. 1990)

Equitable Indemnity is based on the relationship of the indemnitor and the indemnitee in dealing with a third party. The Courts allow equitable indemnity in cases of imputed fault or where a special relationship exists between the parties. *Fountain v. Fred's, Inc., 429 S.C. 533 (S.C. Ct. App. 2020.* The right of indemnity exists if in law or in equity, the relationship between the parties obligates one to indemnify the other. *Fountain v. Fred's, Inc., 429 S.C. 533 (S.C. Ct. App. 2020)*

In this case, Farm Bureau filed a claim against Travelers for Contractual and Equitable Indemnity. (See Complaint.) As to the contracts, there was an insurance policy between Travelers and McKenzie for homeowner's coverage as to the subject property, owned by Driggers and being purchased by McKenzie via a lease/option agreement. This agreement required McKenzie to insure Driggers, and separate litigation resulted in a Court Order requiring that McKenzie's maintain homeowner's insurance that also covered Driggers. Mr. Driggers was also the insured in a policy of homeowner's insurance that he obtained from Farm Bureau as a form of mortgagor insurance to protect him in the event McKenzie failed to do so. Drigger's pleadings and motions in this case indicate that he waited to file a claim with Farm Bureau after this fire until shortly prior to the Statute of Limitations running, because he was expecting payment from his claim with Travelers and was awaiting that payment. Thus, the delay in notice of the claim to Farm Bureau that deprived it of the opportunity to investigate the Fire loss resulted directly from Travelers failure to honor its insured, McKenzie's, contract with Driggers and Travelers failure to honor the Court Order that McKenzie's policy cover Driggers. In addition, Travelers and Farm Bureau are both insurance companies regulated by South Carolina law which governs many aspects of business, policies, and claims adjustment. As such, Travelers and Farm Bureau have a Special Relationship.

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At a minimum, issues of fact exist as to the facts, contracts, relationship of the parties, and information known to the parties such that the grant of Summary Judgment to Travelers was erroneous and should be reversed.

4. **Summary Judgment was erroneously granted to Travelers because Summary Judgment is not appropriate if further inquiry into the facts is needed to clarify the application of the law.** ***Lanham v. Blue Cross and Blue Shield of South Carolina, 349 S.C. 356 (S.C. 2002.*** **Summary Judgment should not be granted even if evidentiary facts are undisputed if there is a dispute as to the conclusions to be drawn from those facts.** ***Id.***

Here, further inquiry into the facts is needed to clarify the applicability of the law and it is not yet fully known whether evidentiary facts are disputed because discovery is not complete and depositions have not been taken. Even if evidentiary facts are undisputed, which is not yet known, then the conclusions to be drawn from those facts will, almost certainly, be disputed. The key deposition here is that of Mr. Driggers, who appears to be the only party in the case who dealt directly with both carriers, Mr. McKenzie, and the Court in prior litigation as to this property. The nexus between the parties and the contracts here is Mr. Driggers, and he and his family left the prior depositions before they had barely begun over a dispute as to Mr. Corbin's involvement and Mr. Driggers refuses to be deposed presently unless all lawyers are deposed.

Given the foregoing, Summary Judgment in favor of Travelers should be reversed.

5. **The Summary Judgment Order fails to find facts in the light most favorable to Farm Bureau and it shifts the burden of proof to Farm Bureau.**

Under *Rule 56(c), SCRCP,* Travelers as the moving party has the burden of proving that there are no genuine issues of material fact and in determining whether triable issues of fact exist, all evidence and inferences to be drawn from the evident must be viewed in the light most favorable

to the nonmoving party*). Lanham v. Blue Cross and Blue Shield of South Carolina, 349 S.C. 356 (S.C. 2002).* Rather than applying this standard, the Order finds no evidence that Driggers filed a claim with Travelers, that Travelers knew of Driggers interest in the property, or that Driggers had insured the property with Farm Bureau. The Order makes these finding seven though discovery is incomplete and neither Driggers nor Travelers has been deposed, and Driggers presently refuses to be deposed unless all lawyers are deposed. If, as the Summary Judgment standards require, all of these findings are made in the affirmative, then there are clearly genuine issues of material fact. And, in addition to these findings, the Order should have, and failed to, consider the import and binding effect of prior Court Orders requiring that the McKenzie policy cover Driggers. In addition, the pleadings and Motions of record by Driggers confirm that he filed a claim with Travelers.

Given the foregoing, Summary Judgment in favor of Travelers should be reversed.

6. **The Summary Judgment Order fails to rule as to the relationship between Farm Bureau's *pro rata* claim and its claim for Indemnity. The Court issued a prior Order to Travelers, erroneously granting the right to a partial Interpleader. In that Order, it contained calculations estimating the value of Farm Bureau's *pro rata* claim and found that sufficient funds were on deposit to satisfy that claim. This Order purports to grant Summary Judgment to Travelers as to only the Equitable Indemnity claim. It does not rule as to the *pro rata* claim. The Plaintiff's Motion for Reconsideration of the prior Order allowing Travelers to deposit the funds into Court was denied. However, this Order fails to rule or consider the relationship between the *pro rata* claim and the claim for indemnity, and therefore the Order For Summary Judgment should be reversed.**

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7. **Due process and the interests of justice mandate that the Summary Judgment to Travelers should be reversed and/or reconsidered. It is basic due process that the Plaintiff have a full and fair opportunity to complete discovery before Summary Judgment may be properly considered. While this case has been pending for a considerable length of time, the depositions were previously attempted but could not be held when the Driggers/Floyd defendants left. We've had a party pass away, and had to await his estate being filed and a PR appointed. We have the involvement of an active *pro se* party who presently refuses to be deposed. Other than that party, Mr. Driggers, we have depositions of a Travelers representative, Mr. and Mrs. Driggers, and Tammy Floyd scheduled for April 12th. The depositions of Farm Bureau have begun, but one deposition took a full day and there are several others to complete. This is a complex case with very involved facts and legal principals, making it a matter where it is important for discovery to be complete before Summary Judgment is decided.**

8. Summary Judgment was granted to Travelers as to Farm Bureau and Driggers claims, but Farm Bureau's Summary Judgment motion was continued pending the completion of depositions and discovery. As a matter of due process and equity, Travelers Summary Judgment motion should also be continued.

9. There are numerous issues of genuine material fact preventing the grant of Summary Judgement. As to Travelers, these include, but are not limited to the following: the ownership issues between Driggers/Floyd and McKenzie, the ownership percentages between Driggers/Floyd and McKenzie, the contracts between Gamble/McKenzie and the Driggers/Floyd defendants, prior Court Orders between Driggers and McKenzie and the interpretation and application of those Orders, McKenzie's claim to Travelers, Driggers

claim to Travelers, the history of the contacts between Driggers and Travelers, the content of communications between Driggers and Travelers and what was said about Farm Bureau, and Travelers payment to McKenzie during the pendency of this action after the request for Interpleader was filed.

10. The complexity of the history, the facts, the contracts and relationships between the parties can not be properly understood and applied prior to the completion of discovery, and even then, will present a jury issue.

11. The prior Court Order requiring that McKenzie insure Driggers' interest in the subject property was not appealed. It, therefore, became the law of the case. *Hudson v. Lancaster Convalescent Ctr., 754 S.E.2d 486 (S.C. 2014).* Therefore, the Travelers policy should be held to conform to this legal doctrine, and to cover Driggers.

This motion will be based upon the record in this cause, upon such Affidavits as may be presented, upon the law of the State of South Carolina, and upon such other and further evidence as may be hereafter presented.

Dated: April 8, 2021

/s/ J. Dwight Hudson

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RECEIVED
May 11 2021
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas

Kristi F. Curtis, Circuit Court Judge

Case No: 2014-CP-45- 132

South Carolina Farm Bureau Mutual Insurance Company,

Appellant

v.

Marion L. Driggers, Shiralee Driggers, Tammy D. Floyd, Estate of Arthur McKenzie, The Travelers Home and Marine Insurance Company, The United States of America acting by and through Its agency, The Internal Revenue Service, and The South Carolina Tax Commission,

Of Whom,

The Travelers Home and Marine Insurance Company is the

Respondent.

NOTICE OF APPEAL

The Plaintiff, SOUTH CAROLINA FARM BUREAU MUTUAL INSURANCE COMPANY, appeals from the following Orders: (1) The Order of Dismissal With Prejudice issued by The Honorable Kristi F. Curtis on April 19, 2021, (2) The Order Of Dismissal With Prejudice

issued by The honorable Kristi F. Curtis on April 19, 2021, (3) The Form 4 Order by The Honorable Kristi F. Curtis on April 12, 2021 Dismissing Plaintiff's Motion to Alter/Amend/Reconsider, (4) The Form 4 Order by The Honorable Kristi F. Curtis on April 12, 2021 Dismissing Plaintiff's Motion to Alter/Amend/Reconsider, AND (5) The Order by The Honorable Kristi F. Curtis on March 30, 2021 Granting The Travelers Motion For Summary Judgment as to the Plaintiff's Claim For Equitable Indemnity. Appellants received notice of the entry of the Orders and the Orders via the Court's electronic filing system on the dates of entry of the Orders, as stated above. Copies of the Order are attached hereto and incorporated by reference herein.

Dated: May 11, 2021

/s/ J. Dwight Hudson

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RECEIVED
May 11 2021
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas

Kristi F. Curtis, Circuit Court Judge

Case No: 2014-CP-45- 132

South Carolina Farm Bureau Mutual Insurance Company,

Appellant

v.

Marion L. Driggers, Shiralee Driggers, Tammy D. Floyd, Estate of Arthur McKenzie, The Travelers Home and Marine Insurance Company, The United States of America acting by and through Its agency, The Internal Revenue Service, and The South Carolina Tax Commission,

Of Whom,

The Travelers Home and Marine Insurance Company is the

Respondent.

PROOF OF SERVICE

I certify that on May 11, 2021, I served the Notice of Appeal on counsel, the Pro Se Parties and the Trial Judge as noted below and have e-filed it with the Georgetown County Clerk of Court as noted below:

Dated: May 11, 2021

/s/ J. Dwight Hudson

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Pro Se Party: By email to the address used during the course of litigation and by US Mail First Class, with sufficient postage attached

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Trial Judge: By e-mail directed to the address register with AIS

Hon. Kristi Fisher Curtis
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And, E-Filed to Williamsburg County.

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ADMITTED IN S.C. and N.C.*
United States Supreme Court*
U.S. Court of Appeals 4th Circuit*^
U.S. District Court – South Carolina*^
U.S. District Court – North Carolina*
(Eastern, Middle and Western Districts)
S.C. Supreme Court*^
N.C. Supreme Court*
S.C. Court of Appeals*^
N.C. Court of Appeals*

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May 11, 2021
Via Email

RECEIVED
May 11 2021
SC Court of Appeals

The Hon. Jenny Abbott Kitchings
Clerk, SC Court of Appeals
PO Box 11629
Columbia, SC 29211

Re: South Carolina Farm Bureau Mutual Insurance Company v. Marion L. Driggers, et. al.
Trial Court Case No: 2014-CP-45- 132

Dear Ms. Kitchings:

Enclosed for filing are an original and a copy of a Notice of Intent to Appeal in the above case. Also enclosed are the following:

1. Proof of service of the notice of appeal;
2. A copy of the Order(s) to be challenged on appeal, attached to and incorporated in the Notice of Intent to Appeal
3. My check for the filing fee of $250.00 will follow within five (5) days per the Amended Order Regarding The Operation of The Appellate Courts During The Coronavirus Emergency (5.29.20).

By copy of this letter, the enclosures are served as per the enclosed Proof of Service, with the filing and service in compliance with the Amended Order Regarding The Operation of The Appellate Courts During The Coronavirus Emergency (5.29.20).

With best regards, I remain

J. Dwight Hudson, Esq.
J. Dwight Hudson, Esq.

JDH: mag
Enclosure(s): as stated
cc: Per Proof of Service

ELECTRONICALLY FILED - 2021 Mar 30 12:05 PM - WILLIAMSBURG - COMMON PLEAS - CASE#2014CP4500132

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF WILLIAMSBURG)	C/A NO.: 2014-CP-44-00132
)	
South Carolina Farm Bureau Ins. Co.,)	
)	
Plaintiff,)	
)	**ORDER GRANTING DEFENDANT THE TRAVELERS HOME AND MARINE INSURANCE COMPANY'S MOTION FOR SUMMARY JUDGMENT AS TO THE CAUSE OF ACTION FOR EQUITABLE INDEMNITY OF PLAINTIFF**
vs.)	
)	
Marion L. Driggers, Shiralee Driggers,) Tammy D. Floyd, Arthur McKenzie, a/k/a) Arther McKenzie, The Travelers Home) and Marine Insurance Company,)	
The United States of America acting by) and through its agency, The Internal) Revenue Service and The South Carolina) Tax Commission)	
)	
Defendant.)	

RECEIVED
May 11 2021
SC Court of Appeals

This matter came before the Court on Defendant The Travelers Home and Marine Insurance Company's ("Travelers") Motion for Summary Judgment as to Plaintiff's claim for equitable indemnity. For the reasons set forth below, Travelers's motion is **GRANTED**.

FACTUAL BACKGROUND

This declaratory judgment action arises out of two insurance policies issued by two different insurers to different insureds on the same house located in Williamsburg County:

(1) Policy number 984761288 633 1 –Travelers issued this homeowner's policy to Defendant Arthur McKenzie on a home located at 200 W. Highway 378 By-pass in Lake City, South Carolina for the period from May 7, 2009 to May 7, 2010.

(2) Policy number FI 0401219 – Plaintiff South Carolina Farm Bureau Insurance Company ("Farm Bureau") issued this dwelling fire policy on the same property to Defendant Marion L. Driggers for the period from May 24, 2009 to May 24, 2010.

On or about April 25, 1997, Defendant Tammy Floyd and Lisa Gamble entered into a

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Contract for Sale and Purchase of the property. On or about October 13, 2006, Ms. Gamble assigned the Contract for Sale and Purchase to Defendant McKenzie.

On or about November 26, 2009, the insured home was damaged by fire, and Defendant McKenzie made a claim under his Travelers policy. The adjustment of Defendant McKenzie's losses was complicated by tax liens of Defendants The United States of America, acting by and through its agency, The Internal Revenue Service, and The South Carolina Tax Commission. Travelers settled Defendant McKenzie's claims for $232,073.45, of which the sum of $116,933.05 has been paid for his attorneys' fees and expenses in connection with said claim, leaving a balance of $115,140.40. Travelers moved to deposit that amount with the Court pursuant to its interpleader cross-claims. This Court granted that motion under a separate order.

In its Amended Complaint, the only truly direct cause of action against Travelers is for equitable indemnity. On April 11, 2019, Travelers moved for summary judgment on this claim.

SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that moving party is entitled to a judgment as a matter of law." Rule 56(c), SCRCP. The purpose of summary judgment is to expedite disposition of cases not requiring the services of the factfinder. *Bankers Trust of S.C. v. Benson*, 267 S.C. 152, 155, 226 S.E.2d 703, 705 (1976).

DISCUSSION

Under South Carolina law, "[i]ndemnity is that form of compensation in which a first party is liable to pay a second party for a loss or damage the second party incurs to a third party. *Town of Winnsboro v. Wiedeman-Singleton, Inc.*, 303 S.C. 52, 56, 398 S.E.2d 500, 502 (Ct. App. 1990), aff'd,

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307 S.C. 128, 414 S.E.2d 118 (1992). "A right to indemnity may arise by contract (express or implied) or by operation of law as a matter of equity between the first and second party." *Id.*

Farm Bureau's own Complaint establishes that there was no contractual right of indemnification between Travelers and Farm Bureau or the Driggers. Specifically, paragraph 11 of the Complaint states, "Defendant McKenzie did insure the property, insuring his ownership interest in the dwelling along with its contents. However, he did so **without noting the interest of Defendants Driggers** per the [contract of sale]. At the time of the said fire loss, the subject property was insured by Defendant McKenzie via a policy with Defendant Travelers."

In the absence of a contractual right of indemnification, courts have required a "special relationship" between the parties. *See Fountain v. Fred's Inc.*, 429 S.C. 533, 839 S.E.2d 475 (Ct. App. 2020) ("there must be some kind of relationship between the parties beyond the relationship established by virtue of one party alleging that he was sued because of another party's wrongdoing."). In South Carolina, a special relationship has been found to exist for the purposes of equitable indemnification between a contractor and subcontractor, a purchaser of a defective vehicle and a seller, a landlord and a general contractor who damaged a tenant's property, a home seller and an exterminator who were both sued by a home buyer for falsely representing that the purchased home was free of termites and moisture, and two former property owners who were both sued by a subsequent property owner for damage to the property. *See Town of Winnsboro v. Weideman-Singleton, Inc.*, 303 S.C. 52, 57, 398 S.E.2d 500, 503 (Ct. App. 1990); *Stuck v. Pioneer Logging Mach., Inc.*, 279 S.C. 22, 301 S.E.2d 552 (1983); *First Gen. Servs. of Charleston, Inc. v. Miller*, 314 S.C. 439, 445 S.E.2d 446 (1994); *Griffin v. Van Norman*, 302 S.C. 520, 397 S.E.2d 378 (Ct. App. 1990); *Addy v. Bolton*, 257 S.C. 28, 183 S.E.2d 708 (1971); *McCoy v. Greenwave Enterprises, Inc.*, 408 S.C. 355, 357, 759 S.E.2d 136, 137 (2014).

In this case, Farm Bureau has failed to show any special relationship with Travelers. Farm

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Bureau's Complaint alleges in paragraph fifteen (15) that its own insured, Marion Driggers, did not make any claim under the Farm Bureau policy, nor notify Farm Bureau of the fire, until almost three years from the date of the fire loss. Farm Bureau's basis for the equitable indemnification cause of action against Travelers is set forth in Paragraphs 31 and 32 of the Complaint. Farm Bureau alleges that the "Driggers made a timely claim with Travelers under McKenzie's policy and intended to look to Travelers to pay benefits due for the fire loss in this matter, but Travelers denied his claim. Further, Travelers located Driggers and inquired as to his interest in the property. At that time, it either learned or should have learned of Farm Bureau's coverage and it either failed to notify Farm Bureau of this loss or of its involvement in this loss or it negligently failed to inquire of Driggers as to other insurance coverage which it should have done and had a duty to do in good faith compliance with its professional obligations, and to determine all issues as to coverage so that it could properly evaluate the claims and interests." Thus, Farm Bureau's equitable indemnification claim rests on Travelers's (1) failure to pay Driggers's claim to the Travelers funds, (2) failure to discover the existence of the Farm Bureau policy insuring the property, and (3) failure to notify Farm Bureau of the fire when Farm Bureau's own insured had not notified Farm Bureau or filed a claim.

Farm Bureau has presented no evidence in the form of deposition testimony, affidavit, or otherwise, to establish that Defendant Marion Driggers did in fact make a claim under the Travelers policy, or that Travelers knew of Driggers' alleged interest in the real property (as he is not the owner of record), or that Travelers knew that Driggers had insured the property under a Farm Bureau policy.[1] However, even assuming that each of these allegations is true, none establishes a basis for a claim of equitable indemnification. As Farm Bureau's own Memorandum Opposing Or Responding To Motions By Travelers and Marion L. Driggers (filed July 6, 2020) notes, an insurance policy is a

[1] Counsel for Farm Bureau argues that discovery is ongoing. The court is unpersuaded. This case has been pending since 2014. Plaintiff has had more than ample opportunity to conduct any discovery it deemed necessary.

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personal contract between the insurance company and the insured. The insurance carrier's obligations are to the insured and do not pass with the property, unless assigned with the consent of the insurer, or unless "by extraordinary or special and express stipulation of the parties it is made to run with the subject matter." *Crook v. Hartford Ins. Co.*, 175 S.C. 42, 178 S.E. 254 (1935).

Travelers had no obligation to anyone except its own insured, Arthur McKenzie. Any duty McKenzie had to protect Floyd's or the Driggers' interests pursuant to the contract of sale did not implicate Travelers, which was not a party to the contract of sale. Moreover, there is no authority for the proposition that an insurance company has an obligation to investigate the existence of any other policies covering the insured property, or to notify another insurer of a potential claim where that company's own insured has decided not to file a claim. Ultimately, the only relationship between Travelers and Farm Bureau was that they happened to insure the same piece of property. With no special relationship between Farm Bureau and Travelers, Farm Bureau's claim for equitable indemnification fails.

CONCLUSION

For the forgoing reasons, Travelers's motion for summary judgment is hereby **GRANTED** and Farm Bureau's claims for equitable indemnification against Travelers are hereby dismissed with prejudice. As all allegations against Travelers have now been resolved, upon payment of the sum of One Hundred Fifteen Thousand, One Hundred Forty and 40/100 ($115,140.40) Dollars pursuant to this Court's orders of January 5, 2021 and March 4, 2021, Travelers shall be **DISMISSED** from this action with prejudice.

AND IT IS SO ORDERED.

The Honorable Kristi F. Curtis

ELECTRONICALLY FILED - 2021 Mar 30 12:05 PM - WILLIAMSBURG - COMMON PLEAS - CASE#2014CP4500132

Williamsburg Common Pleas

Case Caption: South Carolina Farm Bureau VS Marion L Driggers , defendant, et al

Case Number: 2014CP4500132

Type: Order/Summary Judgment

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2014CP4500132

South Carolina Farm Bureau
PLAINTIFF(S)

Marion L Driggers et al
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), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ 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:

Plaintiff's motion to amend the Court's Order of March 30, 2021 is DENIED.

RECEIVED
May 11 2021
SC Court of Appeals

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 04/09/2021 .

Edward K. Pritchard, III for Marion L Driggers,Shiralee Driggers,Tammy D Floyd
Thornwell F. Sowell, III
John Witherspoon Foster
William Pearce Davis for The Travelers Home and Marine Insurance Company
Daryl James Corbin for Alice Peterson,Arthur McKenzie a/k/a,Auther McKenzie
The South Carolina Tax Commission
Marion L Driggers for Marion L Driggers
Mariel D. Norton for The Travelers Home and Marine Insurance Company
John Dwight Hudson for South Carolina Farm Bureau
William Greyson Land for Shiralee Driggers,Tammy D Floyd
George John Conits for The Internal Revenue Service,The United States of America
Marion L Driggers for Marion L Driggers

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2021 Apr 12 12:53 PM - WILLIAMSBURG - COMMON PLEAS - CASE#2014CP4500132

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.

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ELECTRONICALLY FILED - 2021 Apr 12 12:53 PM - WILLIAMSBURG - COMMON PLEAS - CASE#2014CP4500132

Williamsburg Common Pleas

Case Caption: South Carolina Farm Bureau VS Marion L Driggers , defendant, et al

Case Number: 2014CP4500132

Type: Order/Electronic Form 4

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762

ELECTRONICALLY FILED - 2021 Apr 12 12:53 PM - WILLIAMSBURG - COMMON PLEAS - CASE#2014CP4500132

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2014CP4500132

South Carolina Farm Bureau
PLAINTIFF(S)

Marion L Driggers et al
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), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ 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:

Plaintiff's motion to amend the Court's Order of March 30, 2021 is DENIED.

RECEIVED
May 11 2021
SC Court of Appeals

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 04/09/2021 .

Edward K. Pritchard, III for Marion L Driggers,Shiralee Driggers,Tammy D Floyd
Thornwell F. Sowell, III
John Witherspoon Foster
William Pearce Davis for The Travelers Home and Marine Insurance Company
Daryl James Corbin for Alice Peterson,Arthur McKenzie a/k/a,Auther McKenzie
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John Dwight Hudson for South Carolina Farm Bureau
William Greyson Land for Shiralee Driggers,Tammy D Floyd
George John Conits for The Internal Revenue Service,The United States of America
Marion L Driggers for Marion L Driggers

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

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ELECTRONICALLY FILED - 2021 Apr 12 12:53 PM - WILLIAMSBURG - COMMON PLEAS - CASE#2014CP4500132

Williamsburg Common Pleas

Case Caption: South Carolina Farm Bureau VS Marion L Driggers , defendant, et al

Case Number: 2014CP4500132

Type: Order/Electronic Form 4

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762

ELECTRONICALLY FILED - 2021 Apr 19 10:59 AM - WILLIAMSBURG - COMMON PLEAS - CASE#2014CP4500132

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF WILLIAMSBURG	)	C/A NO.: 2014-CP-45-00132
	)	
South Carolina Farm Bureau Ins. Co.,	)	
	)	
Plaintiff,	)	**ORDER OF DISMISSAL WITH PREJUDICE**
	)	
vs.	)	
	)	
Marion L. Driggers, Shiralee Driggers, Tammy D. Floyd, Arthur McKenzie, a/k/a Arther McKenzie, The Travelers Home and Marine Insurance Company, The United States of America acting by and through its agency, The Internal Revenue Service and The South Carolina Tax Commission	)	RECEIVED May 11 2021 SC Court of Appeals
	)	
Defendant.	)	

It appearing that Defendant The Travelers Home and Marine Insurance Company ("Travelers") has paid the sum of One Hundred Fifteen Thousand, One Hundred Forty Dollars and Forty Cents ($115,140.40) pursuant to this Court's Order of March 30, 2021, Travelers is hereby dismissed from this action with prejudice.

_____
The Honorable Kristi F. Curtis

April __, 2021

ELECTRONICALLY FILED - 2021 Apr 19 10:59 AM - WILLIAMSBURG - COMMON PLEAS - CASE#2014CP4500132

Williamsburg Common Pleas

Case Caption: South Carolina Farm Bureau VS Marion L Driggers , defendant, et al

Case Number: 2014CP4500132

Type: Order/Dismissal

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762

ELECTRONICALLY FILED - 2021 Apr 19 10:59 AM - WILLIAMSBURG - COMMON PLEAS - CASE#2014CP4500132

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF WILLIAMSBURG	)	C/A NO.: 2014-CP-45-00132
	)	
South Carolina Farm Bureau Ins. Co.,	)	
	)	
Plaintiff,	)	**ORDER OF DISMISSAL WITH PREJUDICE**
	)	
vs.	)	
	)	
Marion L. Driggers, Shiralee Driggers, Tammy D. Floyd, Arthur McKenzie, a/k/a Arther McKenzie, The Travelers Home and Marine Insurance Company, The United States of America acting by and through its agency, The Internal Revenue Service and The South Carolina Tax Commission	)	
	)	
Defendant.	)	

RECEIVED
May 11 2021
SC Court of Appeals

It appearing that Defendant The Travelers Home and Marine Insurance Company ("Travelers") has paid the sum of One Hundred Fifteen Thousand, One Hundred Forty Dollars and Forty Cents ($115,140.40) pursuant to this Court's Order of March 30, 2021, Travelers is hereby dismissed from this action with prejudice.

_____
The Honorable Kristi F. Curtis

April __, 2021

ELECTRONICALLY FILED - 2021 Apr 19 10:59 AM - WILLIAMSBURG - COMMON PLEAS - CASE#2014CP4500132

Williamsburg Common Pleas

Case Caption: South Carolina Farm Bureau VS Marion L Driggers , defendant, et al

Case Number: 2014CP4500132

Type: Order/Dismissal

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF WILLIAMSBURG) 2014-CP-45-00132

South Carolina Farm Bureau Mutual Insurance Company,	)	
Plaintiff,	)	**Transcript of Record**
vs.	)	
	)	SEPTEMBER 17, 2020
Marion L. Driggers, Shiralee Driggers, Tammy D. Floyd, Arthur McKenzie a/k/a Arther McKenzie, The Travelers Home And Marine Insurance Company, The United States of America Acting by and through its Agency The Internal Revenue Service, and the South Carolina Tax Commission,	)	
Defendants.	)	

B E F O R E:

Honorable Kristi F. Curtis
Williamsburg County Courthouse
Kingstree, South Carolina

A P P E A R A N C E S:

John D. Hudson, Sr., Esquire
Attorney for Plaintiff

Marion L. Driggers
Pro Se Defendant

Edward K. Pritchard, III, Esquire
Attorney for Defendants Shiralee Driggers and Tammy Floyd

Daryl J. Corbin, Esquire
Attorney for Defendant Arthur McKenzie

William P. Davis, Esquire
Attorney for Defendant The Travelers Home and Marine Insurance Company

Sallie Beth Todd
Circuit Court Reporter

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
(THERE WERE NO WITNESSES CALLED DURING THIS HEARING.)				

Certificate of Court Reporter 60

E X H I B I T S

NO.	DESCRIPTION	ID	EV	PAGE
(THERE WERE NO EXHIBITS MARKED DURING THIS HEARING.)				

THE COURT: Okay. Good morning. Thank you all for being here in person. I know it was not a nice day to have to make the drive from Kingstree. We came through a -- I got a tornado warning in Sumter this morning and in Richland County. I hope y'all didn't go through as bad of weather as we went through on the way here. I know we've got a number of things to hear this morning. If I could get you all to just tell me your names first for the record. We're here on 2014-CP-45-00132 South Carolina Farm Bureau versus Marion Driggers, Shiralee Driggers, Tammy Floyd, Arthur McKenzie, Alice Peterson, the IRS, the South Carolina Tax Commission, Travelers Insurance, and the United States of America. I think we've covered everybody under the sun. So if I could start with you up here, sir, with the yellow tie. Tell me your name.

MR. PRITCHARD: Yes, ma'am. My name is Edward Pritchard and I'm with the Pritchard Law Group in Charleston, South Carolina. I represent Shiralee Driggers and Tammy Floyd.

THE COURT: Thank you.

And are you Mr. Driggers?

MR. DRIGGERS: Yes, ma'am. Marion L. Driggers.

THE COURT: Thank you, sir.

MR. HUDSON: Your Honor, I'm John Dwight Hudson, Sr. from Myrtle Beach, South Carolina. I have a son, Jr., who lives in Columbia, but I'm the old one. I represent South Carolina

Farm Bureau, the plaintiff in this case. We started it all with a declaratory judgment action.

THE COURT: So you started all of this?

MR. HUDSON: Uh-huh. (Affirmative response.) If I'd have only know, but anyway here we are.

MR. CORBIN: Good morning. My name is Daryl Corbin from Florence. I represent Arthur McKenzie who has expired, deceased, so it really needs to be substituted, and I'll do that, to the Estate of Arthur McKenzie.

THE COURT: Thank you.

MR. CORBIN: Yes, ma'am.

MR. DAVIS: William Davis, Your Honor, with Baker, Ravenel & Bender in Columbia and I represent Travelers Home and Marine Insurance Company.

THE COURT: Thank you.

Okay. I know we have a number of motions to hear this morning. It doesn't really matter to me what particular order we go in. But why don't we hear from Travelers first as to your motions.

MR. DAVIS: Thank you, Your Honor. Your Honor, I'm afraid I didn't ask this; is it okay if I leave my mask off?

THE COURT: I am -- if y'all are sitting next to each other as long as one of you have a mask on that's perfectly fine. When you're addressing the Court if you -- you can try it with the mask on, if you need to take your mask off while

you're addressing me, that is fine. If you need to -- I'm fine also, Mr. Davis, if you want to move up here just so you can distance yourself a little more. That is perfectly fine as well.

MR. DAVIS: Thank you, Your Honor. I think probably our involvement is the least of all of the motions, the least complicated. We -- my client, Travelers, insured the subject property in the name of the decedent, Mr. McKenzie.

THE COURT: Now let me make sure, Mr. Driggers, can you hear okay?

MR. DRIGGERS: I can't hear him.

THE COURT: And I don't know if it will help at all, what about if we move Mr. Driggers over here so you're a little closer? Let's try that.

MR. DAVIS: Okay. Is this better? I was saying that my client Travelers insured the property that burned. They had issued a policy to the late Mr. McKenzie. And we adjusted and paid the loss pursuant to an agreement with his counsel obviously before his death. We did so pursuant to an agreement in light of the outstanding liens and I've got these figures here. But if I may consult with Mr. Corbin here just one second.

Your Honor, we settled with Mr. Corbin and his client Mr. McKenzie after determining that the amount of the loss was $232,073.45 from which we deducted -- of which we paid

$116,933.05 to Mr. McKenzie and Mr. Corbin, I mean Mr. Corbin and Mr. McKenzie for attorney fees and expenses. That leaves $115,140.40 that we owe to somebody, and we recognize that there are a lot of people asserting claims. So we filed a motion to pay those funds into court. And it's been a long time now, but I'm pretty sure that that motion was heard by Judge James shortly before his ascension to the Supreme Court. So he never had the opportunity to rule on it. So we have argued that. I don't know, I guess we'll hear from the others. I don't know that there's any real dispute. What we'd like to do is just pay the money into the court and then let the others who want to assert claims against it do so.

THE COURT: Okay. I know that you had some motions, you had an additional motion for summary judgment as to Farm Bureau's cause of action for equitable indemnity and also as to the crossclaims of Shiralee Driggers and Tammy Floyd.

MR. DAVIS: Thank you for reminding me of that, Your Honor. I'll start with the crossclaims first, if I may. I actually was thinking that I was responding to their motions on that, but the Court's right. I believe I did file those motions.

First of all, with regard to Mr. Driggers crossclaim, he's crossclaimed for bad faith and a number of other, I think breach of contract. I think those arguments can be disposed of easily in that we have no contract with him. He's not

insured under a policy, not listed as a lienholder. He has nothing to do with our contract.

Secondly, whatever claim that he wishes to assert if our motion to deposit the funds that are available into the court is granted, then he like anyone else who wishes to assert claims can do so against that fund. So I mean basically our position is that we have done what we're supposed to do. We've paid our insured. We recognize that there's a dispute over the remainder of the coverage. We just want to pay it into the court and get out.

As far as Farm Bureau's claim is concerned, we obviously disagree that they are entitled to equitable indemnity. We have no relationship with Farm Bureau. Farm Bureau -- in fact we didn't even insure the same insured. Farm Bureau has its own policy with its own insured completely separate from ours. And so essentially, it's -- I guess what I'm arguing is that how we work this out with our own insured is not their concern. To the extent that they feel that it is their concern, they're in the same boat with Mr. Driggers in that they can assert a claim -- assuming that our motion to pay the funds into the court is granted, they can assert a claim against that as well. So bottom line is that -- our position is that we've done our duty, we did what we were supposed to do. A claim was asserted, we paid our insured. Mr. Driggers is not a loss payee on the policy. We have no duties to him

at all. And all we want to do is pay our money into the court and get out.

THE COURT: And I assume your argument as to the crossclaims of Mr. Driggers is the same argument as to the crossclaims of Ms. Driggers and Ms. Floyd.

MR. DAVIS: Yes, ma'am.

THE COURT: Okay.

MR. DAVIS: Thank you.

THE COURT: Thank you. Let me figure out who all of my parties are again. Mr. Pritchard.

MR. PRITCHARD: I'll let Mr. Driggers go first.

THE COURT: Okay. Mr. Driggers, I'm glad to hear from you, sir. First of all, as to Travelers' motion to pay the funds into court. Tell me what your position is with respect to that.

MR. DRIGGERS: Your Honor, he has denied owing me anything as he did right there as a mortgager, or a mortgagee. He's well aware that we've been mortgagee since 1996 because of the contract and also the Judge's order. And I have a paper right here that slipped through the cracks that they never sent us any kind of discovery or anything. But it tells about this -- I asked him to bring Ms. Tina Kennedy, his investigator and Ted Alexander, I guess the agent that handled it. But she has got this letter here, you should have it and they should have it, and it states that I also asked P.D.,

whoever that is, about the mortgage with Shiralee Driggers. He said it has been taken care of; it hasn't. It never had in 11 years; this has been 11 years. And this is the paper I sent it in with the paperwork that you required or asked for. So they have denied since the beginning a mortgagee a right that is stated in a contract, it's also stated in a Judge's order. So Mr. Davis is actually trying to override the Judge's order.

THE COURT: And how about -- let me hear from you as to their motion to -- for summary judgment on your crossclaim.

MR. DRIGGERS: On the what now?

THE COURT: Do you want to tell me what your position is with respect to their motion for summary judgment on your crossclaim against Travelers?

MR. DRIGGERS: Yes. I was asking punitive damages and all for holding this case up as long as it has been. They just denied access and I held up on it for three years on my own. I had a Farm Bureau policy we wrote because the guy was not dependable that had the contract and they were well aware of it that I was holding up until -- Farm Bureau was well aware of it also, until I see if Travelers is going to pay because Travelers is the one that should have to pay. I agree with Mr. Hudson on that.

THE COURT: So you're -- are you objecting to them paying this money into court?

MR. DRIGGERS: Am I objecting to what?

THE COURT: To their motion to pay the money into court?

MR. DRIGGERS: Yeah. The money from 2009 is not the same as money in 2020. I mean you know you can drag somebody's money out -- they should have paid us. It wasn't but a very small amount like $97,000 that they could have paid way back in 2009. They were notified in 2000 -- this date is 1/2 of 2010. Mr. Davis has denied ever -- ever owing us anything. He knows about the contract; he knows about the Judge's order. I've got copies if he needs to read it.

THE COURT: Okay. Thank you.

All right. Mr. Pritchard.

MR. PRITCHARD: As I understand Travelers' motion at least as regarding the court, is essentially an interpleader action; is that correct? I mean and we all get a right to make a claim on the fund. I see no reason not to let them do it. I mean the money is there, if it's ours we've got a right to go get it, but there's no reason for them to hang out. Let it start earning interest.

THE COURT: Okay. Do you want to speak to his motion for summary judgment as to the crossclaim for bad faith?

MR. PRITCHARD: You know candidly our bad faith claim is really against Farm Bureau. I think Mr. Davis is probably correct on the bad faith argument in that they didn't issue us a policy per se, and we weren't a loss payee. But we

certainly claim we're entitled to the funds. I mean but I do think in terms of bad faith it's often difficult to put up evidence to support that.

MR. DRIGGERS: May I say something else, Judge?

THE COURT: Sure.

MR. DRIGGERS: I don't understand why Mr. Davis would pay Mr. Corbin and they're opposing attorneys. Mr. Corbin represented Mr. McKenzie. Why would they pay his -- to his lawyer the law fees? I don't understand that.

THE COURT: Well because Travelers has settled with their insured, I guess is what he's saying at this point. But your concern is noted for the record, sir.

MR. DRIGGERS: Okay.

THE COURT: And, Mr. Hudson, I don't know that you have a dog in that fight, but anything you want to say, sir, with respect to Travelers' motions?

MR. HUDSON: Nothing, Your Honor, other than I think we pled that just because everybody except Farm Bureau from the beginning seemed to have knowledge of this situation and adjusted -- Travelers then adjusted the claim by having Farm Bureau notified or a claim filed I should say, to where it could protect its own interest. That filters over into our other arguments, otherwise it seems like Travelers would have had a duty to let us know what was going on. Now here again, no depositions have -- extensive depositions need to be taken.

We don't know when Travelers really had notice, exactly what happened, and why nobody deemed it necessary to contact Farm Bureau. And it might have been that nobody let them know, but we haven't fully explored that. So that's the reason that we brought that action of equitable indemnity. We agree that we shouldn't have to be bringing this declaratory judgment action to find out things that we should have found out right after the filing. So we were not notified until -- and that was by Mr. Driggers for a claim made, until about three years later, 30 days before the statute of limitations would have run, not that that was an issue and nobody ever discussed it. But they affirmatively -- the Driggers, and we've got three of them; we've got husband, wife, and the daughter. They affirmatively, the evidence we have so far, is they affirmatively took Farm Bureau's sales agent, not a claims person or anything, that they didn't intend -- didn't want to make the claim on that policy because of various reasons, but that they were going to collect from the other company. At that time we didn't know who it was, it was Travelers. So we would think that we at least have an argument that needs to be more fully explored in discovery if this matter moves forward. There are a number of depositions that do need to be taken just to put all of the pieces of the puzzle together.

THE COURT: Okay. Tell me whose depositions still remain to be taken and why we still haven't taken their depositions

some six years later? I saw there was a scheduling order that had a trial not before some date in 2016.

MR. HUDSON: We had tried -- can you hear me okay, Your Honor? Do I need to step up here?

THE COURT: I can hear you.

MR. HUDSON: Okay. We have tried. It's not because we haven't tried to take depositions and there were discovery issues that remained outstanding that -- that when Judge James, now Justice James, went off to the Supreme Court the rulings weren't made, and we were trying to get the rulings before the depositions were taken. But I think it's been pretty well unanimous that once the discovery issues are solved then we can move forward with depositions to complete. We tried depositions but for various reasons unusual things happened and they just weren't completed at all. So the key people i.e. Ms. Driggers has not been -- it was started but it wasn't completed. Mr. Driggers has not been deposed and their daughter Ms. Floyd has not been deposed. For those discovery -- lack of discovery reasons I would say, and in addition to the other folks because of the discovery motions that are out there, Farm Bureau folks, Travelers folks. We've just kind of been at a standstill.

THE COURT: Thank you.

MR. HUDSON: So I think the initial question was Travelers -- it would be because we think Travelers at least

in this unusual factual situation would have had some duty of the pro rata approach as to coverages or whatever to at least contact us and let us know what was taking place.

THE COURT: Okay. Thank you.

MR. HUDSON: Thank you.

THE COURT: Mr. Corbin, do you want to address the Court about any of that?

MR. CORBIN: No, ma'am.

THE COURT: And do you have a motion to substitute the Estate of Arthur McKenzie?

MR. CORBIN: I have no formal motion, but I think with consent everybody will agree that I need to substitute the Estate of Arthur McKenzie for Arthur McKenzie.

Do you agree, guys?

MR. HUDSON: No objection.

MR. PRITCHARD: No objection.

MR. DRIGGERS: Your Honor, Mr. McKenzie never had a legal assignment to that property ---

THE COURT: I understand you have issues with -- you have legal issues, but the limited question we've got here is he is a party to this lawsuit and he is deceased.

MR. DRIGGERS: Yes. I'm saying though he never had a legal assignment. The Judge -- Judge Shuler had in there that if there was any changes to that contract that all parties have to sign. I have a copy of it, you should have a copy.

On section eight that we all had to get together and Arthur just went somewhere and fixed up a quick assignment. Do you have a copy of Judge Shuler ---

THE COURT: Well I've got a copy of Judge James' order from December of 2016 where you made a motion to abolish the assignment and he denied that motion.

MR. DRIGGERS: I don't know why he would deny it, but anyway I ---

THE COURT: He heard that motion and issued his order back in December of 2016.

MR. DRIGGERS: But you do have a copy of this -- this order?

THE COURT: If it's in the file. Yes, sir.

MR. DRIGGERS: And let me read it to you. This is the Judge's order, now. This is not the contract. Section eight of the contract ---

THE COURT: Sir, tell me the date of that order that you're referring to.

MR. DRIGGERS: Ma'am?

THE COURT: What's the date of Judge Shuler's order?

MR. DRIGGERS: Who gave it?

THE COURT: The date that Judge Shuler signed it.

MR. DRIGGERS: Oh, that was 9/6. That was the first time we had to evict him from the house.

THE COURT: So I see there was an eviction action that

was filed in magistrate's court.

MR. DRIGGERS: That was the eviction. That came out by this order.

THE COURT: But that was not issued in this case? Judge Shuler's order is not from this case because this case wasn't filed until after the fire.

MR. DRIGGERS: No, but Judge Shuler's order bears on this case because it's all about it. It's what we agreed to.

THE COURT: Okay. Mr. Driggers, I understand you have a legal dispute as to the legality of the assignment.

MR. DRIGGERS: The agreement ---

THE COURT: But, sir, the question right now is simply are you objecting to the estate being substituted for Mr. McKenzie?

MR. DRIGGERS: The estate being substituted?

THE COURT: In other words, he's deceased ---

MR. DRIGGERS: Yeah.

THE COURT: --- so now his estate would step into his shoes.

MR. DRIGGERS: No, I don't have a problem with that because he has no -- he has no bearing on it. He's not even -- my thought to the Court is he has no right. They can't show me an assignment, a legal assignment.

THE COURT: I understand.

Okay. Farm Bureau has a motion for summary judgment as

well. And you've got a motion to quash and a motion for protective order?

MR. HUDSON: That's correct, Your Honor. Primarily it started off with a motion to quash and it has to do with Driggers and frankly they're a little bit of a moving target as far as when we make the motions because they've changed and now Mr. Pritchard is representing the ladies and Mr. Driggers is now pro se.

THE COURT: Yes, sir.

MR. HUDSON: So that kind of switches it all up, but I'll address the whole thing. We have had discovery motions somewhat with Judge James. In fact, we had -- he ruled on all of the -- I think all of them and they've been complied with except of production of personnel -- Farm Bureaus personnel files and from the claims manuals which Farm Bureau strongly asserts that those are trade secrets and are not discoverable. Both of those arguments, Your Honor, are well briefed by my lawyer partner in the brief as far as the case law goes that supports our position and the factual situation. But basically Farm Bureau is the only company in South Carolina that is domestic and writes only in South Carolina, has its own adjusting folks. Their main selling point is service and obviously they are farm and farmer oriented company by and large and so they take great pride in that. We have affidavits from both human resources with Farm Bureau and we

have the district claims rep as to the claims manuals as well as the personnel files. And they're very explicit on why Farm Bureau feels so strongly that they should not be published. Here in this case it's even stronger because a co-defendant is an insurance company competitor. So there is no way you're going to keep it confidential and keep harm from being done. I have a law review article that basically says -- I can't find the exact title of it, but it says if I tell you what you want to know I'll have to kill you. I've got to read that one. But in any event it is very important that these affidavits are very explicit, and we think put the burden strictly on the defendants who are requesting this for bad faith actions of which we think there's really no foundation whatsoever in a bad faith action at all. That's part of our summary judgment motion.

The personnel files have nothing to do with claims at Farm Bureau, they're strictly personal material: family, education, different things that are very personal. It's appropriately named personnel files; it has nothing to do with the claims. No claims are mentioned in any of them, they aren't involved.

The claims manual is because South Carolina is unique in South Carolina. Their main selling point is service. They can't compete with Travelers as far as price goes and Travelers or Geico or whatever want to money whip them you

know have a loss leader campaign or something like that. They can't compete, but they compete with service and they do right well with that approach. They have their own adjustors, everything top to bottom they're always the first to complete their hurricane claims and everything else because they have this operation that's in these claims manuals that seems to work. They don't need to disclose that.

The motion for summary judgment is really primarily to this bad faith action and that has kind of bloomed into a lawsuit that we don't think that's anywhere -- has any foundation anywhere in the factual situation here. Farm Bureau really wasn't notified affirmatively of a claim or a claims made that there was a loss of this house. Farm Bureau was informed that the owner of the insurance was titled in Mr. Driggers. The sales agent with Farm Bureau or at least the one that they said they had a conversation with said that there had been a loss there at the house but they weren't going to make a claim. I think it was Ms. Driggers. But the sales agent that they talked to, not a claim person, nothing was filled out, no claim made, they actually told him according to his sworn testimony not to make a claim that they were going to get it from the other insurance company, i.e. Travelers.

THE COURT: And when you say according to his sworn testimony, who are you referring to?

MR. HUDSON: I'm sorry, Your Honor. Wayne McKenzie. This is another McKenzie. He was the Farm Bureau agent at the time. He's now head of Farm Bureau in Clarendon County, but then he was in Williamsburg. He handled the policies, and he had a lot of policies with the Driggers. In fact, he informed us -- we didn't know this until the deposition, that he went to the same church that they did since he was five years old. In fact, Ms. Driggers -- here's another small world and small town -- Ms. Driggers was his CPA and I think it was Ms. Driggers that did his taxes and such. I think it was Ms. Driggers that just casually mentioned that there was a loss, but they weren't making the claim because this other company should pay and all of that. They didn't want their rates to go up or whatever (inaudible) to make a claim. They chose affirmatively not to make a claim and he was just a sales agent. So the claims department never found out until a month ago when the statute of limitations, two years eleven months later. And here it's developed that the ownership interest here, both of these are owner's policies, Your Honor. Mr. Driggers this policy is not as a mortgagee or anything else. Mr. McKenzie was an owner's policy. You've got two owners policies and you start having this pro rata case law that comes in there that says we needed that interpretation because you have to have figures to be able to work with that and we haven't really been able to get the figures because these

folks haven't agreed on what their ownership interest is, how much has been paid because of this land sales contract which we were never advised of. So there's an ownership interest that's floating around out there, what percentage, who owns what if any. Those are material things that need to be cleared up.

So it does seem and I'm still on the summary judgment, Your Honor, they say that we wrongfully and in bad faith adjusted this claim. Your Honor, we didn't adjust the claim. Travelers adjusted the claim. We didn't have any notice to adjust the claim. We would have loved to -- it was obligatory for them to put us on notice then we could properly adjust the claim and not be prejudiced, which Farm Bureau definitely has. Farm Bureau has not denied the claim yet. We filed a declaratory judgment action trying to set out all of things that we knew about at the time after EUO's were taken, both Mr. and Ms. Driggers. We haven't taken, I don't believe, Tammy Floyd's yet, but Mr. and Ms. Floyd's. These other things kept popping up between the other parties and ownership interest and things like that that even complicated the matter more. So we would say at least as to just a bad faith action in this as a response to a declaratory judgment action under the factual situation that we have here that's really in its material features and facts are not in dispute, there is just no way it's bad faith adjustment of a claim. They've never

had the opportunity to adjust the claim. We tried to figure out what in the world is going on and who do you pay and what do you pay properly in the matter because the target keeps moving the more we find out. Here again, those depositions that I mentioned earlier of the parties have not been taken and they have noticed depositions of a number of Farm Bureau witnesses which we have submitted their CVs that would have been involved with any underwriting or anything with that.

But getting back to the original motion to quash, we strongly object to producing the claims manuals and the personnel files. There's just -- we don't think -- we think we've met the burden of their importance and we don't -- I think the burden is on them to prove that they can't pursue their case without those things. I don't think they can do that at all. The prejudice far outweighs the probative value of producing those items and Judge James did withhold that. I mean I think, just my own interpretation, he had problems with that. He was going to make a ruling and he got elected to ---

THE COURT: In this form order -- I think he did a form order initially, ruling on some things and holding some things in abeyance.

MR. HUDSON: That's what he did. Now, the form order I can't visualize it right now. He did -- he did have an order where he ruled on the items that we have since produced, but we withheld what we objected to, personnel files and claim

manuals. He was going to rule on that. Like I say, I repeat myself, he withheld judgment on that and was going to review matters and maybe have some more discovery, I'm not sure. Anyway, in the interim we have to go see him in Columbia. And I think that's pretty much it, Your Honor. Mainly those two motions are primarily why we're here and we added the summary judgment motion just because you kind of sit back and look at these facts and say how in the world can we be adjusting the claim in bad faith when we didn't even know about it. Nothing was complied with. In fact, we don't want to waive our argument that there's no coverage at all because of lack of notice, clearly intentional. The problem in how this thing developed has not been the fault of Farm Bureau whatsoever, but of the insureds whoever they might be at this time. They've changed their position, they being the Driggers, to where they were a partnership to now they're the husband and wife or undisclosed principals of a daughter. The title to the property is the daughter. She's not here. Same arguments as far as named insured, standing that Travelers uses would apply here by Farm Bureau. I think that about covers it, Your Honor. Really the brief has got all of the case law and affidavits that support these arguments.

THE COURT: Okay. Thank you, Mr. Hudson.

MR. HUDSON: Thank you.

THE COURT: Mr. Pritchard, was it your motion for -- or

your request for -- was it your request to produce the claims manuals and the personnel files?

MR. PRITCHARD: Yes, Your Honor.

THE COURT: Okay.

MR. PRITCHARD: All right. With the Court's indulgence, the -- the motion to quash and the motion -- the request for production, the motion to compel, and the summary judgment are sort of in knots, so I'd like to sort of attack them all at once if it's okay with the Court.

THE COURT: However you want to address it --

MR. PRITCHARD: Thank you.

THE COURT: -- I'm fine with.

MR. PRITCHARD: Thank you. You know, a couple of things that Mr. Hudson said during his arguments stood out to me. One, he said, "those are material issues to be sorted out", direct quote. And two, Farm Bureau didn't adjust the claim, and that's exactly what the complaints are here. They didn't adjust the claim.

And I think what we need to do, if you don't mind, with the indulgence of the Court I'd like to hand up a case. Essentially what happened in that case was Insurance Company of North America issued a policy to Crescent Company of Spartanburg which was in the process of building a -- a development. And they had a rider in the policy that said, "This company shall not be liable for loss if the described

buildings have been vacant or unoccupied beyond a period of 30 consecutive days immediately proceeding the loss, whether or not such period commenced prior to the inception date of this coverage; but a building in process of construction shall not be deemed vacant or unoccupied." All right. Well, the buildings were unoccupied for a period of two years. And the Insurance Company of North America pretty much -- it was easily discoverable, but yet they kept renewing the policies and they kept taking the premiums. So, the Supreme Court in that case essentially said that that rises to the level of evidence sufficient to estop them from denying coverage, in so many words. And I think we've got a situation that not only similar, but actually stronger in favor in this circumstance.

And I'm going to point to the deposition of Wayne McKenzie, and I'll be happy to provide the Court with a copy of his deposition transcript. But Mr. McKenzie was deposed on the 27th of January 2016. Starting on Page 9 at Line 15 he said:

"I was approached by a manager at Farm Bureau.

Who?

Roger Poston.

Okay."

And tell me if I'm going too quickly.

"And he asked if I would be interested in talking to him about coming to work for Farm Bureau.

All right. And obviously you took the job.

I did. March of 2005.

And you've been working continuously for Farm Bureau ever since?

Yes, sir.

And you're employed by them today?

Yes, sir."

That answer on Page 10, Line 6, and then down at the bottom on Page 10, Line 25:

"Okay. Who is your employer?"

Page 11, Line 1 through 2:

"I am employed by Farm Bureau Insurance."

Page 11, Line 3 through 5:

"Okay. And your paycheck is from Farm Bureau, correct?"

Answer:

"Right."

So, he's an employee of Farm Bureau; no if, ands, or buts about it. So, he came on and then we jump down a little further in the transcript. And he came on in Page 18, Line 2, he was asked if he had ever written policies for Marion and Shiralee Driggers or Tammy Floyd. He then said yes. He can't recall which one or how many, but later on down the line beginning at Page 19, Line 12 he says:

"And you've been writing insurance for them for approximately how long?

The Driggers family from 2005 to 2009."
So, that's found on Page 19. And then he ended up transferring to -- from Florence to Darlington in 2010, so he was no longer responsible for that particular policy because he moved to a different area of the state.

He then goes on and he talks about adding and -- and going on he says on Page 20, Line 15, they were established clients. And most of their business was already in the books when he came to work at Farm Bureau, and he added policies. So, from 2005 to '19 he's not sure how many properties he wrote, but more than ten. So, we go on and on and we then asked him about this particular property and his recollection of it is that this particular property was already in -- you know, there was already a policy in place when he came on. So, the point of the matter is -- is they've written this policy and renewed it over and over and over again. They were visibly taking premiums and kept insuring this policy on behalf of the Driggers/Floyd group.

I can't begin to answer the question as to why Mr. and Ms. Driggers put the property in Ms. Floyd's name, but they nonetheless did, and they then bound the coverage on the policy -- on the property through Farm Bureau and renewed this policy over and over and over again for multiple years. And Farm Bureau not once said anything about it. And Mr. McKenzie knew the Driggers; he knew Ms. Floyd. He'd gone to school

her; they went to church together; Ms. Driggers does his taxes. And nobody ever questioned this relationship until, shockingly, there was a claim. Happy to take the premiums for years on end, but not so happy to pay the claim when it arises. So ---

THE COURT: Let me -- let me stop you. So what should they have questioned? Are you referring to the fact that it was in the name of Tammy Floyd but it was insured by ---

MR. PRITCHARD: Correct. Correct.

THE COURT: --- the Driggers.

MR. PRITCHARD: Correct. And I think they're estopped from raising that issue at this point. Because pragmatically when you get down to it from a risk model standpoint when you're an insurance carrier what does it really matter which one owns the property? It's not like the risk expanded by virtue of Tammy being the title holder, or Mr. Driggers being the title holder, or Ms. Driggers being the title holder. The risk model was identical. You know, they would not have charged any more premium or any less premium, or at least I don't think so but of course I haven't been privy to any of that information because it's been withheld from me, but the risk model would have been the same. So, it's not like they bought risk that would have been lesser or greater. They didn't get anything different than what they bargained for, they just happened to be the wrong name on the policy. But

pretty clearly Mr. Driggers was acting as an agent, an undisclosed agent, for Ms. Floyd, the real owner of the property, and visibly paying the premiums.

THE COURT: And so did Mr. McKenzie testify that he was aware the property was not actually owned by Ms. Floyd?

MR. PRITCHARD: You know, he did not. But, here again, as the -- as the Supreme Court notes, it says -- important language here, bear with me.

The scope of the risk under the insurance policy can be extended by estoppel if the insurer has misled the insured into believing the particular risk is within the coverage. And my insurers thought all along that their particular risk was within coverage over and over and over again, never a question, never asked, never bothered, just kept taking the premiums. And if this had happened 30 days after the first binding of the coverage there might be a much better argument here. But here you've got an insured who's paying premiums, okay so you've got the wrong name on the policy, but that's an easy -- the policy can be reformed to name the correct insured, they do it all the time, actually. Usually for the carriers I work with we don't play this game, we find out who it is and often times we just rewrite the policy with the correct name and keep going because we took the premium.

THE COURT: So I guess what I'm asking is, is it your argument that Farm Bureau knew, or should have known, that

Marion Driggers was not the title owner of the property?

MR. PRITCHARD: Well, my argument is it really doesn't matter what they did and didn't know because it didn't expand the risk.

THE COURT: Well, I mean, they can't affirmatively say yeah, we know you're not the real owner but we're insuring you anyway if they didn't know that he wasn't the real owner.

MR. PRITCHARD: Well I'm not sure I understand that --

THE COURT: Well, your argument seems to be with the *Crescent* case that Crescent -- the building is obviously sitting there vacant.

MR. PRITCHARD: Correct.

THE COURT: And the insurance company continues to accept the premiums and continues to represent that it's insured, even though if they'd just have driven out there, they could see that the building was vacant.

MR. PRITCHARD: Right.

THE COURT: So I would assume you're trying to say that Farm Bureau knew that Marion Driggers did not actually own the property but they kept accepting his premium; and therefore, somehow communicating to Tammy Floyd you're covered. I mean, how -- how would they know that she was not -- that she was actually the title owner?

MR. DRIGGERS: May I address that, Your Honor?

THE COURT: In just a minute, sir.

MR. PRITCHARD: I don't think it matters whether they knew that she was the actual underlying title owner is what I'm saying. I think first off, the fact that she was the underlying title owner is a matter of record. So they -- so anybody is on constructive notice. I mean, a google search at your desk will take two minutes to figure that one out. You know, it's just -- I mean, just go on the Williamsburg County tax records and voila you're going to find out who the record owner is. But, you know, in the Crescent Homes case, one of the reasons I think my case is stronger is the Crescent Homes case, the fact that the policy was -- excuse me, the property was vacant actually expanded the scope of the risk. So generally speaking, if the scope of the risk is expanded then you've got an argument of now we charge a bigger premium. But here there's none of that. The bottom line is, okay, he was acting for his daughter as -- as an undisclosed agent. But the bottom line is, you've got an insured who's paying a premium, the risk is no different. The risk is no different. His argument essentially is we didn't have a contract with Ms. Floyd, but just because you enter into a contract with an undisclosed principle doesn't mean you don't have a contract with the undisclosed principle, and that's essentially what he's arguing here when you get down to it. And that's exactly what's going on here. And that's what I don't think under the Crescent Homes case, I think we've got -- I think we've got a

jury issue as to (a) was he acting as an undisclosed principle; and number 2, do they have a contract with her based on it? And naturally what it's coming down to, I think they're estopped from asserting some of these positions.

Now as for the claim issue, Mr. McKenzie who was an employee of Farm Bureau, discussed this with Ms. Driggers. He wrote the policy. Now, I know there was some discussion about whether or not they should make the claim or not make the claim, but certainly at that moment Farm Bureau was on notice that a property that they insured had caught fire. That he chose not to take it back to them is between him and them, but they knew at that moment so to say we didn't know, we couldn’t investigate, and we could do this, they most certainly could have. I mean, just because no formal claim was done doesn't mean you can't go out and take a look at a property. If you're insuring a property and you know it burned down and you just say we're not going to go take a look at it, you can't -- you can't just do that. You've got to have some basis for not doing it. Now again, Ms. Driggers didn't in fact make a formal claim, but at that moment Farm Bureau was on notice that a property that they insured had burned down and -- or caught fire. And so they knew about it. He was a licensed insurance agent, it's not like he was, you know, a store clerk. I mean, he had to take a test; he has to go to continuing education; you know, he's got company policies and

procedures, again which I've never been allowed to see. And so at this point, you know, I've got a pretty solid jury issue as to whether or not they were on notice and they should have done something about it.

THE COURT: So tell me what your specific request is to produce.

MR. PRITCHARD: Well, what I'm looking for is I want to know what their claims manual and their policy guidelines are. And I understand that they have great heartburn about Travelers getting ahold of it, but certainly protective orders and confidentiality orders do it all the time. I do it as an insurance carrier defense lawyer all the time. And what I don't understand is how, because he's got some heartburn about giving it to another party, that my request for production should be denied. I'm certainly not going to use it to my advantage, at age 58 I promise you I'm not starting an insurance company. I mean, you know, if there's something we can craft where Travelers doesn't get it or whatever, I don't care they work that out, I really don't. But I don't know why I should be denied information necessary to prosecute my claim because he's got some -- because one party has heartburn about another party getting it. I mean, it just -- I just don't see how that fits within the Rules of Civil Procedure and Rule 26 of open discovery. I mean, I haven't heard a single objection that would justify my not getting that information. The

objection is, you know, we don't want another carrier to have it because it's proprietary. Well, that's what a protective order is all about.

THE COURT: And so you want to be able to see it to determine whether Mr. McKenzie followed proper --

MR. PRITCHARD: Yeah. And whether they followed their own procedures in adjusting, or not adjusting I should say, this claim.

THE COURT: And tell me what your position is, first of all what personnel files are you requesting?

MR. PRITCHARD: I want to know if whoever this claim was assigned to has any disciplinary issues, whether they've ever had any other problems adjusting claims, what their training was, that sort of thing so I can ascertain if you have a properly trained claims handler. Has this claims handler had other problems in the past with regards to adjusting claims? I mean the question is, did Farm Bureau act reasonably in simply doing nothing. I mean, they filed a DJ action for sure, but by and large they've done nothing. Again, at least Travelers, to their credit, has come in and tried to pay the money. There's some disputes about whether, you know, how they should come down, but I mean Travelers at least stepped up to the plate with all this mess and said we took a premium, we've got a policy, we just want to pay the Court and let everybody else figure out whose it is. Farm Bureau hasn't

even done that. We took the premium for years and years and years, we just want to truck them out of here. I mean, I've done this 35 years and I'm going to be honest with you, I've only seen two bad faith cases that are worse, and I'm usually on the defense side. I mean, this is -- they just didn't bother to investigate any of it. I mean, that in and of itself is unreasonable conduct in my view, and I think there are jury issues here. And I think -- I think we've got a right to have a jury.

And, you know, while we're on the subject, as Your Honor knows this is a 2014 case. And I recognize that today is the 17th of September so we're 2 months from Thanksgiving and things start getting a little squirrely and we've got the whole Covid thing going on. But I really would like to put this thing on a fast track and try it in the spring and get it done with. It's -- it's -- as a matter of fact, pets have died in shorter time. You know, this case is just going on forever and it needs to ---

THE COURT: I agree with that.

MR. PRITCHARD: Thank you.

THE COURT: Thank you.

Mr. Driggers?

MR. DRIGGERS: Yes. I'd like to add that the reason that it was in my daughter's name, we have a little group called TDF group which is her name, Tammy D. Floyd, that's how this

property was listed. She was my designee as also Arthur McKenzie had Aliza Richardson as his designee at the court case in '96. Everything steams back to those, the contract and the Judge's order.

THE COURT: I've got a copy right here in front of me.

MR. DRIGGERS: Ma'am?

THE COURT: I have that order on my computer right now.

MR. DRIGGERS: Okay. And also Wayne McKenzie had his supervisor with him when he went out to that house. My wife stated to them that Arthur had insurance with Travelers, and we were looking for them to pay because we had notified Ms. Tina Kennedy, well actually she came and looked at the record, and she was well aware on 1/02 of '10 which is just a month or two after the fire. See, Mr. Davis has been insinuating that they don't have a claim, a mortgagee, and I've got several -- which I'm sure you're aware of, that the mortgagee's protected.

THE COURT: Who is Tina Kennedy?

MR. DRIGGERS: Who is what?

THE COURT: Who is Tina Kennedy?

MR. DRIGGERS: TDF?

THE COURT: You referred to a Tina Kennedy.

MR. DRIGGERS: Tina Kennedy is a Travelers investigator. That's the one that I told you I had the paper stating that she put us on notice. I'd like to know who P.D. is.

Do you know, Mr. Davis?

THE COURT: Mr. Driggers, this is your turn to address me as to the Farm Bureau's motions on the request for production and Farm Bureau's motion for summary judgment.

MR. DRIGGERS: Okay. Well I disagree totally with Farm Bureau being let out of it. They were well aware in early '10 of the situation. Even the supervisor came along with the guy. We were trying to help Farm Bureau by collecting from who really owed me. That's how we got -- they denied the claim. They had already approved the claim, Mr. Hudson and Matthew from Farm Bureau already -- we did EUO's, EOU's, whatever they are, and they had already approved that she had an insurable interest in it and then all of a sudden I don't know what happened, somebody talked with them about something. They had already approved the claim.

THE COURT: Okay. I think that is all of Farm Bureau's and Travelers' motions that we've heard from everybody on. I don't believe that you had any pending motions, Mr. Pritchard?

MR. PRITCHARD: No, Your Honor, I don't. And I want to try to understand something. I don't want to put words in Mr. Davis' mouth, but I understand that Travelers position is that they don't care who the money belongs to, they just want to pay it and be done with it. If Driggers gets it, great, but that's a fight that the rest of us are supposed to have. Is that correct?

THE COURT: That's what I understand.

MR. DAVIS: Absolutely correct.

THE COURT: Okay.

Mr. Driggers, I understand that you have some motions as well, sir.

MR. DRIGGERS: Yes, ma'am. I have a motion to reconsider about the code section here 38-59-10.

THE COURT: Okay. Let me ask you first, what are you asking the Court to reconsider?

MR. DRIGGERS: Judge James, Judge James.

THE COURT: Okay. Judge James' order ---

MR. DRIGGERS: He ordered ---

THE COURT: I understand. That was in 2016 and Judge Cothran has denied that motion for reconsideration in 2018, and Judge Brown denied the motion for reconsideration on June 20th, 2017 so that's already been addressed at least twice previously.

MR. DRIGGERS: I don't think the motion to reconsider has been heard at all.

THE COURT: Sir, there's been an order issued by both -- I mean there's a written order dated June 20th, 2017 by Judge Brown.

MR. DRIGGERS: Judge Brown?

THE COURT: I understand it was raised in front of Judge Cothran, although I have not seen a written order from Judge

Cothran. I think that was ---

MR. DRIGGERS: That was just a discussion, that wasn't a motion hearing we had with Judge Cothran because we don't have any trial transcript at all on it. But I was under the impression that I had to file a motion to reconsider on Judge James' order to be able to appeal it.

THE COURT: You did, sir, and Judge Brown ruled on it.

MR. DRIGGERS: Judge Brown?

THE COURT: Yes, sir, on June 20th, 2017.

MR. DRIGGERS: I'll have to check on that. I don't remember that. He ruled on something that I disagreed with, oh, he overruled another Judge's order, that's what it was which is illegal. But anyway, we'll move from that one and go to the motion to compel. I have orders from Judge David Norton which is a federal judge. It says when insurance companies commit bad faith, even one element, they waive all of their rights to protection. We haven't received any kind of discovery at all. All I'm asking for is the discovery between Nettles, Corbin, and Nettles and Corbin.

THE COURT: Okay. I see a motion ---

MR. DRIGGERS: Between Travelers, Nettles, and Corbin that's the information that I feel like I have a right to that.

THE COURT: Okay. I'm not sure what you're asking for. I see that you filed a letter in July of 2018 to Judge Cothran

referring to a federal case.

MR. DRIGGERS: Right.

THE COURT: But I don't see where you have -- tell me what you're asking.

MR. DRIGGERS: I'm asking for all of the information, all of the letters. See because Judge James let Travelers by with a lot of this stuff that I fell like I should have been exposed to, but then I found this order where this federal judge, and it's been through the Supreme Court and they haven't denied it. If you can produce one element, and I can very well produce one element that I haven't been paid under section 38-20 in three months by no means. And I was denied anything to do with the case, have been for ten years. They act like they don't even know a mortgagee.

THE COURT: Well I see Judge James ruled on your motion to compel Travelers to produce certain documents and he granted some of that and he denied some of that. Is that what you're referring to, those documents that you requested?

MR. DRIGGERS: Yeah. I requested those documents, and I haven't received any kind of correspondence between Mr. Davis and Travelers, none. They are opposing attorneys, there's nothing confidential about that.

THE COURT: It appears to me that there was a later order that denied your request that asked for I think attorney to attorney documents.

MR. DRIGGERS: Right.

THE COURT: I can't remember where that was listed, but again I think that Judge James has already ruled on that motion to compel.

MR. DRIGGERS: I don't think so, not on this order because I didn't bring it out. I didn't know about it until this case had drug on for two or three years without any kind of discovery or any kind of thing happening on it. I don't remember when I received the actual motion from Judge Norton but it hasn't been but a couple of years and I don't think that's been heard, but if you say so I'll go along with what you say.

THE COURT: Mr. Davis, do you know offhand, sir, when Judge James on the motion to compel back in May of 2016, Judge James granted it in part and denied it in part. Do you know if Travelers turned over the documents responsive to that motion to compel?

MR. DAVIS: I have to say, Your Honor, if we were ordered to do so I'm confident that we did, although I can't stand here and say that I have a specific memory of it. I did my best to get all of that details of what's happened all of these years in my mind in the last couple of days, but I don't remember that one.

MR. DRIGGERS: But that was before this order.

THE COURT: Mr. Driggers, I don't know which request for

production you're referring to. If you served a request for production ---

MR. DRIGGERS: The clerk should have it in her office. I have a list of motions ---

THE COURT: Mr. Driggers, a request for production goes to the attorneys. It doesn't get filed with the Court unless it's part of a motion to compel. I didn't see any request for production that was attached to your motion to compel. So tell me what specific request for production they have not complied with.

MR. DRIGGERS: Well I -- this order states pretty much that I am due or should be due all of the information that they have. That's the way I read the order.

THE COURT: You're talking about Judge Norton's?

MR. DRIGGERS: Judge Norton.

THE COURT: Okay. That very well may be, but you still have to request the documents. You have to make a specific request for them.

MR. DRIGGERS: I have requested them through I believe a motion is what I'm saying. I'll double check, but I think I received this order form Judge Norton after Judge James. It was later.

THE COURT: I understand, sir, but procedurally if you're saying that they haven't -- that you are compelling -- that you want the Court to compel them to turn over documents you

have to request those documents from them through the discovery process and then they have to formally respond to your request and say yes, here are the documents, or give you some reason why they're not going to give them to you.

MR. DRIGGERS: Okay. Well I'll do that after this. Okay. That's fine. I'll do that. And let's see, the motion to dismiss. That was the order of default. Mr. McKenzie has been removed from this case by Delores Williams following the court order of Judge Duane Shuler.

THE COURT: Okay. Are you referring to -- I saw there was a magistrate court order that ejected him from the property back sometime after the fire?

MR. DRIGGERS: Right.

THE COURT: Which would not have any bearing on this case. First of all, the magistrate court does not have jurisdiction to deal with an interest in real property. The magistrate can evict somebody from the property, but a magistrate cannot make a determination of who's got what in real property. They don't have any jurisdiction in that.

MR. DRIGGERS: Well Judge Shuler wrote that in his order.

THE COURT: That was back in 1994.

MR. DRIGGERS: Well that is this case, ma'am. The '96 case is actually this case. It's about the same thing.

THE COURT: Sir, it can't be this case. That's before the fire.

MR. DRIGGERS: But that order is still good until the contract is up. A judge's order is still good until the contract is up.

THE COURT: So tell me the date of your motion to dismiss that you're arguing to me right now.

MR. DRIGGERS: All of these was to Judge Ferrell Cothran.

THE COURT: Was it July 20th, 2018?

MR. DRIGGERS: Wait a minute. Let me see if I can find that motion here. Motion to dismiss was on October 2nd, 2017.

THE COURT: Okay.

MR. DRIGGERS: And Judge Cothran never heard it.

THE COURT: There was no -- I see that was listed on the public index but there was no document attached. Let me see, I think I've got it in front of me right here. Okay. I'm looking at a letter to Judge Cothran, it's called a motion to dismiss. It was filed October 10th, 2017 that says: "Dear Sir, I'm enclosing an order from Judge Shuler for your information as to why these counterclaims against the Driggers should be dismissed." I'm assuming you're talking about the counterclaims filed by Arthur McKenzie?

MR. DRIGGERS: Right.

THE COURT: And so it's your position that Judge Shuler's order from this 1994 action precludes Mr. McKenzie from crossclaiming against you?

MR. DRIGGERS: Right.

THE COURT: Okay. Let me -- let me hear what -- Mr. Corbin, do you want to respond to that, sir?

MR. CORBIN: I can, Your Honor. There are a lot of different things. Number one, the magistrate court's order it was a default and Your Honor is correct, no jurisdiction. Plus in default you can only ask for relief that you're requested. The only relief that's requested was ejectment. The house had burnt three years before. Mr. McKenzie had been out of the house for three years, so the magistrate court's order does not affect this case.

Don't know what Your Honor wants me to address, whether or not Mr. McKenzie has standing?

THE COURT: I'm referring to this 1994 order of Duane Shuler. The action was E.L. Matthews versus Arthur McKenzie versus Shiralee Driggers.

MR. CORBIN: Yes, ma'am.

THE COURT: And I have not read that order, but it appears to be with respect to this property.

MR. CORBIN: It is. It indicated that the parties would enter into this particular contract which is dated April 25, 1997.

THE COURT: The parties reached an agreement?

MR. CORBIN: Yes, ma'am.

THE COURT: Mr. McKenzie was to pay some money for past due rent and for attorney's fees. It also states that the

parties recognize that there are other mortgages in agreement between the parties which will not be released by the terms and conditions of the release but will be satisfied by the contract. It gives Arthur McKenzie the right to assign his interests to a designee whose name will appear on the contract. Was this contract ever entered into?

MR. CORBIN: Yes, ma'am. It's part of numerous responses to motions, but this is a copy of the contract, Your Honor.

THE COURT: Numerous responses to motions in this case?

MR. CORBIN: Yes, ma'am.

THE COURT: And do you have a copy that Mr. Driggers can see what I'm looking at?

MR. DRIGGERS: Which one, the contract?

THE COURT: Sir, what I'm looking at is a contract for sale and purchase dated, it looks like April 25th, 1997.

MR. CORBIN: Your Honor, in that particular contract, Mr. Driggers has a copy of it, it's clear that's what Mr. Driggers indicates he was his daughter's designee. And it's clear that Arthur McKenzie -- that Aliza Gambell was the designee for Mr. McKenzie. Clearly in this contract Mr. McKenzie is a party and he can enforce this contract. We're not looking to abnegate the contract; we want to enforce it. For example, on page three, paragraph four the attorneys representing the parties indicates that Arthur McKenzie is represented by me, he's a party. Page seven, that talks about that in fact it's

on the sales contract if there's a default then there'll be a foreclosure and any excess of that foreclosure would go to Mr. McKenzie. Page number nine, binding effect of this contract, this agreement shall be binding upon the parties hereto, Driggers, which is Mr. Driggers, McKenzie, Mr. McKenzie, and others so clearly he's a party. Furthermore, paragraph seventeen states the parties agree that Arthur McKenzie shall jointly share any and all responsibilities and liabilities with Aliza Gambell under the terms of this contract, so clearly he's a party to this contract. Mr. Driggers is a party to the contract, Mr. McKenzie is a party to the contract; therefore, he has standing to bring his action for breach of those contracts.

THE COURT: Mr. Driggers, do you want to respond, sir?

MR. DRIGGERS: Yes, ma'am. On page four he moved away from it, but said in the event of a default by the buyer all contract rights of the buyer Gambell and McKenzie will terminate. Buyer and McKenzie acknowledge they have no rights to equity for rent paid. That's in the contract, it's also in that order.

THE COURT: You're referring to page four of the contract for sale dated April 25th, 1997?

MR. DRIGGERS: Yeah. On contract page four and it says buyer shall have the right to vacate within 30 days from written notice. If the buyer fails to vacate within 30 days

the seller shall commence eviction proceedings in magistrate's court. The notice shall have the event of default, the buyer will have the right to cure the default. He never cured it and a lawyer served this and a magistrate -- Kim Dotson (ph) served that to the magistrate or gave it to the magistrate. She did the default according to the order of Judge Shuler. Same case from '96 til now. I believe it's on section eight about the assignment, that there can be no assignment without my family signing the papers, so Mr. McKenzie shouldn't have ever really been in this. Ms. Richardson, if they were going to do anything, should have.

THE COURT: Okay. I'm denying your motion to dismiss on the basis of Judge Shuler's order of 1996. Given the fact that the parties then entered into a contract for the purchase of a property after Judge Shuler's order in April of 1997. So that motion is denied.

MR. DRIGGERS: Wait a minute, ma'am. That wasn't two different cases now. That's all the same case.

THE COURT: I understand exactly what your position is, sir, but it's my ruling that Judge Shuler's order was then followed up by the contract of sale between the parties and so I'm not dismissing the action at this point. But you can move on to your next motion.

MR. DRIGGERS: Okay. Motion to produce legal assignment, that's the next thing. I haven't received it.

THE COURT: Okay. I understand that you had previously filed a motion to abolish the assignment.

MR. DRIGGERS: Right.

THE COURT: We had an affidavit from Lisa Gamble is it?

MR. DRIGGERS: Aliza Gamble.

THE COURT: Who indicated that she did not sign the assignment. Judge James ruled on your motion to abolish the assignment back in 2016 and indicated that Ms. Gamble having acknowledged she did not sign it, that he was not ruling on how that affected the legal rights of the parties. So I don't know what you're asking us to do at this point. I think they can't produce something that doesn't exist.

MR. DRIGGERS: Right. And they have -- you know if the Judge ordered that it be a separate hearing and separate agreement on it, which is Judge Shuler's order then they can't have an assignment. He forged the assignment. I've got a forged assignment is you want to read it.

THE COURT: Well from what I understand you asked them to produce an assignment that you say that by your account is a valid assignment.

MR. DRIGGERS: A valid assignment.

THE COURT: They've produced to you all of the assignments that they have. I understand that you're going to have a legal argument down the road about the validity of those assignments.

MR. DRIGGERS: Right.

THE COURT: But there's nothing further for them to produce to you at this point.

MR. DRIGGERS: Okay. So if they can't produce it, what affect will that have with the law?

THE COURT: Well that's for another day for another Judge and during the trial for the jury to make that determination.

MR. DRIGGERS: Okay.

THE COURT: But that's not in front of me now.

MR. DRIGGERS: Fair enough. Motion to compel which is the federal order, that don't seem to make any difference.

Motion to reconsider, let's see what that one is on. I don't seem to have it, Your Honor, so we'll skip over that.

I've got a motion to revise. I was asking the Court to produce a legal assignment that's signed by all parties in the court order and the contract for sale and I ask the Court to abolish the counterclaims by Mr. McKenzie. He has no standing to counterclaim. That's not the one I wanted to revise. I wanted to revise the amount I was asking in damages, and I revised it due to an order from Judge Michael Nettles to ask for punitive damages.

THE COURT: Okay. Let me ask first of all, Mr. Pritchard, can you tell me whether the original claim requests punitive damages?

MR. DRIGGERS: The original claim what?

THE COURT: I think the -- at this point I don't know if the summons and complaint has been amended, but the most recent summons and complaint does it ask for punitives?

MR. PRITCHARD: I'm pretty sure it does. I'll have to fire up my computer, I haven't looked at the thing in so long, but I can't imagine that it doesn't, I'll put it that way. I wouldn't have no put it in there. If it's a bad faith claim I'm going to ask for that. I can go pull the complaint out. You'll have to bear with me.

MR. DRIGGERS: And I have a motion, I think, to revise the cause of action. This is where I was sending the motion to revise my cause of action due to opinion number 26718. In this action our Supreme Court upheld the jury award from Judge Michael Nettles' court in Florence. It is very clear that the courts will uphold these punitive damages because of torturous conduct and unconscionable actions of insurance companies. I now am asking $350,000 actual damage and $10,000,000 in punitive damages. It is obvious that Travelers Insurance and Farm Bureau had bad faith claims for disobeying South Carolina statute 38. I also ask that they be held in breach of trust and breach of contract. I also plan to show this Court and jury possible collusion and perjury by some attorneys. For the above reasons, I ask this Court to enter a judgment of $10,350,000.

THE COURT: So the next question is that the original

complaint was for breach of -- there certainly was a breach of contract action in there somewhere? I don't know about breach of trust.

MR. PRITCHARD: Honestly I can't answer that without looking at it.

Madam Clerk, is there a Wi-Fi password or something here?

THE CLERK: Public 123.

MR. PRITCHARD: Excuse me?

THE CLERK: Public 123.

MR. PRITCHARD: Public 123. Thank you. All right.

THE COURT: Okay. I'm looking at an amended answer and counterclaim and crossclaim of Marion Driggers, Shiralee Driggers, and Tammy Floyd. It looks like there's an unsigned order that is titled Order Allowing Defendants Marion Driggers, Shiralee Driggers, and Tammy Floyd to amend their answer. This is from 2015. I don't see where this is clocked. But in this amended answer, counterclaim, and crossclaim there's a breach of contract action against South Carolina Farm Bureau, bad faith claim against South Carolina Farm Bureau, there's a breach of contract claims as to Travelers, bad faith claim as to Travelers, and it requests punitive damages in an appropriate amount to be considered by the Court. I do not see an action for breach of trust.

So tell me who you want to sue for breach of trust, Mr. Driggers.

MR. DRIGGERS: Breach of trust, both of them really, Farm Bureau and Travelers.

THE COURT: I'm going to deny your motion to amend your complaint or crossclaim. I'm going to deny -- I'm going to interpret your motion as a motion to amend your answer counterclaim and crossclaim to include a cause of action for breach of trust. We are now six years into this litigation. It looks like your case was thoroughly pled in the various pleadings that have been filed. There has been virtually no discovery going forward so it not as though anything that was discovered in discovery that wouldn't have been known to the parties at the beginning of the case. So that motion is denied. As to your punitive damages, you've already pled punitive damages, you've already pled breach of contract so there's nothing for you to amend at this point.

MR. DRIGGERS: So you're denying discovery?

THE COURT: No, sir. You filed a motion to revise.

MR. DRIGGERS: Uh-huh. (Affirmative response.)

THE COURT: I'm assuming you're talking about revising your complaint.

MR. DRIGGERS: The amount, right.

THE COURT: You don't have to revise the amount. You don't have to ---

MR. DRIGGERS: Okay.

THE COURT: --- ask for a specific amount of punitive

damages. You've already asked for punitive damages. When the case goes to a judge or jury, you'll make a request as that point.

MR. DRIGGERS: That'll be fine.

THE COURT: Okay. So let's recap, shall we. First of all, anybody need to say anything else at this point?

MR. PRITCHARD: Really the point that I would have back to the summary judgment motion is if it's dismissed essentially they issued a policy to no one, took the premiums, and don't have to pay anybody.

THE COURT: Let's start in turn here. If y'all will give me a minute to just go back over my notes as to what all we have now. Okay. As to Travelers motions, the motion basically for interpleader to pay the funds into court is granted basically with the consent of the parties.

The motion for summary judgment as to the cross claims and the motion for summary judgment as to South Carolina Farm Bureau's equitable indemnity claim, I'm going to take under advisement and look at that carefully.

South Carolina Farm Bureau's motion to quash is granted as to the personnel file or files. It seems to me that their -- I'm not saying that that's not a possible line of inquiry during a deposition, but as far as having to produce the personnel files of South Carolina Farm Bureau employees, that motion to quash is granted.

As to the claims manuals and policy guidelines, I think is how you phrased it, I'm going to deny that motion to quash subject to protective order. And what I'm going to do is allow y'all to circulate the terms of a protective order and see if you can agree on the terms of a confidentiality order. And if you cannot agree on it, then if you'll send me each your version and I will -- I'll craft one, but I'd first like --

MR. PRITCHARD: I'm confident Mr. Hudson and I can do this.

THE COURT: I'm sorry.

MR. PRITCHARD: I'm confident Mr. Hudson and I can do this.

THE COURT: Sure. I'd like y'all to take a stab at agreeing on the terms of a protective order. I do think that Farm Bureau has a legitimate interest in keeping those documents confidential and so they do not have to produce those until a confidentiality order is in place and signed by the Court.

As to South Carolina Farm Bureau's motion for summary judgment, I find that that motion is premature at this time. By all accounts, discovery has been fairly limited thus far in this case. However, I do think that you certainly would have the ability to refile. I'll put that in the order that you can refile that motion for summary judgement or renew that

motion for summary judgment at the conclusion of discovery.

I think we need a scheduling order in place. First of all, that all fact witnesses -- we're going to have a date when all fact witnesses have to be named. We're going to then have a date when all depositions have to have concluded, including the depositions of Marion Driggers, Shiralee Driggers, Tammy Floyd, and any representative of Arthur McKenzie's estate. We're going to have a date when dispositive motions have to be made by. And we're going to have a trial by or a trial not before date. I can't tell you those dates right off hand because I don't want to make y'all wait while I do that. But I'm not going to ask y'all to agree on that, because frankly I think we're going to spend more time trying to get everybody's agreement than if I just set those dates, so I'm going to set those dates. I'm also going to say in this order that those dates are not going to be extended except a party showing extremely good cause as to why not. This is a 2014 case. There's no reason why we still have this case pending. We have fairly limited narrow legal issues to address, so I see no reason why we can't get this case concluded.

As to Mr. Driggers motions, the motion to dismiss is denied again on the basis of the contract of sale that was entered into between the parties after Judge Shuler's order of 1996. The motion for valid assignment is denied as it's not

really a proper motion for this Court. The motion to reconsider Judge James' order is denied as that order has already -- or that motion has already been heard previously and ruled on by Judge Craig Brown. The motion to revise is denied as to the breach of trust action. I find that it's a moot motion as to the request for punitive damages and breach of contract since those things have already been pled in Mr. Driggers previous pleadings with the Court.

I think that addresses everything. So, again, I'm going to take the two Travelers motions under advisement. I'm glad to do a form order as to everything I've just said unless someone wants to draft an order as to any particular part of this.

Mr. Davis, I don't know if you want to draft a motion -- an order with respect to the interpleader?

MR. DAVIS: I'll be happy to, Your Honor.

THE COURT: Okay. If you'll do that.

MR. CORBIN: If I may, also include the consent order to allow the substitution of the party for the estate on behalf of Mr. McKenzie.

THE COURT: Yes, sir. And are you fine with me doing a form order for that?

MR. CORBIN: Yes, ma'am. Yes, ma'am.

THE COURT: Has a personal representative been named?

MR. CORBIN: Yes.

THE COURT: Do you know the name of that person?

MR. CORBIN: I do. I can't think of it off the top of my head.

THE COURT: If you will just e-mail to me, copy the parties, on if you've got a copy of that order appointing PR so we'll have that name.

MR. CORBIN: Yes, ma'am.

THE COURT: Otherwise, I'll do a form order as to my rulings. Okay. Thank you all so much for coming here today under, you know really difficult circumstances. I appreciate it. We've got the weather, we've got a pandemic, we have all manner of issues and I know that you all -- that everyone wants a resolution of this case, so I do appreciate everyone being physically present today so we could make some headway.

MR. DRIGGERS: May I ask a question?

THE COURT: Certainly.

MR. DRIGGERS: You have not released Travelers from this lawsuit, right? You're just going to let them pay that into the court?

THE COURT: They're going to pay that money into court. Yes, sir. I haven't ruled ---

MR. DRIGGERS: Have you released?

THE COURT: I have not ruled yet as to their crossclaim -- their motion for summary judgment. I'm taking that under advisement.

MR. DRIGGERS: Okay.

THE COURT: All right. Thank you.

(HEARING IS ADJOURNED.)

C E R T I F I C A T E

I, the undersigned, Sallie Beth Todd, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete portion of the transcript of the Transcript of Record of the hearing held in the interest of South Carolina State Farm Bureau Mutual Insurance Company versus Marion L. Driggers, et al in the Court of Common Pleas for Williamsburg County, Williamsburg County Courthouse, Kingstree, South Carolina, on September 17, 2020.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.

Sallie Beth Todd, CVR
Official Reporter

July 19, 2021.

EXAMINATION UNDER OATH OF

MARION DRIGGERS

Wednesday, July 31, 2013

11:09 A.M. - 1:04 P.M.

Florence, South Carolina

Claim Number: FI 341798

The examination under oath was taken before Lisa Marie Weesner, court reporter and notary public for the State of South Carolina, at 207-B John Street, Lake City, South Carolina, on Wednesday, July 31, 2013.

Lisa Marie Weesner
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A P P E A R A N C E S

For the Claimant:
James Dotson, P.A.
104 South Acline Street
Lake City, SC 29560

For the Carrier:
Hudson Law Offices
1203 48th Avenue North, Suite 111
Myrtle Beach, SC 29577
By: J. Dwight Hudson, Esq.

Also Present: John Matthews, Farm Bureau

I N D E X

Examination by: Mr. Hudson 3

E X H I B I T S

Pg/Ln	Ex#	Description
41/08	1	Hudson letter 6/3/13
56/05	2	Proof of Loss
47/22	3	Farm Bureau Fire Policy Declarations
58/07	4	Assignment of Interest 10/13/06
60/04	5	Authorization to Obtain Credit
64/08	6	Contract for Sale and Purchase
72/18	7	Order of Default/Ejectment
68/21	8	SCDOT Payment
61/19	9	Amortization Schedule
Not used	10	Title to Real Estate
Not used	11	Spring Construction
Not used	12	Nettles letter to Tammy Floyd

*** Court Reporter's Note: dash "--" indicates incomplete sentence, incomplete phrase, trailing off, interruption

** uh-huh = affirmative
huh-uh = negative

the way from the beginning, just bring me up to date on what kind of insurance y'all were getting?

A You would probably be better off to ask my wife because she does the bookwork. But now, the reason we had insurance is because Arthur was notorious for getting insurance and letting it lapse, and evidently he did it this time. My wife can probably tell you. But now, we've been dealing with Farm Bureau, and that's probably who we've had the insurance on -- Johnny could probably help you on that.

Q Well, we -- Farm Bureau will have their records, but I -- I'm trying --

A I'm going -- well --

Q -- to get y'all's information --

A -- yeah --

Q -- and what you're --

A -- well, you'll be better to ask her that, but --

Q All right.

A -- the -- I didn't even know we had a policy on it when the house burned, then -- my wife did, I didn't know it.

Q Okay.

A And then I told her, we would not put a

claim against Farm Bureau because, you know, they notorious for going up on your insurance if you file a claim.

Q Huh.

A And I said Travelers will have to pay that. But I was wrong, they haven't paid it yet. But now I think it's Nettles and Arthur McKenzie, and all, is stalling Travelers.

Q Okay.

A That's my opinion.

Q We -- we talked about this a little bit off the record, and we were sitting around talking with Mr. Dotson as well, but we're on the record now and I'd like to -- to hear, on the record here, what your understanding is since the claim's been made with Travelers, what's been going on, and why is it taking so long? To your knowledge, just within your knowledge.

A To my knowledge, the best I can figure out is Arthur McKenzie has a lot of IRS liens on him, and they are stalling it out until Wilbur Brown and that Floyd guy, I think it is --

Q They being who? Give -- give names to --

A Nettles.

Q Okay.

A Nettles --
Q Nettles is --
A -- his lawyer.
Q -- Arthur McKenzie's lawyer?
A Right.
Q All right.
A They're stalling this thing out until they can try to reduce the IRS liens.
Q So they're cutting off things in hopes that the IRS will take less?
A That's right. That's my opinion.
Q Okay.
A It's only an opinion.
Q Okay. Have you ever talked directly with Mr. Nettles?
A I talked with him, and he pretty much told me that I didn't have a claim, that was a contract between McKenzie and Travelers. And I said, I differ with your opinion.
Q Okay. So he's saying that your ownership --
A I'm not involved.
Q -- your ownership interest doesn't come into play or -- or won't be entitled to any of the proceeds from the Travelers' policy.

A That's right. That's what he was indicating to me.
Q Okay.
A And that's when we --
Q We?
A -- tur--- we meaning my wife and I --
Q Okay.
A -- turned the claim in to Farm Bureau because, you know, three years is statute of limitations and we held out long as we could.
Q Okay. And I think off the record, and I -- this ge--- we're on the record, that y'all, you and your wife, one or both of you, turned it in to Farm Bureau, really less than a month before the sta---
A Right.
Q -- three-year statute of limitations --
A Right.
Q -- I'm assuming that's what it is -- the three-year statute of limitations would have run. And before that time, Farm Bureau had no knowledge of any loss or fire --
A I --
Q -- or anything --
A -- I -- I think they --

Q -- to your knowledge?
A -- I think they did. I'm not sure now.
Q All right. Well, then explain that.
A Well, I'll let you talk to my wife on that, but it seem like she said she talked to somebody, but I'm not sure. I -- I won't get into that you ask her that.
Q All right.
A Because like I said, she handles most of the paperwork. But I told her we had to turn it in. I was the one that initiated the --
Q Uh-huh.
A -- because I said that the statute of limitations run, they don't have to pay.
Q Okay. And we also discussed this briefly off the record, but what's your understanding, and have you ever seen what we call a tolling agreement on that statute of limitations?
A A what?
Q It's called a tolling agreement or a waiver or an extension of the statute of limitations?
A I've never seen anything on it, but I heard about Nettles doing it.
Q Okay. And was it your understanding it

told us it go before -- toward the first mortgage.

Q Huh.

A So it -- we were concerned about putting it in our name because we was the second mortgager on it. This was with Resolution Trust and all, and then it went through a tax sale. But from what I understand now, that it -- it didn't matter, I could have went ahead and put directly in my name.

Q Well, it sounds like Elsie -- have I got the word right, Elsie --

A Yeah.

Q -- Matthews --

A Yeah.

Q -- was basically a straw purchaser for y'all?

A Straw purchaser for us, that's what she was.

Q Right. And then for whatever reason, Elsie Matthews moved out of the picture and it was put into --

A Put in --

Q -- Tammy Floyd's --

A -- Tammy Floyd's name.

Q -- your daughter's name?

A Right.

Q So it would still for --
A It wouldn't reflect us, but incase --
Q -- whatever reason, it would protect you and your wife?
A -- incase any legalities came up.
Q Right.
A I --
Q And what documentations shows these transfers to --
A I don't know.
Q -- their names?
A I'm hoping my wife will bring it. I told her -- I called her and told her to bring where it was transferred from Elsie -- it was done legally, and I think it was done by an attorney, I'm not sure.
Q Uh-huh.
A But it was transferred to Tammy's name and it's -- has been in there since way back --
Q Uh-huh.
A -- in the '90s.
Q Okay. All right. And Mr. McKenzie was paying rent?
A Yes.
Q At least somewhat --

greater amount --

MR. MATTHEWS: Right.

MR. HUDSON: -- by -- such as Travelers.

MR. MATTHEWS: Travelers, yeah.

MR. HUDSON: Okay. Good. Okay. Well, that's Exhibit Number 2. Got that one.

(Exhibit Number 4 introduced.)

BY MR. HUDSON:

Q Okay. These are some other documents, we'll run through them right quick, and it's Exhibit Number 4. And that's an Assignment of Interest and Contract for Sale and Purchase, October the 13th of '06 between Lisa Gamble and Arthur McKenzie, even though in the second paragraph, it refers to your daughter as being a transferor in this thing, I think -- and I believe you stated that's in correct. But anyway, that is on record in the --

A It is -- it's --

Q -- in Williamsburg County --

A -- she has not transferred anything --

Q -- with the --

A -- or signed anything to transfer it.

Q Okay. Are you familiar when that was executed and what happened?

A Not really. I've seen this and -- and we

debated on it, but I figured, like y'all did, that they were transferring it -- trying to transfer it from Liza to -- to Arthur.

Q So --

A That's what I figured. But now, I didn't -- I mean --

Q So sin--- nothing more was done, figured it was sufficient to transfer Lisa Gamble's interest to --

A Yeah, well, it -- it didn't --

Q -- Arthur McKenzie's --

A -- concern me because it's like Jim said, Tammy hadn't signed it, and I knew she hadn't signed it --

Q Right.

A -- so, you know, that --

Q Right.

A -- that there document's no good?

Q But Lisa Gamble signed it?

A Yeah.

MR. DOTSON: And it transferred Lisa/Liza's --

MR. HUDSON: Right.

MR. DOTSON: -- interest to Arthur just --

MR. HUDSON: Sure.

MR. DOTSON: -- getting her out of the picture.

MR. HUDSON: Right. Okay.

(Exhibit Number 5 introduced.)

BY MR. HUDSON:

Q And next one is Exhibit Number 5 and that's -- appears to be Travelers Insurance Company documentation. The last page of which is their sworn statement and proof of loss similar to the Farm Bureau one that we just talked about earlier.

A Uh-huh.

Q But look at those documents and tell me if you're familiar with it and any comments you have on any of the --

A I --

Q -- entries.

A I think I've seen this. I'm pretty sure I have, and I kind of questioned the figures, but, you know, that's none of my business between McKenzie and Travelers.

Q Uh-huh. Okay.

A All I'm interested in is my share.

Q And what do you -- what do you say your share is in Travelers?

A We think it's like 80,000 dollars right

BY MR. HUDSON:

Q This agent is Wayne McKenzie --

A Okay.

Q -- in Florence?

A Well, Wayne would know --

MR. MATTHEWS: (To the Witness.) Yeah. Wayne McKenzie.

THE WITNESS: Wayne McKenzie. All right. It was Wayne. But Wayne is -- he goes to our church and all, he knows my daughter, everything, so he wou--- he wouldn't hesitate to write it like that. I don't think.

BY MR. HUDSON:

Q What church is -- so he -- so Wayne McKenzie would know --

A Yeah, Wayne McKenzie he'd know --

Q -- the whole family here in --

A -- yeah, he'd know.

Q Okay. What agreement do you have between you and your daughter?

A Word of mouth.

Q Okay.

A Just like I --

Q Oral contract. All right.

A Just like I do at the beach.

Q All right. Do you own the barbecue restaurant at the beach?

A I own the property, she owns the business.

Q Who did you buy that from, Jenks Hedgepath?

A I can't remember what name it was. I was a funny name.

Q Jenks Hedgepath?

A Seem like so. Rusty Helms sold it to me.

Q That's right.

A With Keystone.

Q Right.

A And Wilbur Brown handled it for us.

Q They did?

A Uh-huh.

Q All right. I know most of those people, so. All right.

(Exhibit Number 7 introduced.)

Q Number 7, just identify those documents just for the record because we have them.

A All right. This was back when?

THE WITNESS: (To Mr. Dotson.) This is one you did; right, Jim?

MR. DOTSON: Yeah.

THE WITNESS: Yeah.

EXAMINATION UNDER OATH OF

SHIRALEE DRIGGERS

Wednesday, July 31, 2013

1:20 P.M. - 2:10 P.M.

Florence, South Carolina

Claim Number: FI 341798

The examination under oath was taken before Lisa Marie Weesner, court reporter and notary public for the State of South Carolina, at 207-B John Street, Lake City, South Carolina, on Wednesday, July 31, 2013.

Lisa Marie Weesner
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A P P E A R A N C E S

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For the Carrier:
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Myrtle Beach, SC 29577
By: J. Dwight Hudson, Esq.

Also Present: John Matthews, Farm Bureau

I N D E X

Examination by: Mr. Hudson 3

E X H I B I T S

Pg/Ln	Ex#	Description

** uh-huh = affirmative
huh-uh = negative

Q -- got kind of an apartment or a --
A Yeah.
Q -- a mobile home --
A Yeah.
Q -- or something.
A She's getting one day at home right now, yeah.
Q It's close, very similar. All right. Okay. Let me ask you this -- I'm going to jump around because I got a lot of information from your husband. Does Tammy Floyd, your daughter, is she often involved in real estate transactions in y'all's real estate transaction business?
A Involved, no. I -- we keep buying things for Tammy. I mean, a couple of houses.
Q Excuse me. I mean, is she -- I mean, actively involved in any decision making; does she -- is she a part of the real estate investment business? Which we understand from your husband, is a fairly extensive rental business.
A Does she work in it, no.
Q Yeah. She does not?
A Huh-uh.
Q Okay. She's not employed in -- by any of the other L.L.C.s or anything?

(Exhibit Number 7 introduced.)

Q Number 7 is the order of default and order ejectments, a 2012 action in the magistrate's court of Williamsburg County. It's got several of the legal documents attached to it. There's no sense in going through all of them. But what's your understanding that that number -- Exhibit Number 7 represents and explain your knowledge, briefly, of what happened in that proceeding?

THE WITNESS: (To Mr. Dotson.) Is this that thing you did?

A I don't think I've got much knowledge on that to tell you the truth.

Q You were not at the hearing -- did you go to any of the hearing or the legal --

A On this?

Q Yes, ma'am.

A No, sir.

Q Okay.

A No, sir.

Q Who would have gone, your husband and your daughter or --

A I don't know.

Q Okay. That's fine.

A But not my daughter, I know.

MR. DOTSON: It was a default. There was not hearing.

MR. HUDSON: Okay. Okay. So you never even had that scheduled to hear?

MR. DOTSON: Right.

BY MR. HUDSON:

Q Okay. All right. Well, that's a short for that one.

A Yeah.

(Exhibit Number @ introduced.)

Q Okay. Here's a -- at Number 6, a contract.

A Okay.

Q Do you recognize that?

A Yeah.

Q Tell me what you know about that and it's history?

A Ninety-seven.

Q It's my understanding this is one of the first documents that exhibit the arrangement between --

A I think this was --

Q -- between the Driggers and/or surrogates or people appearing in the fam--- on behalf of the Driggers, but there might be a -- a previous

agreement between parties that -- that preceded this. And that's, I think, what your husband was going to have you check and see if you had it in your records.

A Okay. Now, this was the -- things prepared by Jenkinson Law Firm if I'm not mistaken, where we supposedly reached another agreement so that Arthur would make his payments and do whatever. And came up with another contract for him to start having it a doable thing, and he was supposed to go from there forward making payments.

Q All right. Now --

A That was that one.

Q All right. And that's Exhibit Number 6. And that was between your daughter, Tammy --

A Yeah.

Q -- who had -- somehow it probably got in her name and -- and Lisa Gamble who was the girlfriend of Mister --

A That's right.

Q -- McKenzie, and it was deeded with Lisa Gamble because maybe Mr. McKenzie's credit situation wasn't as good as maybe he would like it to be so he had -- Lisa Gamble was operating in his stead. Okay. And I think we've understood that. It was my

understanding that maybe even before this that mister -- Mr. McKenzie was in the house and it al--- really had always been in this house because he kind of built the house.

A That's right.

Q What agreements were there, if any, between you, your husband, the Driggers or Tammy Floyd or anybody that might have been appearing in y'all's behalf on any agreement previous or prior to this agreement of May -- I'm sorry, of April of 1997 representing ownership in any agreement with Mr. McKenzie? I'm trying to just get the history back on any legal documentation prior to that?

A I -- I know. Liza.

Q Is that Liza? Am I pronouncing it right?

A Liza -- yeah.

Q Okay, Liza.

A Oh, yeah. Well, that's what he called her was --

Q Right.

A -- Liza Gamble.

Q Uh-huh.

A Arthur had lost his house for taxes --

Q Okay.

A -- and everything else, okay?

Q Right.
A So apparently it couldn't go back in his name.
Q Correct.
A Okay. So he and Liza were supposed to be together, and I'm assuming Liza lived there with him. I'm -- best I remember, I think she did.
Q Uh-huh.
A They lived in the house together. But because of Arthur's credit, and everything was so bad, Liza was supposed to be the one that the contract was with. And she was supposed to be able to then borrow the money with her credit and pay the house off. Is what was supposed to happen.
Q Uh-huh.
A Instead of dragging out another twenty years; however long it's drug out.
Q Uh-huh.
A Yeah.
Q Okay.
A But that never came, okay? So they were back in this contract and this payment called for like 700 dollars a month or somewhere along in there.
Q Okay.

A And that's what they were supposed to --
Q Prior to this, there was a tax sale?
A It was a tax sale.
Q And I understand that -- was it Ms. Elsie -- what's that, Elsie --
MR. DOTSON: Matthews.
Q -- Matthews --
A Uh-huh.
Q -- bought it as a straw purchaser for the Driggers at the tax sale. Is that correct?
A Does that mean somebody that we just put it in their name?
Q Correct.
A Is that what a straw purchase means?
Q Correct.
A That's right.
Q That's what I understand Mr. Driggers had said.
A Yeah.
Q Is that correct?
A That's right.
Q And then Ms. Matthews -- Elsie Matthews, assigned her ownership interest --
A To --
Q -- to --

A -- Tammy.
Q -- Tammy Floyd, your daughter?
A Uh-huh. That's right.
Q And then that's how Tammy Floyd came to -- to --
A Liza Gamble.
Q -- to be in the position of executing this agreement with Liza --
A Uh-huh.
Q -- Gamble? Okay. All right. And I guess I was asking, do you have any other documentation other than what we have here --
A Did y'all not --
Q -- reflecting any of those prior arrangements or agreements between all of these parties?
A I can't remember to stay quite, now.
Q All right. Well, no, that's -- I -- I paused and -- and I apologize for that.
A Do you not have this?
Q I'm not sure, let me see. I am reading a E.L. Matthews, 30,000 dollars to Tammy D. Floyd, title to real estate. I don't believe I have seen that one. But it's unexecuted.
A That copy is, yeah.

Q Ma'am?
A That one is and I -- I didn't pull one from the courthouse.
Q Okay. So -- I was just looking for a date?
A Uh-huh.
Q This 1996 date, if -- if it was executed at the same time it was typed --
A Let me see.
Q Okay. That's good.
MR. HUDSON: Let's mark that. It'll be number what?
THE COURT REPORTER: 10.
MR. HUDSON: 10. Okay.
(Exhibit number 10 marked for identification.)
BY MR. HUDSON:
Q I'm going to mark this, but you'll get copies of all this, so you'll get it back if that's okay.
A Okay.
Q I'd rather not stop and make copies. Okay. But that's a little -- that's one that we didn't have even though we had some testimony to that effect, but -- excuse me, drinking this water,

Q -- two-thous---
A -- off and on for -- well, I reckon on, for probably, I don't know, ten years maybe.
THE WITNESS: Johnny, do you have a record over there?
MR. MATTHEWS: From what I can see on my information, it just gives me -- pages which is about -- of a year -- it's about 15.
THE WITNESS: Yeah.
BY MR. HUDSON:
Q About 15 years. I think you mentioned that earlier.
A We've always -- always kept it covered because we could not depend on Arthur to keep --
Q Okay.
A -- insurance on anything.
Q My next question was, I understand that it was kind of because you couldn't rely on Mr. McKenzie.
A That's right.
Q Well, what would prompt you to -- did you just do it every year, or what would prompt you to do it those particular years or di---
A It stayed continually covered since it's been covered the first time.

THE WITNESS: Didn't it Johnny? I hadn't had any letters --

MR. MATTHEWS: The best I can tell, it's be concurrent with us.

THE WITNESS: Yeah.

BY MR. HUDSON:

Q It's been consistent and --

A Yeah.

Q -- continuous?

A Yeah.

Q Okay. There's no gaps?

A I don't think so.

Q Did you ever talk to Mr. McKenzie and say, give me -- show me a copy of your policy or -- you know, or provide us with evidence that we're a loss payee on the -- or additional insured on the policy? Did you ever approach him on that?

A No. They did a -- after Wayne started my accounts, Arthur -- that's the way he did our accounts, they came and did a -- y'all don't have this problem where you can't think of words sometimes, do you?

THE WITNESS: You can leave that line out.

BY MR. HUDSON:

Q A senior moment.

had had the fire and --

Q You talking about Farm Bureau?

A Uh-huh. And --

Q So it's not insured now?

A No.

Q Okay.

THE WITNESS: Is it insured now, Johnny? No.

MR. MATTHEWS: I'll have -- as far as the -- for this claim, it shows the expiration date as 5/24/2010.

A Yeah, when it was com--- you know, when it came up to renew, and I said, I don't -- don't know what I need to do with it, because it's had a fire. And I told them at that point, I did not want Farm Bureau to pay if Arthur's insurance would cover it because he was suppose to have insurance on it. I only take insurance just enough to protect incase of great losses. I'm not a insurance addict that turns in little fire claims or anything else.

Q Has Travelers ever come to you and -- and -- when you mentioned you talked with these people, did they as--- have they ever given these numbers that you saw, the proof of loss, to you before and said, do you agree or disagree with these? Or have

FARM BUREAU INSURANCE

DWELLING FIRE POLICY DECLARATIONS

SOUTH CAROLINA FARM BUREAU MUTUAL INSURANCE COMPANY
PO BOX 2124, WEST COLUMBIA, SC 29171-2124

Policy Form: **DF3 (12/2002)**
CO-INSURANCE APPLIES.

Policy Number: **FI 0401219** Dec No.: **15.000**

The Declarations of the policy indicated herein are subject to all other terms and conditions of the policy and replace all previously issued declarations, if any. This Declaration Page becomes a permanent part of your policy. Please attach it to your policy booklet.

THIS DECLARATION PAGE IS EFFECTIVE **05/24/2009** TO **05/24/2010** AT 12:01 A.M. EASTERN STANDARD TIME AND FOR EACH SUCCEEDING POLICY PERIOD OF 12 MONTHS HEREAFTER AS THE RENEWAL PREMIUM IS PAID ON OR BEFORE THE EXPIRATION DATE OF THE CURRENT TERM AND ACCEPTED BY THE COMPANY.

Named Insured and Address

MARION L DRIGGERS
3497 HEBRON RD
LAKE CITY, SC 29560-7695

Agent Information

WAYNE MCKENZIE
FLORENCE **(843) 669-3173**
102 EAST REDBUD LN FLORENCE, SC 29505-5025

Policy Premium	Premium Paid By
$936.81	**INSURED**

Insurance for each covered item is provided for risks against direct physical loss.
Please refer to your policy booklet for all definitions, coverages, perils insured against, exclusions, and policy conditions.

Schedule of Covered Items	Limit Of Liability		SC Valuation Clause	Item Deductible	Premium
POLICY ENDORSEMENT PREMIUM					$0.00
POLICY ENDORSEMENT EN0900 AMENDATORY ENDORSEMENT					
ITEM 1: RESIDENCE PREMISES INCLUDES THE AREA WITHIN 250 FEET OF THE MASONRY TENANT OCCUPIED DWELLING LOCATED AT 3328 TURBEVILLE HWY LAKE CITY, SC 29560 8949					
ITEM 1 IS SUBJECT TO THE FOLLOWING PREMIUM ADJUSTMENTS: NONE					
ITEM 1 COVERAGES:				$1,000	$348.69
A - DWELLING PROTECTION:	$118,000		$118,000		
B - OTHER STRUCTURES PROTECTION:	$5,900				
D - LOSS OF USE PROTECTION:	$11,800				
ITEM 1 IS SUBJECT TO THE FOLLOWING ENDORSEMENTS: DF0089 - LANDLORD'S LIABILITY DF0216 - PREMISES ALARM OR FIRE PROTECTION SYSTEM EN0312 - WIND OR HAIL DEDUCTIBLE CLAUSE IMPORTANT NOTICE THIS POLICY CONTAINS A SEPARATE DEDUCTIBLE FOR NAMED STORM OR WIND/HAIL LOSSES, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU. THE ENCLOSED EXAMPLE ILLUSTRATES HOW THE DEDUCTIBLE MIGHT AFFECT YOU. EN9207 - INFLATION PROTECTION					
MORTGAGEE CITIZENS BANK PO BOX 446 TURBEVILLE SC, 29162-0446 LOAN NUMBER :					
ITEM 2: RESIDENCE PREMISES INCLUDES THE AREA WITHIN 250 FEET OF THE MASONRY TENANT OCCUPIED DWELLING LOCATED AT 229 THOMAS ST OLANTA, SC 29114 9318					
** ITEM 2 CONTINUED ON NEXT PAGE **					

021-000 FI 0401219-4 BCH

04/09/2009
Date Prepared

Authorized Representative

F065A (04/99)

South Carolina Farm Bureau Mutual Insurance Company or

Southern Farm Bureau Casualty or

Palmetto Casualty Insurance Company

Dwelling Fire Policy

Form DF3

Your policy consists of this booklet and the appropriate Declarations, forms and endorsements. Coverages apply only when properly shown on the Declarations page.



Visit our website at www.scfbins.com

Post Office Box 2124
West Columbia, SC
29171

724 Knox Abbott Drive
Cayce, SC 29033
(803) 796-6700

Policy conditions require immediate notice of any accident or claim.

To report an accident or claim, call us toll-free, at 1-800-799-7500

Form DF3 **REVISED 12/2002**

I hereby certify this is a true and accurate copy of the policy issued to the above named insured(s) for the period of time indicated by the above stated dates.

Rick Lamar, CPCU, District Claims Manager

YOUR DWELLING FIRE POLICY
QUICK REFERENCE

DECLARATIONS PAGE
Your Policy Period
Your Name and Address
Your Dwelling
Endorsements
Coverages and Amounts of Insurance
Mortgagee Identification

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COUNTY MEMBERSHIP PROVISIONS

1. As a prerequisite to **your** purchase of this policy and any renewal of this insurance, **you** must make application to be a member of and maintain your membership in the applicable county Farm Bureau agricultural organization and affiliated state Farm Bureau agricultural organization (hereinafter collectively known as "Farm Bureau Federation").

2. **Your** failure to apply for membership and to maintain **your** membership with the applicable Farm Bureau Federation as **our** sponsoring organization, including but not limited to **your** failure to pay the required membership dues to the Farm Bureau Federation, shall require **us** to cancel or nonrenew your policy.

3. Dues payable to the Farm Bureau Federation are in consideration of membership in the Farm Bureau Federation and other agriculture-related services from Farm Bureau Federation and:

   a. are not in consideration of coverage under this policy; and

   b. are not payable to South Carolina Farm Bureau Mutual Insurance Company, Southern Farm Bureau Casualty Insurance Company, or any other insurer named on the Declarations.

AGREEMENT

Relying on the facts **you** have given **us**, **we** will provide the insurance described in this policy for the limits shown in the latest Declarations in return for the premium and **your** compliance with all applicable provisions of this policy. This policy is not complete without the Declarations.

DEFINITIONS

Certain words and phrases in this policy have specific meanings.

1. In this policy, **you** and **your** refer to the **named insured** shown in the Declarations and the spouse if a resident of the same household.

2. **We, us** and **our** refer to the Company providing this insurance.

3. **Insured** means **you** and residents of **your** household who are:

   a. **your** relatives, or

   b. other persons under the age of 21 and in the care of any person named above.

4. **Actual cash value** means the cost to replace new today with materials of like kind and quality, less physical depreciation and economic obsolescence.

5. **Business** means a full-time, part-time or occasional trade, profession or occupation, whether permanent or temporary, including farming.

6. **Electronic Data** means information facts or programs stored as, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, servers, cells, data processing devices, or any other media which are used with electronically controlled equipment.

7. **Fungi** means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or byproducts produced or released by any fungus, but does not include any fungus that is, is on, or is contained in, any goods or products intended for consumption.

8. **Occurrence** means an accident, but does not include exposure to conditions, which results during the policy period in:

   a. bodily injury; or

   b. property damage.

9. **Pollutants** means any solid, liquid, gaseous or thermal irritant, contaminant, or fuel including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes but is not limited to materials to be recycled, reconditioned or reclaimed.

10. **Recreational vehicle** means a 2-, 3- up to 8-wheeled or tracked land or amphibious vehicle that is unlicensed and not subject to motor vehicle registration, powered by a petroleum fuel engine or electric motor, used off public roads or highways for personal pleasure or recreation.

11. **Residence employee** means an employee of an **insured,** or an employee leased to an **insured** by an agreement with a labor leasing firm, who performs duties, including household or domestic services, in connection with the maintenance or use of the **residence premises**. This includes employees who perform similar duties elsewhere for **you.** This does not include employees while performing duties in connection with the **business** of an **insured.**

12. **Residence premises** means the dwelling, other structures, and grounds which are shown in the Declarations and not used for **business**.

13. **Terrorism** means activities against persons, organizations or property of any nature:

a. that involve the following or preparation for any of the following:

(1) use or threat of force or violence;

(2) commission or threat of a dangerous act; or

(3) commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and

b. when one or both of the following applies:

(1) the effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or

(2) it appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social, or economic objectives or to express (or express opposition to) a philosophy or ideology.

COVERAGES

This insurance applies to the **residence premises**, coverages for which a Limit of Liability is shown, and Perils Insured Against for which a Peril Group is shown in the Declarations.

COVERAGE A - DWELLING PROTECTION

We cover:

1. the dwelling on the **residence premises** shown in the Declarations, used principally as a private residence, including structures attached to the dwelling;

2. attached structures, steps, equipment and accessories which form a permanent part of the dwelling. This includes, but is not limited to: floor coverings, appliances, counters, and cabinets. But **we** do not cover satellite dish antenna systems or related equipment;

3. oil and gas drums or tanks, connected to the dwelling which furnish heating or cooking fuel;

4. materials and supplies located on or next to the **residence premises** used to construct, alter or repair the dwelling or other structures on the **residence premises**; and

5. decks and porches forming living or recreation space for the dwelling.

This coverage does not apply to land, and will not cover costs to replace, rebuild, stabilize or otherwise restore the land necessary to support the dwelling covered. Nor does this coverage apply to any water whatsoever.

COVERAGE B - OTHER STRUCTURES PROTECTION

We cover other structures on the **residence premises** separated from the dwelling by clear space:

1. structures connected to the dwelling by only a fence, utility line or similar connection are considered to be other structures; and

2. outdoor equipment used to service the **residence premises**.

This coverage does not apply to land, and will not cover costs to replace, rebuild, stabilize or otherwise restore the land necessary to support the other structures covered. Nor does this coverage apply to any water whatsoever.

We do not cover:

1. other structures used in whole or in part for **business**, including storage of any **business** property.

2. barns, outbuildings, or sheds used in whole or in part as farm barns, farm outbuildings, or farm sheds;

3. other structures rented or held for rental to any person not a tenant of the dwelling, unless used solely as a private garage; or

4. satellite dish antenna systems or related equipment for more than $500, unless separately insured and a premium paid for the coverage.

COVERAGE C - PERSONAL PROPERTY PROTECTION

We cover personal property only when this coverage and a Limit of Liability are shown in the Declarations. This personal property must be usual or incidental to the occupancy of the **residence premises** as a dwelling and owned or used by an **Insured** while it is at the **residence premises**. At **your** request, **we** will cover personal property owned by:

1. others while the property is on the part of the **residence premises** occupied by an **insured**; and

2. a guest or a **residence employee**, while the property is in any residence occupied by an **insured**.

Our limit of liability for personal property away from the **residence premises** is

10% of the limit of liability for Coverage C, or $1,000, whichever is greater. Personal property in a newly acquired principal residence is not subject to this limitation for the 30 days from the time **you** begin to move the property there.

We do not cover:

1. articles separately described and specifically insured in this or other insurance, or specifically excluded elsewhere in this insurance policy;

2. accounts, bills, bullions, currency, deeds, evidences of debt, manuscripts, money or securities;

3. animals, birds or fish;

4. aircraft, hovercraft and parts for aircraft or hovercraft. Aircraft means any contrivance used or designed for flight, except model or hobby aircraft not used to carry people or cargo. Hovercraft means a self-propelled motorized ground effect vehicle, and includes, but is not limited to, hovercraft and air cushion vehicles.

5. watercraft, other than rowboats and canoes for more than $500, unless separately insured and a premium paid for the coverage;

6. credit cards or fund transfer cards;

7. land. **We** will not cover costs to replace, rebuild, stabilize or otherwise restore the land necessary to support the buildings covered. Nor do **we** cover any water whatsoever.

8. motor vehicles, **recreational vehicles** and any other motorized land conveyances unless separately insured and a premium paid for the coverage. This includes:

    a. all-terrain, four-wheeler type vehicles, designed for recreational use;

    b. equipment and accessories; or

    c. any device or instrument for the transmitting, recording, receiving or reproduction of sound, signals, or pictures which is operated by power from the electrical system of motor vehicles or any other motorized land conveyances, including:

        (1) accessories or antennas;

        (2) tapes, wires, records, discs or other media for use with any such device or instrument; or

        (3) radar detection devices;

while in or upon the vehicle or land conveyance.

We do cover vehicles or conveyances not subject to motor vehicle registration which are:

a. lawn and garden tractors with a 30 horsepower rating or less, but not **recreational vehicles**; or

b. designed or used for assisting the handicapped;

9. property of roomers, boarders and other tenants, except property of roomers and boarders related to an **insured**;

10. property rented or held for rental to others off the **residence premises**; nor

11. satellite dish antenna systems or related equipment.

COVERAGE D - LOSS OF USE PROTECTION

The limit of liability for Coverage D is the total limit for all coverages below.

1. **Fair Rental Value.** If a loss to **your** property described in Coverage A caused by a Peril Insured Against under this policy makes that part of the **residence premises** rented to others or held for rental by **you** uninhabitable, **we** cover the fair rental value of that part of the **residence premises** rented to others or held for rental by **you**, less any expenses that do not continue while the premises are uninhabitable. Payment will be for the shortest time required to repair or replace that part of the premises rented or held for rental. But in any event, that time will not exceed 180 consecutive days from the date of loss. **We** will pay only 1/6 of the limit of liability for each month the rented part of the Covered Item at the described location is unfit for its normal use. Payment under this coverage does not reduce the Coverage A limit of liability by the amount paid.

2. **Additional Living Expenses.** **We** cover additional living expenses if a loss to **your** property described in Coverage A or C caused by a Peril Insured Against under this policy makes that part of the **residence premises** where **you** reside uninhabitable. **We** cover the necessary increase in living expenses incurred by **you** so that **your** household can maintain its normal standard of living. Payment will be for the shortest time required to repair or replace the damage, or if **you** permanently relocate, the shortest time required for **your** household to settle elsewhere. But in any event, that time will not exceed 180 consecutive days from the date of loss.

3. **Prohibited Use.** If a civil authority prohibits **you** from using the **residence premises** as a result of direct damage to neighboring premises by a Peril

Insured Against in this policy, **we** cover the Additional Living Expense or Fair Rental Value loss as provided under 1 and 2 above for no more than a total of fourteen days.

The periods of time under 1, 2, and 3 above are not limited by expiration of this policy.

We do not cover loss or expense due to cancellation of a lease or agreement.

ADDITIONAL COVERAGES

Unless specifically stated otherwise, the Loss Deductible Clause applies.

1. **Arson Award.** At **our** option, **we** will pay up to $5,000 for information which leads to an arson, vandalism, or malicious mischief conviction in connection with a loss covered by this policy. Regardless of the number of persons providing information, **our** limit shall not be increased. This coverage is additional insurance. No deductible applies to this Additional Coverage.

2. Collapse.

   a. For this Additional Coverage:

      (1) Collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its current intended purpose.

      (2) A building or any part of a building that is in danger of falling down or caving in is not considered to be in a state of collapse.

      (3) A part of a building that is standing is not considered to be in a state of collapse even if it has separated from another part of the building.

      (4) A building or any part of a building that is standing is not considered to be in a state of collapse even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

   b. **We** insure for direct physical loss to covered property involving collapse of a building or any part of a building if the collapse was caused by one or more of the following:

      (1) Perils Insured Against in Coverage C – Personal Property, in this policy. These perils apply to covered buildings and personal property for loss insured by this additional coverage;

(2) Decay that is hidden from view, unless the presence of such decay is known to an **insured** prior to collapse;

(3) Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an **insured** prior to collapse;

(4) Weight of contents, equipment, animals or people;

(5) Weight of ice, sleet, snow or rain which collects on a roof; or

(6) Use of defective material or methods in construction, remodeling or renovation if the collapse occurs during the course of the construction, remodeling or renovation.

Loss to an awning, driveway, fence, patio, deck, pavement, swimming pool, underground pipe, flue, drain, cesspool, septic tank, foundation, retaining wall, bulkhead, pier, wharf or dock is not included under items (2), (3), (4), (5) and (6) unless the loss is a direct result of collapse of a building or any part of a building.

Collapse does not include settling, cracking, shrinking, bulging or expansion.

This coverage does not increase the limit of liability applying to the damaged covered property.

3. **Damage from Fungi.** If water causes covered damage, then **we** will pay up to 2% of the Coverage A item limit of liability for all incurred costs applicable to Coverages A, C, and D only for direct physical loss to covered property caused by, resulting from, contributed to, or aggravated by **fungi**.

This 2% limit applies per **occurrence** for item coverages (A, C, and D only) combined and not separately for each coverage. For all incurred damages and for all **occurrences** during a policy period, **we** will not pay more than 3% of the limit for Coverage A for that item. Our limit includes all costs associated, or alleged to be associated, with "Damage from **Fungi**," including but not limited to, surveys, tests, remediation, and repairs.

No Damage from **Fungi** coverage applies to any **Other Structures** (Coverage B). This Additional Coverage does not increase the limit of liability applying to any coverage.

4. **Debris Removal. We** will pay **your** reasonable expense for the removal of:

a. debris of covered property if a Peril Insured Against causes the loss to that property; or

b. ash, dust or particles from a volcanic eruption that has caused direct loss to a covered building or covered property contained in a building.

This expense is included in the limit of liability that applies to the damaged property. If the amount to be paid for the actual damage to the property plus the debris removal expense is more than the limit of liability for the damaged property, an additional 5% of the limit of liability that applies to the dwelling is available for debris removal expense.

c. **We** will also pay **your** reasonable expense for the removal of fallen trees from the **residence premises** provided the tree damages property insured under Coverages A or B, and a Peril Insured Against causes the tree to fall. **Our** limit of liability for this coverage will not be more than $250 in the aggregate for any one occurrence.

d. **We** do not cover any expense for:

(1) extracting any **pollutant** from land, soil, or water on or under any **residence premises** or other land that **you** own, lease, rent, or use;

(2) removing, restoring, or replacing polluted land, soil, or water; nor

(3) removing covered property or debris of covered property contaminated by any **pollutant** or hazardous material unless the contamination occurred due to a Peril Insured Against at the **residence premises**.

5. **Fire Department Service Charge. We** will pay up to $250 for **your** liability assumed by contract or agreement for fire department charges incurred when the fire department is called to save or protect covered property from a Peril Insured Against. **We** do not cover fire department service charges if the property is located within the limits of the city, municipality or protection district furnishing the fire department response.

This coverage is additional insurance. No deductible applies to this additional coverage.

6. **Building Additions and Alterations**. Under Coverage C, and when no Coverage A — Dwelling Protection is provided, **we** cover the building improvements or installations made or acquired at **your** expense, to that part of the **residence premises** used exclusively by **you.** The limit of liability for this coverage will not be more than 10 percent of the limit of liability that applies to Coverage C.

Payment under this coverage reduces the Coverage C limit of liability by the amount paid.

7. **Loss Assessment.** **We** will pay up to $1,000 for **your** share of any loss assessment charged during the policy period against **you** by a corporation or association of property owners. This only applies when the assessment is made as a result of each direct loss to property, owned by all members collectively, caused by a Peril Insured Against under Coverage A - Dwelling Protection. However, **we** do not pay any loss assessment for damage caused by earthquake or land shock waves or tremors before, during or after a volcanic eruption.

   This coverage applies only to loss assessments charged against **you** as owner or tenant of the **residence premises**.

   We do not cover loss assessments charged against **you** or a corporation or association of property owners by any governmental body.

   This coverage is additional insurance. No deductible applies to this additional coverage.

8. **Property Removed.** **We** insure covered property against direct loss from any cause while endangered by a Peril Insured Against and subsequently removed from **your residence premises**. Protection is limited to a 30-day period from the date of removal and applies on a pro rata basis to any property not removed. This coverage does not change the limit of liability that applies to the property being removed.

9. **Reasonable Repairs.** **We** will pay the reasonable cost **you** incur for necessary repairs made solely to protect covered property from further damage if a Peril Insured Against causes the loss. This coverage does not increase the limit of liability applying to the property being repaired.

10. **Trees, Shrubs and Other Plants.** **We** cover **your** trees, shrubs, plants or lawns on the **residence premises** for loss caused by fire or lightning only.

    The limit of liability for this coverage will not be more than 5% of the Coverage A limit of liability or more than $250 for any one tree, shrub, or plant. This does not increase the limit of liability of Coverage A. **We** do not cover property grown for **business** purposes.

This coverage is additional insurance. No deductible applies to this additional coverage.

PERILS INSURED AGAINST

We insure for direct physical loss to property described in Coverage A – Dwelling and Coverage B – Other Structures. However, **we** do not insure loss:

1. involving collapse, other than as provided in Additional Coverages 2;

2. caused by:

   a. freezing of a plumbing, heating, air conditioning or automatic fire protective sprinkler system or of a household appliance, or by discharge, leakage or overflow from within the system or appliance caused by freezing. This exclusion applies only while the dwelling is vacant, unoccupied or being constructed unless **you** have used reasonable care to:

      (1) maintain heat in the building; or

      (2) shut off the water supply and drain the system and appliances of water;

   b. freezing, thawing, pressure or weight of water, ice, hail, snow, or sleet whether driven by wind or not, to a:

      (1) fence, pavement, patio or swimming pool;

      (2) foundation, retaining wall or bulkhead;

      (3) pier, wharf or dock; or

      (4) gutter;

   c. theft, including attempted theft and loss of property from a known place when it is likely that the property has been stolen;

   d. wind, hail, ice, snow or sleet to:

      (1) awnings, signs, or outdoor radio and television antennas and aerials including their lead-in wiring, masts or towers; or

      (2) trees, shrubs, plants or lawns;

      (3) structure, other than a building, including the supports and screens, with a roofline covering of cloth, metal, fiberglass or plastic, whether or not the structure is attached to a building;

      (4) screens, including their supports, around a pool, patio or other areas;

      (5) fences, property line and similar walls, including seawalls;

      (6) cabanas, gazebos, greenhouses, hothouses, pergolas, slathouses, trellises;

(7) outdoor equipment used to service the **residence premises**;

(8) structure, including the property in or on the structure, located in whole or in part in or over water.

e. vandalism and malicious mischief, if the dwelling has been vacant for more than 30 consecutive days immediately before the loss. A dwelling being constructed is not considered vacant;

f. constant or repeated seepage or leakage of water or steam over a period of weeks, months or years from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system or from within a household appliance;

g. (1) wear and tear, marring or scratching, or deterioration;

(2) inherent vice or latent defect, mechanical breakdown;

(3) the presence, growth, proliferation, spread, or any activity of rust, bacteria, mold, mildew, wet or dry rot, or any **fungi**, whether or not, in whole or in part:

(a) caused by or resulting from;

(b) contributed to by; or

(c) aggravated by;

any peril or cause of loss, regardless of whether such peril or cause of loss is covered by this policy, and regardless of whether any other peril or cause of loss contributed concurrently or in any sequence to such loss. This exclusion does not apply to Additional Coverage 3.

(4) contamination, smog or smoke from agricultural smudging or industrial operations;

(5) release, discharge or dispersal of contaminants or **pollutants**;

(6) settling, cracking, shrinkage, bulging or expansion of driveways, pavement, patios, foundations, walls, floors, roofs or ceilings; or

(7) birds, vermin, rodents, insects or domestic animals, whether or not, in whole or in part;

(a) caused by or resulting from;

(b) contributed to by; or

(c) aggravated by:

any peril or cause of loss, regardless of whether such peril or cause of loss is covered by this policy, and regardless of whether any other peril or cause of loss contributed concurrently or in any sequence to such loss.

If any of these (items G 1-7 above) cause water damage not otherwise excluded, from a plumbing, heating, air conditioning or automatic fire protective sprinkler system or household appliance, **we** cover loss caused by the water including the cost of tearing out and replacing any part of a building necessary to repair the system or appliance. **We** do not cover loss to the system or appliance from which this water escaped.

3. excluded under Exclusions.

COVERAGE C - PERSONAL PROPERTY

We insure for direct physical loss to the property described in Coverage C caused by a peril listed below unless the loss is excluded in the Exclusions.

1. Fire or Lightning.

2. **Explosion.** This peril does not include loss by explosion of steam boilers or steam pipes, if owned or leased by **you** or operated under **your** control.

3. **Wind or Hail.** This peril does not include loss:

   a. to the interior of a building or the property contained in a building caused by rain, snow, sleet, sand or dust unless the direct force of wind or hail damages the building causing an opening in a roof or wall and the rain, snow, sleet, sand or dust enters through this opening; or

   b. to the following property when outside of the building or attached to the building:

      (1) awnings, signs or radio or television antennas or aerials, including lead-in wiring, masts or towers; or

      (2) rowboats and canoes;

4. Riot or civil commotion.

5. **Aircraft**, including self-propelled missiles and spacecraft.

6. **Smoke**, meaning sudden and accidental damage from smoke. This peril does not include loss caused by smoke from agricultural smudging or industrial operations.

7. **Weight of Ice, Sleet or Snow**, meaning damage to a covered item caused by accumulation of ice, sleet or snow only but not hail, rain or other form of precipitation. This peril does not include loss to the following property when outside of the building or attached to the building:

   a. carport cover, patio, patio cover, driveway, pavement, swimming pool, foundation, retaining wall, bulkhead, pier, wharf, or dock;

   b. awnings;

   c. rowboats and canoes;

   d. fences, property line and similar walls, including seawalls.

8. **Breakage of glass or safety glazing material** which is part of a dwelling, building, storm door or storm window.

   This peril does not include loss on the **residence premises** if the dwelling has been vacant for more than 30 consecutive days immediately before the loss. A dwelling being constructed or a mobile home or manufactured home being installed is not considered vacant.

9. **Falling objects.** This peril does not include loss to the inside of a building or property contained in a building unless the roof or an outside wall of the building is first damaged by a falling object. Damage to the falling object itself is not included.

10. **Accidental discharge or overflow of water or steam** from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system or from within a household appliance. **We** also pay for tearing out and replacing any part of the building on the **residence premises** necessary to repair the system or appliance from which the water or steam escaped.

    This peril does not include loss:

    a. to any covered property caused by constant or repeated seepage or leakage over a period of weeks, months or years;

    b. to any covered property caused by smog, or the presence, growth, proliferation, spread or any activity of rust, bacteria, mold, wet or dry rot, or **fungi**;

    c. on the **residence premises**, if the dwelling has been vacant or unoccupied for more than 30 consecutive days immediately before the loss;

d. to the system or appliance from which the water or steam escaped;

e. caused by or resulting from freezing except as provided in the peril of Freezing below; nor

f. on the **residence premises** caused by accidental discharge or overflow which occurs off the **residence premises**;

g. caused by overflow or backup of water in any form in gutters.

11. **Sudden and accidental tearing apart, cracking, burning or bulging** of steam or hot water heating system, an air conditioning or automatic fire protective sprinkler system, or an appliance for heating water.

This peril does not include loss to any covered property:

a. caused by or resulting from freezing except as provided in the peril of freezing below;

b. caused by smog, or the presence, growth, proliferation, spread or any activity of rust, bacteria, mold, wet or dry rot, or **fungi**; or

c. caused by constant or repeated seepage or leakage over a period of weeks, months, or years.

12. **Freezing** of plumbing, heating, air conditioning or automatic fire protective sprinkler system or of a household appliance, but not gutters.

This peril does not include loss:

a. on the **residence premises** while the dwelling is vacant, unoccupied or being installed, unless **you** have used reasonable care to:

(1) maintain heat in the building; or

(2) shut off the water supply and drain the system and appliances of water.

b. to any covered property caused by constant or repeated seepage or leakage over a period of weeks, months or years;

c. to any covered property caused by smog, or the presence, growth, proliferation, spread, or any activity of rust, bacteria, mold, wet or dry rot, or **fungi**;

d. on the **residence premises** caused by accidental discharge or overflow which occurs off the **residence premises**.

e. caused by overflow or backup of water in any form in gutters.

13. **Vandalism or malicious mischief.** This peril does not include loss to property on the **residence premises** if the dwelling has been vacant for more than 30 consecutive days immediately before the loss. A dwelling under construction or a mobile home or manufactured home being installed is not considered vacant.

    Also, this peril does not include loss to any computer, computer system, network, hardware, program, **electronic data**, software, data, information repository, microchip, integrated circuit or similar device unless there are visible signs of physical damage to the exterior of the computer, equipment, computer system or non-computer equipment.

14. **Vehicles owned or operated by the insured** or by a tenant of the **residence premises**, resulting from actual physical contact of such a vehicle with covered property or with the building containing covered property. However, **we** do not cover loss to any outdoor equipment, fences, driveways, walks, trees, shrubs and plants, or retaining walls not constituting a part of a covered building.

EXCLUSIONS

We do not insure for loss caused directly or indirectly for any of the following. Such loss is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss.

1. **Ordinance or Law**, meaning enforcement of any ordinance or law regulating the construction, repair, or demolition of a building or other structure, unless specifically provided elsewhere under this policy.

2. **Earth Movement**, meaning earthquake including land shock waves or tremors before, during or after a volcanic eruption; landslide; mudflow; erosion, earth sinking, contracting, expanding, rising or shifting. However, if direct loss by fire or explosion ensues, then we will pay for the ensuing loss only.

3. **Water Damage**, meaning:

    a. flood, whether natural or manmade, surface water, waves, tidal water, overflow of a body of water, or spray from any of these, whether or not driven by wind;

    b. water or water-borne matter which backs up through sewers or drains or that overflows or is discharged from a sump, sump pump or related equipment; or

    c. water or water-borne matter below the surface of the ground,

including water which exerts pressure on or seeps or leaks through a building, sidewalk, driveway, foundation, swimming pool, or other structure.

Direct loss by fire, explosion or theft resulting from water damage is covered.

4. **Power Failure or Power Interruption**, meaning the failure or interruption of power or other utility service if the failure or interruption takes place off the **residence premises**. But, if a Peril Insured Against ensues on the **residence premises**, **we** will pay only for that ensuing loss.

5. **Neglect**, meaning neglect of an **insured** to use all reasonable means to save and preserve property at and after the time of loss, or when property is endangered.

6. War and Military Action Exclusion

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

a. War, including undeclared civil war;

b. Warlike action by a military force, including action to hinder or defend against an actual, expected, or threatened attack, by any government, sovereign, or other authority using military personnel or other agents; or

c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

If there is any action that comes within the terms of this exclusion and involves nuclear reaction or radiation or radioactive-contamination, then this War and Military Action Exclusion supersedes the Nuclear Hazard Exclusion.

7. **Terrorism Exclusion**. Regardless of the amount of damage and losses, this **Terrorism** Exclusion applies to any and all incidents of **terrorism**:

a. that involve the use, release or escape of pathogenic or poisonous biological or chemical materials, or

b. that could cause the release or escape of pathogenic or poisonous biological or chemical materials; or

c. to any incident that directly or indirectly results in nuclear reaction or radiation or radioactive contamination.

We will not pay for loss or damage caused directly or indirectly by **Terrorism**, including action to hinder or defend against an actual, expected or threatened incident of **Terrorism**. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

But if **Terrorism** results in fire, **we** will pay for the loss or damage caused by that fire. However, this exception for fire applies only to direct loss or damage by fire to Covered Property.

With respect to any such activity that also comes within the terms of the War and Military Action Exclusion, that exclusion supersedes the **Terrorism** Exclusion.

In the event of an act of **Terrorism** that involves nuclear reaction or radiation, or radioactive contamination, this **Terrorism** Exclusion supersedes the Nuclear Hazard Exclusion.

8. **Nuclear Hazard**, to the extent set forth in the Nuclear Hazard Clause of the Conditions.

9. **Intentional Acts,** meaning any loss arising out of any act committed:

   a. by or at the direction of any **insured**;

   b. with the intent to cause a loss; or

   c. in a domestic dispute between **insureds**, family members, or others.

10. **We** do not insure under any coverage for loss resulting from one or more of the items below:

    a. conduct, act, failure to act, or decision of any person, group, organization, or governmental body whether intentional, wrongful, negligent, or without fault;

    b. defect, weakness, inadequacy, fault or unsoundness in:

       (1) planning, zoning, development surveying, siting;

       (2) design, specifications, workmanship, construction, grading, compaction;

       (3) materials used in construction or repair; or

       (4) maintenance

of any property (including land, structures, or improvements of any kind) whether on or off the **residence premises**.

However, **we** do insure for any ensuing covered loss from items a. and b. unless the ensuing loss is itself a loss excluded by this section.

11. **We** do not insure for loss under any coverage regardless of whether one or more of the items listed in paragraph 10 above:

    a. directly or indirectly cause, contribute to or aggravate the loss; or

    b. occur before, at the same time, or after the loss or any other cause of the loss.

    However, **we** do insure for ensuing covered loss from items 10a and 10b above unless the ensuing loss is itself a loss excluded by this policy.

12. **Asbestos and Lead Removal**. This policy does not insure covered property for damage, loss of use, or expenses arising from:

    a. actual or attempted removal of any asbestos material, lead pipes, lead paint, or any material containing lead, unless the asbestos or lead pipes, lead paint, or any material containing lead, is itself damaged by a Peril Insured Against;

    b. demolition or increased cost of reconstruction, repair, or debris removal, attributable to the enforcement of any law, ordinance or regulation concerning asbestos material, lead paint, lead pipes, or any material containing lead;

    c. any governmental direction or request declaring that asbestos material, lead paint, lead pipes, or any material containing lead, present in, part of, or utilized by any undamaged portion of the **insured's** property can no longer be used for the purpose for which it was intended or installed and must be modified, covered, sealed, protected, or removed.

13. **Pollutants and Pollution Exclusion. We** do not insure for loss, cost, or expense:

    a. which would not have occurred in whole or in part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants** at any time, by any person, organization or governmental authority; and

    b. arising out of any:

        (1) request, demand or order that any **insured** or others test for,

monitor, clean-up, remove, remedy, repair, contain, treat, detoxify or neutralize, or in any other way respond to, or assess the effects of **pollutants**; or

(2) claim or suit by or on behalf of any person, organization or governmental authority for damages because of testing for, monitoring, cleaning up, removing, remedying, repairing, containing, treating, detoxifying or neutralizing, or in any other way responding to, or assessing the effects of **pollutants**.

14. **We** do not insure covered property for damage, loss of use, or expenses caused by radon gas, radium, any other radioactive substance, any gas, or any sound or light. **We** do not cover the cost of any investigations, fines, or other costs related to radon gas, radium, any other radioactive substance, or any other gas or any sound or light.

15. **Prejudgment Interest.** This policy does not pay prejudgment interest.

16. **Collapse**, other than as provided in Additional Coverages only.

17. **Theft,** unless provided for by an endorsement and an additional premium paid.

18. **We** do not cover loss to lawns, plants, shrubs or trees outside of buildings except as shown in Additional Coverages.

19. **We** do not cover the following loss or damage to Dwellings, Other Structures, or Personal Property unless shown as covered in Additional Coverages for:

a. Wear and tear, marring or scratching, or deterioration;

b. Inherent vice or latent defect;

c. Mechanical breakdown;

d. The presence, growth, proliferation, spread, or any activity of rust, bacteria, mold, mildew, wet or dry rot, or any **fungi**, whether or not, in whole or in part:

(1) caused by or resulting from;

(2) contributed to by; or

(3) aggravated by;

any peril or cause of loss, regardless of whether such peril or cause of loss is covered by this policy, and regardless of whether any other peril or

cause of loss contributed concurrently or in any sequence to such loss. This exclusion does not apply to Additional Coverage 3.

e. Contamination, smog or smoke from agricultural smudging or industrial operations;

f. Settling, cracking, shrinkage, bulging or expansion of pavement, patios, foundations, walls, floors, roofs or ceilings; or

g. Birds, vermin, rodents, insects or domestic animals, whether or not, in whole or in part;

(1) caused by or resulting from;

(2) contributed to by; or

(3) aggravated by:

any peril or cause of loss, regardless of whether such peril or cause of loss is covered by this policy, and regardless of whether any other peril or cause of loss contributed concurrently or in any sequence to such loss.

20. **We** do not insure for loss or damage arising directly or indirectly out of:

a. loss of, alteration of, or damage to; or

b. a reduction in the functionality, availability or operation of;

any computer, computer system, network, hardware, program, software, data, information, repository, microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of an **insured** or others.

c. **We** will not cover, pay for, or reimburse **you** or anyone else for any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement, or supervision provided to correct, determine, prevent, rectify, or test for any actual, alleged or potential problems described in subparagraphs a. and b. above.

d. **We** will pay for direct physical loss or damage to covered property caused by a Peril Insured Against, Section I, Coverage C – Personal Property. However, this exception does not apply to any loss or damage that is:

(1) otherwise excluded in Section I – Exclusions; or

(2) caused by the peril of **Vandalism or Malicious Mischief**, unless there are visible signs or physical damage to the exterior

of such computer system, computer equipment or non-computer equipment.

e. With respect to loss or damage excluded by this paragraph, if a peril listed in Section I – Perils Insured Against for Coverage C – Personal Property ensues, **we** will pay for the direct physical loss or damage caused by such ensuing peril.

21. **Collapse**, other than as provided in Additional Coverages.

CONDITIONS

A. This section includes **your** duties after a loss occurs and how claims are handled.

1. **Insurable Interest and Limit of Liability**. Even if more than one person has an insurable interest in the property covered, **we** will not be liable in any one loss:

   a. to the **insured** for more than the amount of the **insured's** interest at the time of loss; or

   b. for more than the applicable limit of liability.

2. **Your Duties After Loss.** In case of a loss to covered property, **you** must see that the following are done:

   a. immediately notify the police or other appropriate law enforcement agency in any case of loss where a crime is suspected;

   b. give prompt notice to **us** or **our** agent;

   c. (1) protect the property from further damage;

   (2) make reasonable and necessary repairs to protect the property;

   (3) keep an accurate record of repair expenses; and

   (4) cooperate with **us** in the investigation and settlement of any claim;

   d. prepare an inventory of damaged personal property showing the quantity, description, how, when, and where acquired, **actual cash value** and amount of loss. Attach all bills, receipts and related documents that justify the figures in the inventory;

e. as often as **we** reasonably require:

(1) allow **us,** or **our** designee(s) to inspect the damaged property;

(2) allow **us** to secure, and retain, at **our** expense, evidence relating to the loss;

(3) provide **us** with records and documents **we** request and permit **us** to make copies;

(4) allow **us** to obtain from **you** and any other person seeking coverage, separate recorded statements; and

(5) submit to examination(s) under oath and sign and swear to it;

f. send to **us,** within 60 days after **our** request, **your** signed, sworn proof of loss which sets forth, to the best of **your** knowledge and belief:

(1) the time and cause of loss; and

(2) the interest of the **insured** and all others in the property involved and all liens on the property; and

(3) other insurance, service agreements, or warranty provisions which may cover the loss; and

(4) changes in title or occupancy of the property during the term of the policy; and

(5) specifications of damaged buildings and detailed repair estimates; and

(6) the inventory of damaged personal property described in 2d above; and

(7) receipts for additional living expense incurred or records that support the fair rental value loss.

3. **Loss Settlement.** Covered property losses are settled as follows:

a. (1) Personal property;

(2) Awnings, carpeting, household appliances, fences, property lines, sea walls, outdoor equipment, outdoor antennas and swimming pools, whether or not attached to

buildings; and

(3) Other structures that are not buildings;

(4) Buildings not permanently attached to, or otherwise forming part of the realty;

at **actual cash value** at the time of loss but not more than the amount required to repair or replace. **Actual cash value** will include consideration of fair market value, age, and condition of the item in question at the time of the loss.

b. Buildings permanently attached to or otherwise forming a part of the realty, under Coverage A or B at replacement cost without deduction for depreciation, subject to the following:

(1) If, at the time of loss, the amount of insurance in this policy on the damaged building is 80% or more of the full replacement cost of the building immediately before the loss, **we** will pay the cost to repair or replace, without deduction for depreciation, but not more than the least of the following amounts:

(a) the limit of liability under this policy that applies to the building;

(b) the replacement cost of that part of the building damaged for like construction and use on the same premises; or

(c) the necessary amount actually spent to repair or replace the damaged building.

(2) If, at the time of loss, the amount of insurance in this policy on the damaged building is less than 80% of the full replacement cost of the building immediately before the loss, **we** will pay the greater of the following amounts, but not more than the limit of liability under this policy that applies to the building:

(a) the **actual cash value** of that part of the building damaged; or

(b) that proportion of the cost to repair or replace, without deduction for depreciation, that part of the building damaged, which the total amount of insurance in this policy on the damaged building bears to 80% of the replacement cost of the building.

(3) To determine the amount of insurance required to equal 80% of the full replacement cost of the building immediately before the loss, do not include the value of:

(a) excavations, foundations, piers, or any supports which are below the under-surface of the lowest basement floor;

(b) those supports in (a) above which are below the surface of the ground inside the foundation walls, if there is no basement; and

(c) underground flues, pipes, wiring, and drains.

(4) **We** will pay no more than the **actual cash value** of the damage, up to the policy limit, until actual repair or replacement is completed.

(5) **You** may disregard the replacement cost loss settlement provisions and make claim under this policy for loss or damage to buildings on an **actual cash value** basis. **You** may then make claim within 180 days after loss for any additional liability on a replacement cost basis.

We do not guarantee an exact decorative match in texture or color for any roofing, exterior or interior building material, furniture, or upholstery.

4. **Loss to a Pair or Set.** In case of loss to a pair or set **we** may elect to:

a. repair or replace any part to restore the pair or set to its value before the loss; or

b. pay the difference between **actual cash value** of the property before and after the loss;

c. pay in any loss involving part of a series of panels or pieces the reasonable cost of:

(1) replacing or repairing the damaged part to match the remainder as closely as possible; or

(2) providing an acceptable decorative effect as may be necessary. However, **we** do not guarantee exact

replacement availability. In the event of damage to a part, **we** are not liable for the value of or the repair or replacement of the entire series of panels or pieces.

5. **Glass Replacement.** Loss for damage to glass caused by a Peril Insured Against will be settled on the basis of replacement with safety glazing materials when required by ordinance or law.

6. **Appraisal.** If **you** and **we** fail to agree on the amount of loss, either one can demand that the amount of the loss be set by appraisal. If either makes a written demand for appraisal, each shall select a competent, independent appraiser and notify the other of the appraiser's identity within 20 days of receipt of the written demand. The two appraisers shall then select a competent, impartial umpire. If the two appraisers are unable to agree upon an umpire within 15 days, **you** or **we** can ask a judge of a court of record in the state where the **residence premises** is located to select an umpire. The appraisers shall then set the amount of loss. If the appraisers submit a written report of an agreement to **us,** the amount agreed upon shall be the amount of the loss. If the appraisers fail to agree within a reasonable time, they shall submit their differences to the umpire. Written agreement signed by any two of these three shall set the amount of the loss. Each appraiser shall be paid by the party selecting that appraiser. Other expenses of the appraisal and the compensation of the umpire shall be paid equally by **you** and **us**.

7. **Other Insurance.** If a loss covered by this policy is also covered by other insurance, a service contract or a warranty provision, **we** will pay only the proportion of the loss that the limit of liability that applies under this policy bears to the total amount of insurance covering the loss.

8. **Suit Against Us.** No action can be brought against **us** under this policy unless the policy provisions have been complied with and the action is started within the time allowed by law.

9. **Our Option. We** may repair or replace any part of the property damaged or stolen with equivalent property. Any property **we** pay for or replace becomes **our** property at **our** option.

10. **Loss Payment. We** will adjust all losses with **you. We** will pay **you** unless some other person is named in the policy or is legally entitled to receive payment. Loss will be payable 60 days after **we**:

    a. reach an agreement with **you**; or

    b. receive **your** proof of loss and reach an agreement with **you**; or

c. there is an entry of a final judgment; or

d. there is a filing of an appraisal award with **us**.

11. **Abandonment of Property**. **We** need not accept any property abandoned to **us** by an **insured.**

12. **Mortgage Clause.** The word **mortgagee** includes trustee.

If a mortgagee is named in this policy, any loss payable under Property Coverages A or B will be paid to the mortgagee and **you**, as interests appear. If more than one mortgagee is named, the order of payment will be the same as the order of precedence of the mortgages.

If **we** deny **your** claim, that denial will not apply to a valid claim of the mortgagee caused by a Peril Insured Against, if the mortgagee:

a. notifies **us** of any change in ownership, occupancy or substantial change in risk of which the mortgagee is aware;

b. pays any premium due under this policy on demand if **you** have neglected to pay the premium; and

c. submits a signed, sworn statement of loss within 60 days after receiving notice from **us** of **your** failure to do so. Policy conditions relating to Appraisal, Suit Against **us** and Loss Payment apply to the mortgagee.

If the policy is cancelled or not renewed by **us,** the mortgagee will be notified at least 10 days before the date cancellation or nonrenewal takes effect.

If **we** pay the mortgagee for any loss and deny payment to **you**:

a. **We** are subrogated to all the rights of the mortgagee granted under the mortgage on the property; or

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

Subrogation will not impair the right of the mortgagee to recover the full amount of the mortgagee's claim.

13. **No Benefit to Bailee. We** will not recognize any assignment or grant any coverage that benefits a person or organization holding, storing

or moving property for a fee regardless of any other provision of this policy.

14. Nuclear Hazard Clause.

    a. **Nuclear Hazard** means any nuclear reaction, radiation, or radioactive contamination, all whether controlled or uncontrolled or however caused, or any consequence of any of these.

    b. Loss caused by the **nuclear hazard** will not be considered loss caused by fire, explosion, or smoke, whether these perils are specifically named in or otherwise included within the Perils Insured Against.

    c. This policy does not apply to loss caused directly or indirectly by **nuclear hazard**, except that direct loss by fire resulting from the **nuclear hazard** is covered.

15. **Intentional Loss.** If **you** or any person insured under this policy causes or procures a loss to property covered under this policy for the purpose of obtaining insurance benefits, then this policy is void. **We** will not pay **you** or any other **insured** for this loss.

16. **Unearned Premium Clause.** If a loss under **our** policy is payable or has been paid, the Company has the option to:

    a. reduce **your** coverages by any sum up to the amount of the loss and refund to **you** within 30 days of **our** notice to **you** of the reduction in coverage the pro rata unearned premium as of the time of the loss; or

    b. retain the unearned premium and maintain **your** policy without regard to the loss; or

    c. terminate **your** policy and within 30 days of **our** notice refund to **you** any pro rata unearned premium as of the time of the loss.

17. **Valuation Clause.** For the perils of fire and lightning, **you** and **we** agree that the value of the building described in this policy is, and hereby fix the amount of insurance to be carried on the building as, the amount shown for Coverage A - Dwelling, on the Declarations of this policy. These agreed values are established for insurance purposes only. At any date the building is under construction, the maximum amount of insurance shall be the proportion of the value of the building that the **actual cash value** of the building, on that date, bears to the value of the building when completed.

18. **Loss Deductible Clause.** In case of a loss to a covered item, the

deductible stated on **your** latest Declarations will be applied per **occurrence**. The deductible will apply separately to each covered item. It will be deducted from the amount of the covered loss. This loss deductible clause shall not apply to the Fire Department Service Charge, Arson Award, Loss Assessment, or Trees, Shrubs and other Plants.

19. Change in Ownership, Renting or Leasing. This policy does not apply if:

    a. there is a change in ownership of the dwelling to any other person or organization;

    b. **you** rent or lease an owner occupied dwelling to a person, other than a child or parent of the named **insured,** unless **you** notify **us** in writing of the change, rental or lease within 30 days.

20. **Report Increased Values. You** agree to notify **us** within 90 days of the start of any building valued at $5,000 or more or any additions to or remodeling of buildings that increases their value by $5,000 or more, and pay any additional premium for the increased value. If **you** fail to notify **us** within 90 days, or pay the additional premium, **we** will not cover any increased values.

B. The following Conditions also apply to this policy.

1. **Policy Period.** This policy applies only to loss which occurs during the policy period.

2. **Concealment or Fraud.** If **you** or any other **insured** under this policy has intentionally concealed or misrepresented any material fact or circumstance, or made false statements or engaged in fraudulent conduct relating to this insurance, whether before or after a loss, then this policy is void as to **you** and any other **insured.**

3. **Liberalization Clause.** If **we** make a change which broadens coverage under this edition of **our** policy without additional premium charge, that change will automatically apply to **your** insurance as of the date **we** implement the change, provided that this implementation date falls within 60 days prior to or during the policy period stated in the Declarations.

   This Liberalization Clause does not apply to changes implemented with a general program revision that includes both broadenings and restrictions in coverage, whether that general program revision is implemented through introduction of:

   a. a subsequent edition of this policy; or

b. an amendatory endorsement.

4. **Waiver or Change of Policy Provisions.** A waiver or change of a policy provision must be in writing by **us** to be valid. **Our** request for an appraisal or examination will not waive any of **our** rights.

5. **Membership.** Membership in the Farm Bureau Federation is a condition precedent to coverage and that coverage may be canceled or nonrenewed for failure to maintain membership in the Farm Bureau Federation.

6. Cancellation.

   a. **You** may cancel this policy at any time by returning it to us or by notifying **us** in writing of the future date cancellation is to take effect.

   b. When the policy is cancelled, the premium for the period from the date of cancellation to the expiration date will be refunded. When **you** request cancellation, or if **we** cancel, the return premium will be pro rata.

   c. If the premium is not refunded with the notice of cancellation or when this policy is returned to **us, we** will refund it within a reasonable time after the date cancellation takes effect.

   d. **We** may cancel this policy by notifying **you** in writing. This cancellation notice may be delivered to **you**, or mailed to **you** at **your** mailing address shown in the Declarations. Proof of mailing will be sufficient proof of notice. The written notification will be:

      (1) 10 days in advance of the date of cancellation if the reason is for nonpayment of:

         (a) any premium due **us**; or

         (b) annual membership dues to the Farm Bureau Federation;

      (2) 30 days in advance of the date of cancellation for the reasons below:

         (a) misrepresentation, fraud or withholding of material when the policy was obtained or when a claim was submitted;

(b) substantial change or increased hazard in the risk we originally agreed to insure;

(c) substantial breaches of **your** contractual duties, conditions or warranties;

(d) loss of **our** reinsurance covering a significant portion of **your** policy, or if the continuation of **your** policy would imperil **our** solvency or place **us** in violation of the insurance laws of this state.

(e) any other reason lawfully permitted;

e. Subsection (2) (a) through (d) above do not apply to this policy if it has been in effect for less than 90 days and is not a renewal of a previously existing policy. Policies in effect for less than 90 days may be cancelled for any reason by furnishing 30 days written notice of cancellation, unless the reason is for nonpayment of:

(1) any premium due **us**; or

(2) annual membership dues to the Farm Bureau Federation;

in which case **we** will furnish 10 days written notice.

7. **Nonrenewal. We** may elect not to renew this policy. **We** may do so by delivering to **you**, or mailing to **you** at **your** mailing address shown in the Declarations, written notice at least 30 days before the expiration date of this policy. Proof of mailing will be sufficient proof of notice.

8. **Automatic Termination.** If **we** offer to renew or continue this policy and **you** or **your** representative do not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that **you** have not accepted **our** offer. Then, a new application, subject to underwriting rules and payment of premium, may be required to obtain new coverage.

9. **Assignment**. Assignment of this policy will not be valid unless **we** give **our** written consent.

10. **Subrogation.** If **we** make a payment under this policy and the person to or for whom payment was made has a right to recover damages from another, **we** shall be subrogated to that right. That person shall:

a. do whatever is necessary to enable **us** to exercise **our** rights; and do nothing after loss to prejudice them;

b. reimburse **us** to the extent of **our** payment if a recovery from another person or party responsible for the loss has been made; and

c. be required to repay **us** if any settlement or judgment duplicates **our** payments.

11. **Death.** If any person named in the Declarations or the spouse, if a resident of the same household, dies:

a. **we** insure the legal representative of the deceased but only with respect to the premises and property of the deceased covered under the policy at the time of death;

b. **insured** includes, with respect to **your** property, the person having proper temporary custody of the property until appointment and qualification of a legal representative.

12. **Payment of Premium.** Checks in payment of **your** premium are accepted subject to collection. If a check is returned to **us** uncollected for any reason, **your** premium is considered unpaid. If the check **you** gave **us** for payment of any premium due is returned unpaid, **we** are entitled to collect a lawful bad check fee. This fee is not considered premium and **your** payment of it does not reinstate the policy or provide any past or future coverage.

13. **Audit and Inspection Clause.** At **our** option, **we** may inspect **your** property and operations at any time. **We** do not assume any liability by exercising **our** right to inspect or audit. By **our** making an inspection or audit, **we** make no representation that **your** property or operations are safe, not harmful to health, or comply with any law, rule or regulation.

14. **Grace Period.** This grace period applies only to the premium due at the renewal inception date and does not apply to any subsequent payments due on your part of any installment or premium finance plan, nor any additional premium due to a policy change after renewal. If **your** premium due for renewal (including unpaid membership fees) is received by **the Company** within 15 days, exclusive of the due date, **your** policy will provide continuous protection without a lapse in coverage.

15. **Fair Credit Reporting Act Statement.** At **our** option, **we** may conduct a credit investigation or obtain credit information on **you,** any **insured** or future **insured,** under this policy. This report will be used for underwriting purposes to determine if an offer of coverage will be made; if coverage may continue; or to determine rates, terms, or any other condition.

MUTUAL POLICY CONDITIONS

Applies only to South Carolina Farm Bureau Mutual Insurance Company

This policy is issued by a mutual company having special regulations lawfully applicable to its organizations, membership, policies or contracts of insurance, of which the following shall apply to and form a part of this policy:

By virtue of this policy, the policyholder is a member of the Company. Each member shall be entitled to cast only one vote at all meetings of the Company. This vote may be in person or by proxy.

This insured is hereby notified that maintaining membership in the Farm Bureau Federation is a condition precedent to insurance coverage under this policy.

The policyholder shall participate in the return of unused premiums (dividends) to the extent and on the conditions determined, fixed and declared by the Board of Directors in accordance with the law.

This policy is Nonassessable. The holder of this policy is not subject to any contingent liability, nor liable to assessment.

The policyholder is hereby notified that by virtue of this policy he is a member of the South Carolina Farm Bureau Mutual Insurance Company and that the bylaws of the Company fix the annual meeting at 12:00 o'clock Noon on the last Thursday in October of each year at the Company's Home Office.

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

David M Wibles Jr

President

Clinton W. Sease

Secretary

PARTICIPATING CONDITIONS

For Policies Issued in Palmetto Casualty Insurance Company Only.

While this policy is in force, the named insured is entitled to share in the distributable net earnings and savings of this **Company** in accordance with the dividends declared by the Board of Directors on this and like policies.

IN WITNESS WHEREOF, this **Company** has caused this policy to be signed by its President and Secretary and countersigned on the **Declarations** page by a duly authorized representative of this **Company**.

President Secretary

PARTICIPATING CONDITIONS

For Policies Issued in Southern Farm Bureau Casualty Insurance Company Only.

While this policy is in force, the named insured is entitled to share in the distributable net earnings and savings of this **Company** in accordance with the dividends declared by the Board of Directors on this and like policies.

IN WITNESS WHEREOF, this **Company** has caused this policy to be signed by its President and Secretary and countersigned on the **Declarations** page by a duly authorized representative of this **Company**.

President -CEO Secretary

DRIGGERS

TRAVELERS

May 8, 2009

Policy Number 984761288 633 1
Policy Period 05/07/09 - 05/07/10
12:01 AM STANDARD TIME AT THE RESIDENCE PREMISES

ARTHUR MCKENZIE
PO BOX 1533
LAKE CITY SC 29560

Welcome to Travelers!

Welcome!

Thank you for choosing Travelers for your homeowners insurance. We truly appreciate your business, and we're always available to assist you with claims, questions or additional insurance needs.

QUESTIONS? CONTACT US!

Policy questions or changes.	843.374.8539
Claim Service	1.800.CLAIM33
	1.800.252.4633
Billing and Payment Information . . .	1.877.485.0832
Online Service.	mytravelers.com

The enclosed, personalized policy package was created just for you. You will find important documents related to your Travelers policy and coverage:

Your New Insurance Policy, which includes your Declarations, policy form and endorsements. Please take a moment to review these important materials, especially your Declarations Page, which shows the coverages and limits you have selected.

24/7/365 Claim Service - Doing More to Get Your Home Back in Order
If you need us, we'll be there. Just call our toll-free claim service number 1.800.252.4633 (1.800.CLAIM33) 24 hours a day, 365 days a year. We have highly trained representatives nearby, ready to make the claim process as easy as possible for you.

On behalf of MOORE & ASSOCIATES, we look forward to serving you.

Sincerely,

Joseph Lacber
Chief Executive Officer
Personal Lines

P.S. We offer other coverages designed to protect your assets, including car insurance, valuable items, additional liability (for lawsuits), boat and yacht, flood, and identity theft protection. Contact your agent for more information.

PL-12746 7-06

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Water

Water

Everywhere ...

Am I protected from Flood? PROBABLY NOT!

Flooding occurs in EVERY state! Many people find out too late that they are at risk for flooding, and even worse that their property insurance doesn't cover flood damage.

- Your Homeowners policy DOES NOT cover flood loss to your home and contents.
- In certain areas, the chance of a flood loss is 25% greater than a loss due to a fire during a 30-year mortgage.
- Six out of every ten declared disasters involve flooding!
- Homes in areas where there is new construction or where there have been other events, such as forest fires, may be in greater danger than in the past because of changes to the land around them.
- 25% of all floods occur outside of a high-risk flood area.
- Federally backed mortgages in certain areas require flood insurance policies for the life of the mortgage.

To ensure that your property and belongings are protected, call your **Independent Insurance agent** at (843) 374-8539.

Even if you already have a flood policy, you may want to discuss coverages with your agent to ensure that your policy is up to date.

TRAVELERS

PL-8206 Rev. 5-03

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Your privacy. . .
Is our concern

WHAT WE MEAN WHEN WE TALK ABOUT "PRIVACY"

Your privacy is important to us. When we sell an insurance policy to a person we need information about the person or property that we're insuring. We consider this private and bave taken steps to keep it confidential.

We want you to know about our privacy policy. The privacy policy tells you the kinds of information we get about you, where we get it, and with wbom, if anyone, we may share it.

This brocbure describes our privacy policy, procedures and practices for individuals wbo seek or get auto, home and other personal liability and property insurance for personal, family or household needs.

WHAT KIND OF INFORMATION WE HAVE AND WHERE WE GET IT

You give us most of what we need in the application process. To make sure wbat we have is correct we may need to check with you by pbone or mail.

You may be asked to give us more details in writing or over the pbone. Plus, we may receive and cbeck your past insurance claims from insurance support organizations or your former insurers.

As allowed by law, we may ask for credit and other consumer reports from consumer reporting agencies concerning your application for insurance or any renewal of insurance. Information given to us by an insurance support organization, including consumer reporting agencies may be retained by them and disclosed to other persons.

For auto insurance, we often get a report of accidents or convictions from your State Motor Vehicle Department. We get these reports through an independent reporting company. We may also check information from government agencies or independent reporting companies. This helps us correctly rate and price your policy.

For bome, building, or boat insurance, we or an inspector from an independent company may visit the property to inspect and report on its condition. In some cases, pictures may be taken. This allows us to check the estimate we bave of your property's value. If we need more details about the property or the alarm you've installed, we may need to enter your property to finisb the inspection. We would contact you before entering your property.

As a part of our application and underwriting process, in most states, we also order an Insurance Score based on credit history. We use the Score, information you give us, and other consumer reports for underwriting and the price we will charge. If we receive corrected personal information from a consumer reporting agency, we will re-evaluate you.

Once you're insured with us, your file may contain details about your policy(ies). This may include bill payments or claim history. A claim representative may comment, for example, on tbe condition and use of the insured property. We may also keep a police report if one was issued.

Sometimes we need to know about your health. For example, if we need to know wbether a physical limitation will affect your ability to drive, we would ask you to sign a form allowing your personal doctor to answer any question we may have.

WHO HAS ACCESS TO THIS INFORMATION

We keep wbat we collect about you in our files. Our policies and procedures protect your personal information. We have pbysical, electronic and procedural safeguards in place.

We do not give or sell our customers' personal information to others for marketing purposes. You don't bave to ask us to keep your information private because we do not give it, nnless allowed.

We will use information about you to sell you insurance, service your insurance and settle claims. We may give the information to other persons or companies to help us manage or service our business. When we do, we require them to use it only for the reasons we gave it to them.

We may give, without your past permission and only if allowed by law, information about you beld in our files to certain persons or organizations such as:

- Your agent or broker
- Our affiliated property and casualty insurance companies
- An independent claim adjuster or investigator

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- Persons or organizations that conduct scientific research, including actuarial or underwriting studies, provided that no individual may be identified in the studies
- An insurance support organization, including consumer reporting agencies
- Another insurer in order to prevent or prosecute fraud

Also, on rare occasions, we may be required to share this information:

- With a State Insurance Department or other governmental agency, if required by federal, state or local laws
- If ordered by a summons, court order, search warrant or subpoena
- To protect our own legal interests, or in case of suspected fraud or other illegal activities.

HOW TO FIND OUT WHAT INFORMATION WE HAVE ABOUT YOU

If you have any questions about what we have in your file please write to us. When we receive your written request, we will respond within thirty (30) business days. We will let you know if we've given any information about you to anyone in the past. If we asked for a consumer report we will tell you the name and address of the consumer reporting agency.

You may also see and copy your file (except for certain documents about claims and lawsuits). If you believe any of our information is wrong we'll check it out and if we agree there was an error, we'll correct it. If we don't agree, you're still allowed to file a letter with your comments. We'll send the correction or letter to anyone who received or will receive the original information.

If you have any questions about the right of access to or correction of your file, we'll be happy to review our procedures with you. Please contact:

Privacy Coordinator
KNOXVILLE - 412
PO BOX 59059
KNOXVILLE TN 37950

WHEN YOU WRITE, PLEASE BE SURE TO TELL US YOUR:

- Name
- Address
- Policy number
- Phone number and the best time of the day for us to call you

Please include a copy (not the original) of personal ID, such as your driver's license.

WE THANK YOU FOR LETTING US SERVE YOUR INSURANCE NEEDS.

This notice is effective July 2006 and is given by Travelers Indemnity Company, and its property and casualty insurance affiliates, members of the Travelers group of companies. This notice applies to current and former customers and may be amended at any time. The amended notice will be sent to customers and will also be placed on Travelers web sites.

A statement concerning our use of Insurance Score is available upon request for Oregon residents.

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NOTICE

Thank you for trusting us as your insurance company. We are committed to your satisfaction and providing you with a competitive rate. Many factors are taken into account to rate insurance, including a credit based insurance score. We recently accessed data from the consumer reporting agency(ies) listed below to help price your policy. The consumer reporting agency that provides information used to develop your insurance score was unable to calculate an insurance score for you. In part, based on this information, you did not receive our lowest rate. You did receive a competitive and accurate price reflecting your individual characteristics.

The consumer reporting agency(ies) contact information is:

Insurance Score (Credit History) Information:
TransUnion Corporation - Consumer Relations
2 Baldwin Place, P.O. Box 1000
Chester, PA 19022
1-800-888-4213
www.transunion.com/direct

Remember:

- You have the right to obtain a free copy of the consumer report from the agency(ies) listed above. You may do so by contacting the agency within 60 days of receiving this notice.
- You also have the right to dispute with the consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency(ies). You should contact the agency to discuss any information in the report.
- The consumer reporting agency(ies) did not make the pricing determination and cannot answer questions regarding your policy.

To learn more about how your insurance score relates to your insurance policy please contact our Insurance Score Resource Center at 1-800-550-7717. For any other questions please contact your Travelers agent or representative.

PL-11748 11-06

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IMPORTANT NOTICE

SOUTH CAROLINA POLICYHOLDER NOTICE REGARDING YOUR HOMEOWNERS PREMIUM

South Carolina law requires that we show you the portion of your premium allocated to wind/hail coverage versus non-wind/hail coverage. You may determine the percentage of your policy premium allocated to wind/hail coverage by first referring to the enclosed Declarations page and finding your policy form shown in the "Mandatory Forms and Endorsements" area on the Declarations. Also, on the Declarations find the territory number assigned to the territory where your residence is located. The territory number is shown in the "For Your Information" area.

With this information, you can determine from the chart below the percentage of your policy premium allocated to wind/hail coverage.

Wind/Hail Percentage by Policy Form

Territory Range	HO-2	HO-3	HO-4	HO-6	HV-3	HV-6
1 - 25	73%	73%	63%	50%	74%	43%
26 - 50	67%	67%	56%	43%	67%	36%
51 - 75	64%	64%	51%	39%	64%	33%
76 - 100	64%	64%	44%	39%	64%	33%
101 - 125	62%	62%	39%	40%	63%	34%
126 - 150	63%	63%	34%	41%	63%	35%
151 - 175	62%	62%	27%	41%	62%	35%
176 - 200	56%	56%	23%	36%	57%	30%
201 - 225	49%	49%	19%	31%	50%	26%
226 - 250	47%	47%	16%	26%	48%	22%
251 - 275	40%	40%	13%	23%	41%	19%
276 - 300	38%	38%	12%	21%	38%	18%
301 - 325	27%	27%	5%	9%	27%	8%
326 - 350	25%	25%	5%	9%	26%	8%
351 - 375	25%	25%	4%	9%	26%	8%
376 - 400	25%	25%	4%	8%	26%	8%
401 - 425	26%	26%	4%	9%	27%	8%
426 - 450	26%	26%	4%	9%	26%	8%
451 - 475	26%	26%	4%	9%	26%	8%
476 - 500	25%	25%	4%	9%	25%	8%
501 - 525	25%	25%	4%	9%	26%	8%
526 - 550	26%	26%	4%	9%	27%	8%
551 - 575	25%	25%	4%	9%	26%	8%
576 - 579	36%	36%	4%	9%	36%	8%

Should you have any questions about your wind/hail premium or your policy, please contact your agent or insurance representative.

IMPORTANT BILLING NOTICE

This notice contains important information about our billing options and fees.

You have chosen to pay your insurance premium in monthly installments and will be billed by mail. Please note that a service charge of $6.00 will apply per installment. Other charges that may apply include a $10.00 late charge and a $25.00 fee for payments returned by your bank. If a payment is late we may require the total balance on your account be paid, in order to continue coverage.

If your billing needs change, we offer several ways to pay your premium:

Bill Plan	Monthly	Lump Sum
Electronic Funds Transfer (EFT)	No Charge	Not Currently Available
Recurring Credit Card (RCC)	No Charge	No Charge
Bill by Mail	$ 6.00	No Charge

Late Charge: $10.00 per occurrence
Payments returned by your bank: $25.00 per occurrence

Visit www.amp.travelers.com if you would like to enroll in our Electronic Funds Transfer (EFT) or Recurring Credit Card (RCC) payment plan.

If you have multiple policies with us you may be able to combine those policies into a single billing account. If you have selected one of our monthly billing options, and you combine your policies into a single billing account, you will be charged just one service charge per installment, and not per individual account.

To add this policy to an existing billing account or if you have other questions about this notice, please call your insurance representative at (843)374-8539.

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COVHO3

TRAVELERS

Homeowners Policy Booklet

from Travelers

Especially for:
ARTHUR MCKENZIE

Prepared by:
MOORE & ASSOCIATES

SOUTH CAROLINA
HOMEOWNERS - SPECIAL FORM HO-3 (10-06)

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The Contents of This Booklet

1. **Your Declarations:**

   A summary of your coverages, amounts of insurance, and premiums for those coverages under the policy.

2. **Homeowners Policy:**

   The policy contract describing coverages, rights, and obligations.

3. **Endorsements:**

   Additional coverages or policy provisions applicable to your policy.

4. **Important Notices:**

   Information required by your state but not part of your policy provisions.

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TRAVELERS

NEW BUSINESS DECLARATIONS

Homeowners Policy

INSURED AND AGENT INFORMATION

(Named Insured)
Name and Mailing Address
ARTHUR MCKENZIE
PO BOX 1533
LAKE CITY SC 29560

Agent Information
MOORE & ASSOCIATES
PO BOX 9
LAKE CITY, SC 29560

The Residence premises is located at
200 W HIGHWAY 378 BYP
LAKE CITY SC 295604426

POLICY INFORMATION

Homeowners Policy No.
984761288 633 1

Policy Period
05/07/09 - 05/07/10 12:01 A.M.
Standard Time at the residence premises

Your Insurer
The Travelers Home and Marine Insurance Company
One of The Travelers Property Casualty Companies
One Tower Square, Hartford, CT 06183

For Claim Service Call 1-800-CLAIM33
For Policy Service Call (843) 374-8539

TOTAL POLICY PREMIUM $ 784.00
This is not a bill; you will be invoiced separately.

Continued on next page

TRAVELERS

POLICY COVERAGES AND LIMITS OF LIABILITY

		LIMIT
Section I - Property Coverages		
A - DWELLING	$	287,000
B - OTHER STRUCTURES	$	28,700
C - PERSONAL PROPERTY	$	200,900
D - LOSS OF USE	$	86,100
LIMITED FUNGI, OTHER MICROBES OR ROT REMEDIATION		
Section I - Property Coverage	$	5,000
Section II - Liability Coverages		
E - Personal Liability (Bodily Injury and Property Damage) Each Occurrence	$	100,000
F - Medical Payments to Others Each Person	$	1,000

POLICY SAVINGS AND DEDUCTIBLES

Your Savings

The following credits or discounts reduced your premium: Account Discount, Loss Free Discount

Deductibles		DEDUCTIBLE
Section I Property Coverages Deductible (All Perils)	$	1,000

In case of loss under section I, only that part of the loss over the stated deductible is covered.

OPTIONAL ENDORSEMENTS AND COVERAGES

		LIMIT	PREMIUM
Optional Endorsements			
HO-290	(06-06) Personal Property Replacement Cost Loss Settlement		Included*

MANDATORY FORMS AND ENDORSEMENTS

HO-3 (10-06) Homeowners 3 Special Form
HO-300 SC (12-08) Special Provisions - South Carolina

Continued on next page

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TRAVELERS

The Declarations with your Homeowners Policy, HO-3 (10-06), and the optional Endorsements and coverages listed above, form your Homeowners insurance Policy.

"Note: The additional cost for any optional endorsement or coverage shown as "Included" is contained in the Total Policy Premium amount.

For Your information

The insurable value of the insured premises is $287,000.

South Carolina law requires that we provide you with the following statement: The insurer can cancel this policy for which you are applying without cause during the first 120 days. That is the insurer's choice. After the first 120 days, the insurer can only cancel this policy for reasons stated in the policy.

Your rating territory is 00525.

This is not a bill. You will be billed separately for this transaction.

For information about how Travelers compensates independent agents and brokers, please visit www.Travelers.com or call our toll free telephone number 1-866-904-8348. You may also request a written copy from Marketing at One Tower Square, 2GSA, Hartford, Connecticut 06183.

Thank you for insuring with Travelers. We appreciate your business. If you have any questions about your insurance, please contact your agent or representative.

These declarations with policy provisions HO-3 (10-06) and any attached endorsements form your Homeowners Insurance Policy. Please keep them with your policy for future reference.

Countersignature:

YOUR HOMEOWNERS POLICY QUICK REFERENCE

	DECLARATIONS PAGE Your Name Location of Your Residence Policy Period Policy Coverages Limits of Liability Deductible Amounts	
		Beginning On Page
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	CONDITIONS	14
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HOMEOWNERS 3 – SPECIAL FORM

AGREEMENT

We will provide the insurance described in this policy in return for the premium and compliance with all applicable provisions of this policy.

DEFINITIONS

In this policy, "you" and "your" refer to the named "insured" shown in the Declarations and the spouse if a resident of the same household. "We", "us" and "our" refer to the company providing this insurance. In addition, certain words and phrases are defined as follows:

1. "Aircraft Liability", "Hovercraft Liability", "Motor Vehicle Liability" and "Watercraft Liability", subject to the provisions in b. below, mean the following:
   a. Liability for "bodily injury" or "property damage" arising out of the:
      (1) Ownership of such vehicle or craft by an "insured";
      (2) Maintenance, occupancy, operation, use, loading or unloading of such vehicle or craft by any person;
      (3) Entrustment of such vehicle or craft by an "insured" to any person;
      (4) Failure to supervise or negligent supervision of any person involving such vehicle or craft by an "insured"; or
      (5) Vicarious liability, whether or not imposed by law, for the actions of a child or minor involving such vehicle or craft.
   b. For the purpose of this definition:
      (1) Aircraft means any contrivance used or designed for flight, except model or hobby aircraft not used or designed to carry people or cargo;
      (2) Hovercraft means a self-propelled motorized ground effect vehicle and includes, but is not limited to, flarecraft and air cushion vehicles;
      (3) Watercraft means a craft principally designed to be propelled on or in water by wind, engine power or electric motor; and
      (4) Motor vehicle means a "motor vehicle" as defined in 9. below.
2. "Bodily injury" means bodily harm, sickness or disease, including required care, loss of services and death that results.
3. "Business" means:
   a. A trade, profession or occupation engaged in on a full-time, part-time or occasional basis; or
   b. Any other activity engaged in for money or other compensation, except the following:
      (1) Volunteer activities for which no money is received other than payment for expenses incurred to perform the activity;
      (2) Providing home day care services for which no compensation is received, other than the mutual exchange of such services; or
      (3) Providing home day care services to a relative of an "insured".
4. "Employee" means an employee of an "insured", or an employee leased to an "insured" by a labor leasing firm under an agreement between an "insured" and the labor leasing firm, whose duties are other than those performed by a "residence employee".
5. "Fuel system" means:
   a. One or more containers, tanks or vessels which have a total combined fuel storage capacity of 100 or more U.S. gallons; and:
      (1) Are, or were, used to hold fuel; and
      (2) Are, or were, located on any one location;
   b. Any pumping apparatus, which includes the motor, gauge, nozzle, hose or pipes that are, or were, connected to one or more containers, tanks or vessels described in Paragraph a.;

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c. Filler pipes and flues connected to one or more containers, tanks or vessels described in Paragraph a.;

d. A boiler, furnace or a water heater, the fuel for which is stored in a container, tank or vessel described in Paragraph c.;

e. Fittings and pipes connecting the boiler, furnace or water heater to one or more containers, tanks or vessels described in Paragraph a.; or

f. A structure that is specifically designed and built to hold escaped or released fuel from one or more containers, tanks or vessels described in Paragraph a.

A "fuel system" does not include any fuel tanks that are permanently affixed to a motor vehicle or watercraft owned by an "insured", used for powering the motor vehicle or watercraft and not used at any time or in any manner for "business".

6. "Fungi"

a. "Fungi" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by "fungi".

b. Under Section II, this does not include any "fungi" that are, are on, or are contained in, a product or goods intended for consumption.

7. "Insured" means:

a. You and residents of your household who are:

(1) Your relatives; or

(2) Other persons under the age of 21 and in the care of any person named above.

b. A student enrolled in school full-time, as defined by the school, who was a resident of your household before moving out to attend school, provided the student is under the age of:

(1) 24 and your relative; or

(2) 21 and in your care or the care of a person described in a.(1) above; or

c. Any Additional Insured named in the Declarations, but only with respect to Coverages A, B, E and F and only for the "residence premises".

d. Under Section II:

(1) With respect to animals or watercraft to which this policy applies, any person or organization legally responsible for these animals or watercraft which are owned by you or any person included in a. or b. above. "Insured" does not mean a person or organization using or having custody of these animals or watercraft in the course of any "business" or without consent of the owner; or

(2) With respect to any vehicle to which this policy applies:

(a) Persons while engaged in your employ or that of any person included in a. or b. above; or

(b) Other persons using the vehicle on an "insured location" with your consent.

Under both Sections I and II, when the word an immediately precedes the word "insured", the words an "insured" together mean one or more "insureds".

8. "Insured location" means:

a. The "residence premises";

b. The part of other premises, other structures and grounds used by you as a residence and:

(1) Which is shown in the Declarations; or

(2) Which is acquired by you during the policy period for your use as a residence;

c. Any premises used by you in connection with a premises described in a. and b. above;

d. Any part of a premises:

(1) Not owned by an "insured"; and

(2) Where an "insured" is temporarily residing;

e. Vacant land, other than farm land, owned by or rented to an "insured";

f. Land owned by or rented to an "insured" on which a one or two family dwelling is being built as a residence for an "insured";

g. Individual or family cemetery plots or burial vaults of an "insured";

h. Any part of a premises occasionally rented to an "insured" for other than "business" use;

i. Any premises owned by you and rented to others for use as a residence by not more than four families, if shown in the Declarations as an ADDITIONAL RESIDENCE RENTED TO OTHERS; or

j. Any other structure on the "residence premises" rented to others as a private residence for which a limit of liability is shown in the

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Declarations for STRUCTURES RENTED TO OTHERS.

9. "Motor vehicle" means:
   a. A self-propelled land or amphibious vehicle; or
   b. Any trailer or semi-trailer which is being carried on, towed by or hitched for towing by a vehicle described in a. above.
10. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions, which results during the policy period, in:
    a. "bodily injury"; or
    b. "property damage".
11. "Property Damage" means physical injury to, destruction of, or loss of use of tangible property.
12. "Residence employee" means:
    a. An employee of an "insured", or an employee leased to an "insured" by a labor leasing firm under an agreement between an "insured" and the labor leasing firm, if the employee's duties are related to the maintenance or use of the "residence premises", including household or domestic services; or
    b. One who performs similar duties elsewhere not related to the "business" of an "insured."

    A "residence employee" does not include a temporary employee who is furnished to an "insured" to substitute for a permanent "residence employee" on leave or to meet seasonal or short-term workload conditions.
13. "Residence premises" means:
    a. The one family dwelling where you reside; or
    b. The two, three or four family dwelling where you reside in at least one of the family units;

    and which is shown as the "residence premises" in the Declarations.

    "Residence premises" also includes other structures and grounds at that location.

SECTION I - PROPERTY COVERAGES

COVERAGE A - DWELLING

1. We cover:
   a. The dwelling on the "residence premises" shown in the Declarations, including structures attached to the dwelling; and
   b. Materials and supplies located on or next to the "residence premises" used to construct, alter or repair the dwelling or other structures on the "residence premises".
2. We do not cover land, including land on which the dwelling is located.

COVERAGE B - OTHER STRUCTURES

1. We cover other structures on the "residence premises" set apart from the dwelling by clear space. This includes structures connected to the dwelling by only a fence, utility line, or similar connection.
2. We do not cover:
   a. Land, including land on which the other structures are located;
   b. Other structures rented or held for rental to any person not a tenant of the dwelling, unless used solely as a private garage. However, we do cover other structures rented to others as a private residence for which a limit of liability is shown in the Declarations for STRUCTURES RENTED TO OTHERS;
   c. Other structures from which any "business" is conducted; or
   d. Other structures used to store "business" property. However, we do cover a structure that contains "business" property solely owned by an "insured" or a tenant of the dwelling provided that "business" property does not include gaseous or liquid fuel, other than fuel in a permanently installed fuel tank of a vehicle or craft parked or stored in the structure.

COVERAGE C - PERSONAL PROPERTY

1. Covered Property. We cover personal property owned or used by an "insured" while it is anywhere in the world. At your request, we will cover personal property owned by:
   a. Others while the property is on the part of the "residence premises" occupied by an "insured"; or
   b. A guest or a "residence employee", while the property is in any residence occupied by an "insured".

   This request may be made after a loss.

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2. **Limit For Property At Other Residences.** Our limit of liability for personal property usually located at an "insured's" residence, other than the "residence premises", is 10% of the limit of liability for Coverage C, or $1,000, whichever is greater. However, this limitation does not apply to personal property:

   a. Moved from the "residence premises" because it is being repaired, renovated or rebuilt and is not fit to live in or store property in; or

   b. In a newly acquired principal residence for 30 days from the time you begin to move the property there.

3. **Special Limits of Liability.** The special limit for each category described below is the greater of the limit shown below or the special limit for such category, if any, shown in the Declarations. Such limit is the total limit for each loss for all property in that category. These special limits do not increase the Coverage C limit of liability.

   a. $200 on money, bank notes, bullion, gold other than goldware, silver other than silverware, platinum other than platinumware, coins, medals, scrip, stored value cards and smart cards.

   b. $1,500 on securities, accounts, deeds, evidence of debt, letters of credit, notes other than bank notes, manuscripts, personal records, passports, tickets and stamps. This dollar limit applies to these categories regardless of the medium (such as paper or computer software) on which the material exists.

      This limit includes the cost to research, replace or restore the information from the lost or damaged material.

   c. $1,500 on watercraft of all types, including their trailers, furnishings, equipment and outboard engines or motors.

   d. $1,500 on trailers or semitrailers not used with watercraft of all types.

   e. $1,500 for loss by theft of jewelry, watches, furs, precious and semiprecious stones.

   f. $2,500 for loss by theft of firearms and related equipment.

   g. $2,500 for loss by theft of silverware, silverplated ware, goldware, gold-plated ware, platinumware, platinum-plated ware and pewterware. This includes flatware, hollowware, tea sets, trays and trophies made of or including silver, gold, platinum or pewter.

   h. $5,000 on property, on the "residence premises", used primarily for "business" purposes.

   i. $1,500 on property, away from the "residence premises", used primarily for "business" purposes. However, this limit does not apply to loss to electronic apparatus and accessories described in category j. below.

   j. $1,500 on electronic apparatus and accessories, while in or upon a "motor vehicle", but only if the apparatus is equipped to be operated by power from the "motor vehicle's" electrical system while still capable of being operated by other power sources.

   k. $250 on tapes, records, discs or other media that can be used with any electronic apparatus, while in or upon a "motor vehicle".

4. **Property Not Covered**

   We do not cover:

   a. Articles separately described and specifically insured, regardless of the limit for which they are insured, in this or other insurance;

   b. Animals, birds or fish;

   c. "Motor vehicles".

      (1) This includes:

         (a) Their accessories, equipment and parts; or

         (b) Electronic apparatus and accessories designed to be operated solely by power from the electrical system of the "motor vehicle".

      The exclusion of property described in (a) and (b) above applies only while such property is in or upon the "motor vehicle".

      (2) We do cover "motor vehicles" not required to be registered for use on public roads or property which are:

         (a) Used to service an "insured's" residence; or

         (b) Designed to assist the handicapped;

   d. Aircraft meaning any contrivance used or designed for flight, including any parts whether or not attached to the aircraft.

      We do cover model or hobby aircraft not used or designed to carry people or cargo;

   e. Hovercraft and parts. Hovercraft means a self-propelled motorized ground effect vehicle and includes, but is not limited to, flarecraft and air cushion vehicles;

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f. Property of roomers, boarders and other tenants, except property of roomers and boarders related to an "insured";

g. Property in an apartment regularly rented or held for rental to others by an "insured", except as provided under Additional Coverage 11. Landlord's Furnishings;

h. Property rented or held for rental to others off the "residence premises";

i. "Business" data, including such data stored in:

(1) Books of account, drawings or other paper records; or

(2) Computers and related equipment.

We do cover the cost of blank recording or storage media, and of prerecorded computer programs available on the retail market;

j. Credit cards, electronic fund transfer cards or access devices used solely for deposit, withdrawal or transfer of funds except as provided in Additional Coverage 7. Credit Card, Electronic Fund Transfer Card Or Access Device, Forgery And Counterfeit Money;

k. Grave markers, except as provided in Additional Coverage 13. Grave Markers; or

l. Water or steam.

COVERAGE D - LOSS OF USE

The limit of liability for Coverage D is the total limit for the coverages in 1. Additional Living Expense, 2. Fair Rental Value and 3. Civil Authority Prohibits Use below.

1. **Additional Living Expense.** If a loss covered under Section I makes that part of the "residence premises" where you reside not fit to live in, we cover any necessary increase in living expenses incurred by you so that your household can maintain its normal standard of living. However, additional living expense due to "fungi", other microbes or rot remediation will not be paid in addition to any amounts paid or payable under Additional Coverage 16. Limited "Fungi", Other Microbes Or Rot Remediation.

   Payment will be for the shortest time required to repair or replace the damage or, if you permanently relocate, the shortest time required for your household to settle elsewhere.

2. **Fair Rental Value.** If a loss covered under Section I makes that part of the "residence premises" rented to others or held for rental by you not fit to live in, we cover the fair rental value of such premises less any expenses that do not continue while it is not fit to live in. However, fair rental value due to "fungi", other microbes or rot remediation will not be paid in addition to any amounts paid or payable under Additional Coverage 16. Limited "Fungi", Other Microbes Or Rot Remediation.

   Payment will be for the shortest time required to repair or replace such premises.

   Written proof that part of the "residence premises" is rented, was held for rental at the time of loss or has been rented within the 24 months prior to the date of loss is required.

3. **Civil Authority Prohibits Use.** If a civil authority prohibits you from use of the "residence premises" as a result of direct physical damage to neighboring premises caused by a Peril Insured Against under this policy, we cover resulting 1. Additional Living Expense and 2. Fair Rental Value as provided above for no more than two weeks. Neighboring premises means a premises in sufficient proximity to the "residence premises" that there exists a reasonable risk that the peril affecting the neighboring premises could endanger either the "residence premises" or the safety of its occupants while in the "residence premises".

4. **Loss Or Expense Not Covered.** We do not cover loss or expense due to cancellation of a lease or agreement.

The periods of time under 1. Additional Living Expense, 2. Fair Rental Value and 3. Civil Authority Prohibits Use above are not limited by expiration of this policy.

ADDITIONAL COVERAGES

Unless otherwise stated:
The following coverages are additional insurance; and
They are subject to your deductible.

1. **Debris Removal.** We will pay your reasonable expense for the removal of:

   a. Debris of covered property if a Peril Insured Against that applies to the damaged property causes the loss; or

   b. Ash, dust or particles from a volcanic eruption that has caused direct loss to a building or property contained in a building.

   This expense is included in the limit of liability that applies to the damaged property. If the amount to be paid for the actual damage to the property plus the debris removal expense is more than the limit of liability for the damaged property, an additional 5% of that limit is available for such expense.

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We do not pay for the removal of trees except as provided under 2. Tree Removal below.

2. **Tree Removal.** We will pay your reasonable expense, up to $1,000, for the removal of one or more trees fallen on the "residence premises" as a result of a Peril Insured Against, provided the tree(s):

   a. Damage(s) a covered structure; or

   b. Do(es) not damage a covered structure, but:

      (1) Block(s) a driveway on the "residence premises" which prevent(s) a "motor vehicle", that is registered for use on public roads or property, from entering or leaving the "residence premises"; or

      (2) Block(s) a ramp or other fixture designed to assist a handicapped person to enter or leave the dwelling building.

   The $1,000 limit is the most we will pay in any one loss regardless of the number of fallen trees. No more than $500 of this limit will be paid for the removal of any one tree.

3. **Reasonable Repairs.**

   a. We will pay the reasonable cost incurred by you for the necessary measures taken solely to protect covered property that is damaged by a Peril Insured Against from further damage.

   b. If the measures taken involve repair to other damaged property, we will pay only if that property is covered under this policy and the damage is caused by a Peril Insured Against.

   c. This coverage does not increase the limit of liability that applies to the covered property; or

   d. Relieve you of your duties, in case of a loss to covered property, described in 2.d. under Section I – Conditions.

4. **Trees, Shrubs And Other Plants.** We cover trees, shrubs, plants or lawns, on the "residence premises", for loss caused by the following Perils Insured Against:

   a. Fire or Lightning;

   b. Explosion;

   c. Riot or Civil Commotion;

   d. Aircraft;

   e. Vehicles not owned or operated by a resident of the "residence premises";

   f. Vandalism or Malicious Mischief; or

   g. Theft.

   We will pay up to 5% of the limit of liability that applies to the dwelling for all trees, shrubs, plants or lawns. No more than $500 of this limit will be paid for any one tree, shrub or plant. We do not cover property grown for "business" purposes.

5. **Fire Department Service Charge.** We will pay up to $500 for your liability assumed by contract or agreement for fire department charges incurred when the fire department is called to save or protect covered property from a Peril Insured Against. We do not cover fire department service charges if the property is located within the limits of the city, municipality or protection district furnishing the fire department response.

   No deductible applies to this coverage.

6. **Property Removed.** We insure covered property against direct loss from any cause while being removed from a premises endangered by a Peril Insured Against and for no more than 30 days while removed. This coverage does not change the limit of liability that applies to the property being removed.

7. **Credit Card, Electronic Fund Transfer Card Or Access Device, Forgery And Counterfeit Money.**

   a. We will pay up to the greater of $1,000, or the higher amount, if any, shown in the Declarations for CREDIT CARD, for:

      (1) The legal obligation of an "insured" to pay because of the theft or unauthorized use of credit cards issued to or registered in an "insured's" name;

      (2) Loss resulting from theft or unauthorized use of an electronic fund transfer card or access device used for deposit, withdrawal or transfer of funds, issued to or registered in an "insured's" name;

      (3) Loss to an "insured" caused by forgery or alteration of any check or negotiable instrument; and

      (4) Loss to an "insured" through acceptance in good faith of counterfeit United States or Canadian paper currency.

      No deductible applies to this coverage.

   b. All loss resulting from a series of acts:

      (1) Committed by any one person or group of persons acting in concert; or

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(2) in which any one person or group of persons acting in concert is concerned or implicated;

is considered to be one loss.

c. We do not cover:

(1) Use of a credit card, electronic fund transfer card or access device:

(a) By a resident of your household;

(b) By a person who has been entrusted with either type of card or access device; or

(c) if an "insured" has not complied with all terms and conditions under which the cards are issued or the devices accessed; or

(2) Loss arising out of "business" use or dishonesty of an "insured".

d. If the coverage in a. applies, the following defense provisions also apply:

(1) We may investigate and settle any claim or suit that we decide is appropriate. Our duty to defend a claim or suit ends when the amount we pay for the loss equals our limit of liability.

(2) If a suit is brought against an "insured" for liability under a.(1) or (2) above, we will provide a defense at our expense by counsel of our choice.

(3) We have the option to defend at our expense an "insured" or an "insured's" bank against any suit for the enforcement of payment under a.(3) above.

8. Loss Assessment.

a. We will pay up to $1,000 for your share of loss assessment charged during the policy period against you, as owner or tenant of the "residence premises", by a corporation or association of property owners. The assessment must be made as a result of direct loss to property, owned by all members collectively, of the type that would be covered by this policy if owned by you, caused by a Peril Insured Against under Coverage A, other than:

(1) Earthquake; or

(2) Land shock waves or tremors before, during or after a volcanic eruption.

The limit of $1,000 is the most we will pay with respect to any one loss, regardless of the number of assessments. We will apply only one deductible, per unit, to the total amount of any one loss to the property described above, regardless of the number of assessments.

b. We do not cover assessments charged against you or a corporation or association of property owners by any governmental body.

c. Section I Condition 17. Policy Period does not apply to this coverage.

9. Collapse.

a. With respect to this Additional Coverage:

(1) Collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its current intended purpose.

(2) A building or any part of a building that is in danger of falling down or caving in is not considered to be in a state of collapse.

(3) A part of a building that is standing is not considered to be in a state of collapse even if it has separated from another part of the building.

(4) A building or any part of a building that is standing is not considered to be in a state of collapse even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

b. We insure for direct physical loss to covered property involving collapse of a building or any part of a building if the collapse was caused by one or more of the following:

(1) The Perils Insured Against named under Coverage C;

(2) Decay that is hidden from view, unless the presence of such decay is known to an "insured" prior to collapse or there are visible signs of water damage and the "insured" has not taken prompt action to prevent further damage;

(3) Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an "insured" prior to collapse;

(4) Weight of contents, equipment, animals or people;

(5) Weight of rain which collects on a roof; or

(6) Use of defective material or methods in construction, remodeling or renovation if

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the collapse occurs during the course of the construction, remodeling or renovation.

c. Loss to an awning, fence, patio, deck, pavement, swimming pool, underground pipe, flue, drain, cesspool, septic tank, foundation, retaining wall, bulkhead, pier, wharf or dock is not included under b.(2) through (6) above, unless the loss is a direct result of the collapse of a building or any part of a building.

d. This coverage does not increase the limit of liability that applies to the damaged covered property.

10. **Glass Or Safety Glazing Material.**

a. We cover:

(1) The breakage of glass or safety glazing material which is part of a covered building, storm door or storm window;

(2) The breakage of glass or safety glazing material which is part of a covered building, storm door or storm window when caused directly by earth movement; and

(3) The direct physical loss to covered property caused solely by the pieces, fragments or splinters of broken glass or safety glazing material which is part of a building, storm door or storm window.

b. This coverage does not include loss:

(1) To covered property which results because the glass or safety glazing material has been broken, except as provided in a.(3) above; or

(2) On the "residence premises" if the dwelling has been vacant for more than 60 consecutive days immediately before the loss, except when the breakage results directly from earth movement as provided in a.(2) above. Vacant means substantially empty of personal property necessary to sustain normal occupancy. A dwelling being constructed is not considered vacant.

c. This coverage does not increase the limit of liability that applies to the damaged property.

11. **Landlord's Furnishings.** We will pay up to $2,500 for your appliances, carpeting and other household furnishings, in each apartment on the "residence premises" regularly rented or held for rental to others by an "insured", for loss caused by a Peril Insured Against in Coverage C, other than Theft.

This limit is the most we will pay in any one loss regardless of the number of appliances, carpeting or other household furnishings involved in the loss.

This coverage does not increase the limit of liability applying to the damaged property.

12. **Ordinance or Law.**

a. You may use up to the greater of 10%, or the higher percentage, if any, shown in the Declarations for ORDINANCE OR LAW, of the limit of liability that applies to Coverage A for the increased costs you incur due to the enforcement of any ordinance or law which requires or regulates:

(1) The construction, demolition, remodeling, renovation or repair of that part of a covered building or other structure damaged by a Peril Insured Against;

(2) The demolition and reconstruction of the undamaged part of a covered building or other structure, when that building or other structure must be totally demolished because of damage by a Peril Insured Against to another part of that covered building or other structure; or

(3) The remodeling, removal or replacement of the portion of the undamaged part of a covered building or other structure necessary to complete the remodeling, repair or replacement of that part of the covered building or other structure damaged by a Peril Insured Against.

b. You may use all or part of this ordinance or law coverage to pay for the increased costs you incur to remove debris resulting from the construction, demolition, remodeling, renovation, repair or replacement of property as stated in a. above.

c. We do not cover:

(1) The loss in value to any covered building or other structure due to the requirements of any ordinance or law; or

(2) The costs to comply with any ordinance or law which requires any "insured" or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, pollutants in or on any covered building or other structure.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids,

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alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

d. The most we will pay for eny increased costs to comply with any ordinance or law that becomes effective after the dete of loss is $5,000.

13. **Grave Markers.** We will pey up to $5,000 for grave markers, including mausoleums, on or away from the "residence premises" for loss caused by a Peril Insured Against in Coverage C.

This coverage does not increase the limits of liability that apply to the dameged covered property.

14. **Refrigereted Products Coverage.** We insure, up to $500, covered property stored in freezers or refrigerators on the "residence premises" for direct loss caused by:

a. Loss of power to tha refrigeration unit. Loss of power means the complete or pertial interruption of electric power due to conditions beyond an "insured's" control. Loss of power must be caused by damage to:

(1) Genereting equipment; or

(2) Transmitting equipment; or

b. Mechenical failure of the unit which stores the property.

Coverage will apply only if you have maintained the refrigeration unit in proper working condition immediately prior to the loss.

This coverage does not increase the limit of liability for Coverage C.

We will pay only that part of the total of all loss payable that exceeds $100. No other deductible applies to this coverage.

The Power Failure exclusion does not apply to this coverage.

15. **Inflation Coverage.** We may adjust the limits of liability for Coverages A, B, C and D at the beginning of each successive policy term to raflect increases in the cost of insured property. The amount of such increase will be based on the data provided by the appraisal company shown in the Declerations. Payment of the required premium when due for the successive policy term will be sufficient to indicate your acceptance of the adjusted limits.

We will also adjust the limits of liability at the time of a loss by the same percentage pro rated from the effective date of the policy period or the effective dete of chenge if you have requested a chenge to the limit of liability for Coverage A during the policy period.

16. **Limited "Fungi", Other Microbes Or Rot Remediation.**

a. If a loss caused by a Peril Insured Against results in "fungi", other microbes or rot, we will pay for:

(1) Remediation of the "fungi", other microbes or rot. This includes payment for the reasoneble end necessary cost to:

(a) Remove the "fungi", other microbes or rot from covered property or to repair, restore or replace that property; end

(b) Tear out and replace any part of the building as needed to gain access to the "fungi", other microbes or rot;

(2) Any reasonable and necessary increase in living expense you incur:

(a) So thet your household can maintain its normal standard of living; or

(b) Loss of fair rental value;

if the "fungi", other microbes or rot makes the "residence premises" not fit to live in; and

(3) Any reasonable and necessary testing or monitoring of air or property to confirm the absence, presence or level of the "fungi", other microbes or rot, whether performed prior to, during or after removal, repair, restoration or replacement.

b. We will pay under this additional coverage only if:

(1) The covered loss occurs during the policy period;

(2) All reasonable means were used to save and preserve the property at the time of and after the covered loss; and

(3) We receive prompt notice of the covered ceuse of loss that is alleged to have resulted in "fungi", other microbes or rot.

c. The most we will pay under this additional coverage is the limit of liability shown in the Declaretions for Limited "Fungi", Other Microbes Or Rot Remediation. This is the most we will pay for the total of all loss or costs regardless of the:

(1) Number of locations or items of property insured under this policy; or

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(2) Number of losses or claims made.

d. This coverage does not increase the limit of liability that applies to the damaged property.

SECTION I - PERILS INSURED AGAINST

COVERAGE A – DWELLING AND COVERAGE B – OTHER STRUCTURES

1. We insure against risk of direct physical loss to property described in Coverages A and B.
2. We do not insure, however, for loss:
   a. Excluded under Section I – Exclusions;
   b. Involving collapse or danger of collapse, except as provided in Additional Coverage 9. Collapse under Section I – Property Coverages; or
   c. Caused by:
      (1) Freezing of a plumbing, heating, air conditioning or automatic fire protective sprinkler system or of a household appliance, or by discharge, leakage or overflow from within the system or appliance caused by freezing. This exclusion does not apply if you have used reasonable care to:
         (a) Maintain heat in the building; or
         (b) Shut off the water supply end drain all systems and appliances of water.

         However, if the building is protected by an automatic fire protective sprinkler system, you must use reasonable care to continue the water supply and maintain heat in the building for coverage to apply.

         For purposes of this provision a plumbing system or household appliance does not include a sump, sump pump or related equipment or a roof drain, gutter, downspout or similar fixtures or equipment;
      (2) Freezing, thawing, pressure or weight of water or ice, whether driven by wind or not, to a:
         (a) Fence, pavement, patio or swimming pool;
         (b) Footing, foundation, bulkhead, wall, or any other structure or device that supports all or part of a building, or other structure;
         (c) Retaining wall or bulkhead that does not support all or part of a building or other structure; or
         (d) Pier, wharf or dock;
      (3) Theft in or to a dwelling under construction, or of materials and supplies for use in the construction until the dwelling is finished and occupied;
      (4) Vandalism and malicious mischief, and any ensuing loss caused by any intentional and wrongful act committed in the course of the vandalism or malicious mischief, if the dwelling has been vacant for more than 60 consecutive days immediately before the loss. Vacant means substantially empty of personal property necessary to sustain normal occupancy. A dwelling being constructed is not considered vacant;
      (5) Constant or repeated seepage or leakage of water or steam, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more; or
      (6) Any of the following:
         (a) Wear and tear, marring, deterioration;
         (b) Mechanical breakdown, latent defect, inherent vice, or any quality in property that causes it to damage or destroy itself;
         (c) Smog, rust or other corrosion;
         (d) Smoke from agricultural smudging or industrial operations;
         (e) Discharge, dispersal, seepage, migration, release or escape of pollutants unless the discharge, dispersal, seepage, migration, release or escape is itself caused by a Peril Insured Against named under Coverage C.

         Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed;
         (f) Settling, shrinking, bulging or expansion, including resultant cracking, of

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bulkheads, pavements, patios, footings, foundations, walls, floors, roofs or ceilings;

(g) Birds, vermin, rodents, or insects; or

(h) Animals owned or kept by an "insured".

Exception To c.(6)

Unless the loss is otherwise excluded, we cover loss to property covered under Coverage A or B resulting from an accidental discharge or overflow of water or steam from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system or household appliance on the "residence premises". This includes the cost to tear out and replace any part of a building, or other structure, on the "residence premises", but only when necessary to repair the system or appliance. However, such tear out and replacement coverage only applies to other structures if the water or steam causes actual damage to a building on the "residence premises".

We do not cover loss to the system or appliance from which this water or steam escaped.

For purposes of this provision, a plumbing system or household appliance does not include a sump, sump pump or related equipment or a roof drain, gutter, down spout or similar fixtures or equipment.

Under 2.b. and c. above, any ensuing loss to property described in Coverages A and B not excluded by any other provision in this policy is covered.

COVERAGE C – PERSONAL PROPERTY

We insure for direct physical loss to the property described in Coverage C caused by any of the following perils, unless the loss is excluded in Section I - Exclusions.

1. Fire or lightning.
2. Windstorm or hail.

   This peril includes loss to watercraft of all types and their trailers, furnishings, equipment, and outboard engines or motors, only while inside a fully enclosed building.

   This peril does not include loss to property contained in a building caused by rain, snow, sleet, sand or dust unless the direct force of wind or hail damages the building, causing an opening in a roof or wall and the rain, snow, sleet, sand or dust enters through this opening.
3. Explosion.
4. Riot or civil commotion.
5. Aircraft.

   This peril includes self-propelled missiles and spacecraft.
6. Vehicles.
7. Smoke.

   This peril means sudden and accidental damage from smoke, including the emission or puffback of smoke, soot, fumes or vapors from a boiler, furnace or related equipment.

   This peril does not include loss caused by smoke from agricultural smudging or industrial operations.
8. Vandalism or malicious mischief.
9. Theft.

   a. This peril includes attempted theft and loss of property from a known place when it is likely that the property has been stolen.

   b. This peril does not include loss caused by theft:

      (1) Committed by an "insured";

      (2) In or to a dwelling under construction, or of materials and supplies for use in the construction until the dwelling is finished and occupied;

      (3) From that part of a "residence premises" rented by an "insured" to someone other than another "insured"; or

      (4) That occurs off the "residence premises" of:

         (a) Trailers, semitrailers and campers;

         (b) Watercraft of all types, and their furnishings, equipment and outboard engines or motors; or

         (c) Property while at any other residence owned by, rented to, or occupied by an "insured", except while an "insured" is temporarily living there. Property of an "insured" who is a student is covered while at the residence the student occupies to attend school as long as the student has been there at any time during the 60 days immediately before the loss.

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10. Falling Objects.

This peril does not include loss to property contained in e building unless the roof or an outside wall of the building is first demaged by a falling object. Damage to the falling object itself is not included.

11. Weight Of Ice, Snow Or Sleet.

This peril means weight of ice, snow or sleet which causes damage to property conteined in a building.

12. Accidental Discharge Or Overflow Of Water Or Steam.

a. This peril means accidental discharge or overflow of water or steam from within a plumbing, heeting, air conditioning or autometic fire protective sprinkler system or from within a household appliance.

b. This peril does not include loss:

(1) To the system or appliance from which the water or steam escaped;

(2) Caused by or resulting from freezing except as provided in Peril Insured Against 14. Freezing; or

(3) On the "residence premises" caused by accidental discharge or overflow which occurs off the "residence premises";

c. In this peril, a plumbing system or household appliance does not include a sump, sump pump or related equipment or a roof drain, gutter, downspout or similar fixtures or equipment.

d. Section I – Exclusion 3. Water Damage, Paregraphs a. and c. that apply to surface water and water below the surface of the ground do not apply to loss by water covered under this peril.

13. Sudden And Accidental Tearing Apart, Cracking, Burning Or Bulging.

This peril means sudden and accidental teering apart, cracking, burning or bulging of a steam or hot water heating system, an air conditioning or automatic fire protective sprinkler system, or an appliance for heating water.

We do not cover loss caused by or resulting from freezing under this peril.

14. Freezing.

a. This peril means freezing of a plumbing, heating, air conditioning or automatic fire protective sprinkler system or of a household appliance but only if you have used reasonable care to:

(1) Maintain heat in the building; or

(2) Shut off the weter supply and drain all systems and appliances of water.

However, if the building is protected by an automatic fire protective sprinkler system, you must use reasonable care to continue the water supply and maintain heat in the building for coverage to apply.

b. In this peril, a plumbing system or household appliance does not include a sump, sump pump or related equipment or e roof drain, gutter, downspout or similar fixtures or equipment.

15. Sudden And Accidentel Damage From Artificially Generated Electrical Current.

This peril does not include loss to tubes, transistors, electronic components or circuitry that are a part of appliences, fixtures, computers, home entertainment units or other types of electronic apparatus.

16. Volcanic Eruption.

This peril does not include loss caused by earthquake, land shock waves or tremors.

SECTION I - EXCLUSIONS

A. We do not insure for loss caused directly or indirectly by any of the following. Such loss is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss. These exclusions epply whether or not the loss event results in widespread damage or affects a substantial area.

1. Ordinance or Law, meaning any ordinance or law:

a. Requiring or regulating the construction, demolition, remodeling, renovation or repair of property, including removal of any resulting debris. This exclusion A.1.a. does not apply to the amount of coverage

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thet may be provided for under Additional Coverage 12. Ordinance or Lew;

b. The requirements of which result in a loss in value to property.

c. Requiring any "insured" or others to test for, monitor, cleen up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, pollutants.

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

This exclusion A.1. applies whether or not the property has been physically dameged.

2. Earth Movement, meaning:

a. Earthquake including land shock waves or iremors before, during or after a volcanic eruption;

b. Landslide; mudslide, or mudflow;

c. Subsidence or sinkhole; or

d. Any other earth movement including earth sinking, rising or shifting;

caused by or resulting from human or animal forces or any act of neture, unless direct loss by fire or explosion ensues and than we will pey only for the ensuing loss.

This Exclusion A.2. does not apply to loss by theft.

3. Water Damage, meaning:

a. Flood, surface water, waves, tidal water, overflow of a body of water, or spray from any of these, whether or not driven by wind;

b. Water or weter-borne material which becks up through sewers or drains or which overflows or is discharged from a sump, sump pump or related equipment; or

c. Water or water-borne material below the surface of the ground, including water which exerts pressure on or seeps or leaks through a building, sidewalk, driveway, foundation, swimming pool or other structure;

caused by or resulting from human or animal forces or any act of neture.

Direct loss by fire, explosion or theft resulting from water damage is covered.

4. Power Failure, meaning the failure of power or other utility service if the failure takes place off the "residence premises". But, if the failure results in a loss from e Peril Insured Against, on the "residence premises", we will pey for the loss caused by that peril.

5. Neglect, meaning neglect of an "insured" to use all reasoneble means to save and preserve property et and after the time of e loss.

6. War, War includes the following and any consequence of any of the following:

a. Undeclared war, civil war, insurrection, rebellion or revolution;

b. Warlike act by a military force or military personnel; or

c. Destruction, seizure or use for a military purpose.

Discharge of a nuclear weapon will be deemed a warlike act even if accidental.

7. Nuclear Hazard, to the extent set forth in the Nuclear Hazard Clause of Section I - Conditions.

8. Intentional Loss, meening any loss arising out of any act an "insured" commits or conspires to commit with the intant to cause e loss.

In the event of such loss, no "insured" is entitled to coverage, even "insureds" who did not commit or conspire to commit the act causing the loss.

9. Governmental Action, meaning the destruction, confiscation or seizure of property described in Coverage A, B or C by order of any govemmental or public authority.

This exclusion does not apply to such acts ordered by eny govemmental or public euthority that are taken at the time of e fire to prevent its spread, if the loss caused by fire would be covered under this policy.

10. "Fungi", Other Microbes or Rot, meaning any loss or cost resulting from, arising out of, caused by, consisting of, or relatad to, "fungi", other microbes or rot. This exclusion does not apply to:

a. "Fungi", other microbes or rot remediation coverage that may be afforded under Additional Coverage 16. Limited "Fungi", Other Microbes Or Rot Remediation; or

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b. "Fungi", other microbes or rot that results from fire or lightning.

B. We do not insure for loss to property described in Coverages A and B caused by any of the following. However, any ensuing loss to property described in Coverages A and B not excluded by any other provision in this policy is covered.

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

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

3. Faulty, inadequate or defective:

a. Planning, zoning, development, surveying, siting;

b. Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;

c. Materials used in repair, construction, renovation or remodeling; or

d. Maintenance;

of part or all of any property whether on or off the "residence premises".

SECTION I - CONDITIONS

1. Insurable Interest and Limit of Liability. Even if more than one person has an insurable interest in the property covered, we will not be liable in any one loss:

a. To an "insured" for more than the amount of such "insured's" interest at the time of loss; or

b. For more than the applicable limit of liability.

2. Duties After Loss. In case of a loss to covered property, we have no duty to provide coverage under this policy if the failure to comply with the following duties is prejudicial to us. These duties must be performed either by you, an "insured" seeking coverage, or a representative of either.

a. Give us prompt notice;

b. Notify the police in case of loss by theft;

c. Notify the credit card or electronic fund transfer card or access device company in case of loss as provided for in Additional Coverage 7, Credit Card, Electronic Fund Transfer Card Or Access Device, Forgery And Counterfeit Money;

d. Protect the property from further damage. If repairs to the property are required, you must:

(1) Make reasonable and necessary repairs to protect the property; and

(2) Keep an accurate record of repair expenses;

e. Cooperate with us in the investigation of a claim;

f. Prepare an inventory of damaged personal property showing the quantity, description, actual cash value and amount of loss. Attach all bills, receipts and related documents that justify the figures in the inventory;

g. As often as we reasonably require:

(1) Show the damaged property;

(2) Provide us with records and documents we request and permit us to make copies; and

(3) Submit to examination under oath, while not in the presence of another "insured", and sign the same;

h. Send to us, within 60 days after our request, your signed, sworn proof of loss which sets forth, to the best of your knowledge and belief:

(1) The time and cause of loss;

(2) The interest of all "insureds" and all others in the property involved and all liens on the property;

(3) Other insurance which may cover the loss;

(4) Changes in title or occupancy of the property during the term of the policy;

(5) Specifications of damaged buildings and detailed repair estimates;

(6) The inventory of damaged personal property described in f. above;

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(7) Receipts for additional living expenses incurred and records that support the fair rental value loss; and

(8) Evidence or affidavit that supports a claim under Additional Coverage 7. Credit Card, Electronic Fund Transfer Card Or Access Device, Forgery And Counterfeit Money, stating the amount and cause of loss.

3. **Loss Settlement.** In this Condition 3., the terms "cost to repair or replace" and "replacement cost" do not include the increased costs incurred to comply with the enforcement of any ordinance or law, except to the extent that coverage for these increased costs is provided in Additional Coverage 12. Ordinance Or Law. Covered property losses are settled as follows:

a. Property of the following types:

(1) Personal property;

(2) Awnings, carpeting, household appliances, outdoor antennas and outdoor equipment, whether or not attached to buildings;

(3) Structures that are not buildings; and

(4) Grave markers, including mausoleums;

at actual cash value at the time of loss but not more than the amount required to repair or replace.

b. Buildings covered under Coverage A or B at replacement cost without deduction for depreciation, subject to the following:

(1) If, at the time of loss, the amount of insurance in this policy on the damaged building is 80% or more of the full replacement cost of the building immediately before the loss, we will pay the cost to repair or replace, after application of any deductible and without deduction for depreciation, but not more than the least of the following amounts:

(a) The limit of liability under this policy that applies to the building;

(b) The replacement cost of that part of the building damaged with material of like kind and quality and for like use; or

(c) The necessary amount actually spent to repair or replace the damaged building.

If the building is rebuilt at a new premises, the cost described in (b) above is limited to the cost which would have been incurred if the building had been built at the original premises.

(2) If, at the time of loss, the amount of insurance in this policy on the damaged building is less than 80% of the full replacement cost of the building immediately before the loss, we will pay the greater of the following amounts, but not more than the limit of liability under this policy that applies to the building:

(a) The actual cash value of that part of the building damaged; or

(b) That proportion of the cost to repair or replace, after application of any deductible and without deduction for depreciation, that part of the building damaged, which the total amount of insurance in this policy on the damaged building bears to 80% of the replacement cost of the building.

(3) To determine the amount of insurance required to equal 80% of the full replacement cost of the building immediately before the loss, do not include the value of:

(a) Excavations, footings, foundations, piers, or any other structures or devices that support all or part of the building, which are below the undersurface of the lowest basement floor;

(b) Those supports described in (a) above which are below the surface of the ground inside the foundation walls, if there is no basement; and

(c) Underground flues, pipes, wiring and drains.

(4) We will pay no more than the actual cash value of the damage until actual repair or replacement is complete. Once actual repair or replacement is complete, we will settle the loss as noted in b.(1) and b.(2) above.

However, if the cost to repair or replace the damage is less than $2,500, we will settle the loss as noted in b.(1) and b.(2) above whether or not actual repair or replacement is complete.

(5) You may disregard the replacement cost loss settlement provisions and make claim under this policy for loss to buildings on an actual cash value basis. You

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may then make claim for any additional liability according to the provisions of this Condition 3. Loss Settlement, provided you notify us of your intent to do so within 180 days after the date of loss.

4. **Loss Deductible.** Unless otherwise stated in this policy, the following deductible provision applies:

   Subject to the policy limits that apply, we will pay only that part of the total of all loss payable under Section I that exceeds the deductible amount shown in the Declarations.

5. **Loss to a Pair or Set.** In case of loss to a pair or set we may elect to:

   a. Repair or replace any part to restore the pair or set to its value before the loss; or

   b. Pay the difference between actual cash value of the property before and after the loss.

6. **Loss Payment.** We will adjust all losses with you. We will pay you unless some other person is named in the policy or is legally entitled to receive payment. Loss will be payable 60 days after we receive your proof of loss and:

   a. Reach an agreement with you;

   b. There is an entry of a final judgment; or

   c. There is a filing of an appraisal award with us.

7. **Appraisal.** If you and we fail to agree on the amount of loss, either may demand an appraisal of the loss. In this event, each party will choose a competent and impartial appraiser within 20 days after receiving a written request from the other. The two appraisers will choose an umpire. If they cannot agree upon an umpire within 15 days, you or we may request that the choice be made by a judge of a court of record in the state where the "residence premises" is located. The appraisers will separately set the amount of loss. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will set the amount of loss.

   Each party will:

   a. Pay its own appraiser; and

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

8. **Other Insurance and Service Agreement.** If a loss covered by this policy is also covered by:

   a. Other insurance, we will pay only the proportion of the loss that the limit of liability that applies under this policy bears to the total amount of insurance covering the loss; or

   b. A service agreement, the coverage provided under this policy is excess over any amounts payable under any such agreement. Service agreement means a service plan, property restoration plan, home warranty or other similar service warranty agreement, even if it is characterized as insurance.

9. **Suit Against Us.** No action can be brought against us unless there has been full compliance with all of the terms under Section I of this policy and the action is started within two years after the date of loss.

10. **Our Option.** If we give you written notice within 30 days after we receive your signed, sworn proof of loss, we may repair or replace any part of the damaged property with material or property of like kind and quality.

11. **Abandonment of Property.** We need not accept any property abandoned by an "insured".

12. **Mortgage Clause.**

    a. If a mortgagee is named in this policy, any loss payable under Coverage A or B will be paid to the mortgagee and you, as interests appear. If more than one mortgagee is named, the order of payment will be the same as the order of precedence of the mortgages.

    b. If we deny your claim, that denial will not apply to a valid claim of the mortgagee, if the mortgagee:

       (1) Notifies us of any change in ownership, occupancy or substantial change in risk of which the mortgagee is aware;

       (2) Pays any premium due under this policy on demand if you have neglected to pay the premium; and

       (3) Submits a signed, sworn statement of loss within 60 days after receiving notice from us of your failure to do so. Policy conditions relating to Appraisal, Suit Against Us and Loss Payment apply to the mortgagee.

    c. If we decide to cancel or not to renew this policy, the mortgagee will be notified at least 10 days before the date cancellation or nonrenewal takes effect.

    d. If we pay the mortgagee for any loss and deny payment to you:

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(1) We are subrogated to all the rights of the mortgegee granted under the mortgage on the property; or

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

e. Subrogation will not impair the right of the mortgagee to recover the full amount of the mortgegee's claim.

13. No Benefit to Bellee. We will not recognize eny assignment or grant any coverage that benefits a person or organization holding, storing or moving property for a fee regardless of any other provision of this policy.

14. Nuclear Hazard Clause.

a. "Nuclear Hazard" means any nuclear reaction, radiation, or radioactive contamination, all whether controlled or uncontrolled or however caused, or any consequence of any of these.

b. Loss caused by the nuclear hezard will not be considered loss caused by fire, explosion, or smoke, whether these perils are specifically nemed in or otherwise included within the Perils Insured Against.

c. This policy does not apply under Section I to loss caused directly or indirectly by nuclear hezard, except that direct loss by fire resulting from the nuclear hazard is covered.

15. Recovered Property. If you or we recover any property for which we have made payment under this policy, you or we will notify the other of the recovery. At your option, the property will be returned to or retained by you or it will become our property. If the recovered property is returned to or retained by you, the loss payment will be adjusted based on the amount you received for the recovered property.

16. Volcanic Eruption Period. One or more volcanic eruptions that occur within a 72-hour period will be considered as one volcanic eruption.

17. Policy Period. This policy applies only to loss which occurs during the policy period.

18. Concealment or Fraud. We provide coverage to no "insureds" under this policy if, whether before or after a loss, an "insured" has:

a. Intentionally concealed or misrepresented eny matarial fect or circumstence;

b. Engaged in fraudulent conduct; or

c. Made felse statements;

relating to this insurance.

19. Premises Alarm or Fire Protection System. (Applies only if PROTECTIVE DEVICES CREDIT is shown in the Declarations.)

We acknowledge the installetion of an alarm system and/or an automatic sprinkler system approved by us on the "residence premises". You agree to maintain this system or systems in working order and to let us know promptly of any change, including removal, mede to the system(s).

SECTION II - LIABILITY COVERAGES

COVERAGE E - PERSONAL LIABILITY

If a claim is made or a suit is brought against an "insured" for damages because of "bodily injury" or "property damage" caused by an "occurrence" to which this coverage applies, we will:

1. Pay up to our limit of liebility for the damages for which an "Insured" is legally liable. Damages include prejudgment interest ewarded against an "Insured"; and

2. Provide a defense at our expense by counsel of our choice, even if the suit is groundless, false or freudulent. We may investigete and settle eny claim or suit that we decide is appropriate. Our duty to setile or defend ends when our limit of liability for the "occurrence" is exhausted by the payment of a judgment or settlement.

COVERAGE F - MEDICAL PAYMENTS TO OTHERS

We will pay the necessary medical expenses that are incurred or medically ascertained within three years from the date of en accident causing "bodily injury". Medical expenses means reasonable charges for medical, surgical, x-ray, dental, ambulance, hospital, professional nursing, prosthetic devices and funeral services. This coverage does not apply to you or regular residents of your household except "residence employees". As to others, this coverage appiles only:

1. To a person on the "Insured location" with the permission of an "Insured"; or

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2. To a person off the "insured location", if the "bodily injury":
   a. Arises out of a condition on the "insured location" or the ways immediately adjoining;
   b. Is caused by the activities of an "insured";
   c. Is caused by a "residence employee" in the course of the "residence employee's" employment by an "insured"; or
   d. Is caused by an animal owned by or in the care of an "insured".

SECTION II - ADDITIONAL COVERAGES

We cover the following in addition to the limits of liability:

1. **Claim Expenses.** We pay:
   a. Expenses we incur and costs taxed against an "insured" in any suit we defend;
   b. Premiums on bonds required in a suit we defend, but not for bond amounts more than the Coverage E limit of liability. We need not apply for or furnish any bond;
   c. Reasonable expenses incurred by an "insured" at our request, including actual loss of earnings (but not loss of other income) up to $250 per day, for assisting us in the investigation or defense of a claim or suit; and
   d. Interest on the entire judgment which accrues after entry of the judgment and before we pay or tender, or deposit in court that part of the judgment which does not exceed the limit of liability that applies.
2. **First Aid Expenses.** We will pay expenses for first aid to others incurred by an "insured" for "bodily injury" covered under this policy. We will not pay for first aid to an "insured".
3. **Damage to Property of Others.** We will pay, at replacement cost, up to $1,000 per "occurrence" for "property damage" to property of others caused by an "insured".

   We will not pay for "property damage":
   a. To the extent of any amount recoverable under Section I;
   b. Caused intentionally by an "insured" who is 13 years of age or older;
   c. To property owned by an "insured";
   d. To property owned by or rented to a tenant of an "insured" or a resident in your household; or
   e. Arising out of:
      (1) A "business" engaged in by an "insured";
      (2) Any act or omission in connection with a premises owned, rented or controlled by an "insured", other then the "insured location"; or
      (3) The ownership, maintenance, occupancy, operation, use, loading or unloading of aircraft, hovercraft, watercraft or "motor vehicles".

      This exclusion e.(3) does not apply to a "motor vehicle" that:
      (a) Is designed for recreational use off public roads;
      (b) Is not owned by an "insured"; and
      (c) At the time and place of an "occurrence", is not required by law, or regulation issued by a government agency, to have been registered for it to be used at the place of the "occurrence".
4. **Loss Assessment.** We will pay up to $1,000 for your share of loss assessment charged against you, as owner or tenant of the "residence premises", during the policy period by a corporation or association of property owners, when the assessment is made as a result of:
   a. "Bodily injury" or "property damage" not excluded under Section II of this policy; or
   b. Liability for an act of a director, officer or trustee in the capacity as a director, officer or trustee, provided such person:
      (1) Is elected by the members of a corporation or association of property owners; and
      (2) Serves without deriving any income from the exercise of duties which are solely on behalf of a corporation or association of property owners.

   Section II Condition 9. Policy Period, does not apply to this coverage.

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Regardless of the number of assessments, the limit of $1,000 is the most we will pay for loss arising out of:

a. One accident, including continuous or repeated exposure to substantially the same general harmful condition; or

b. A covered act of a director, officer or trustee. An act involving more than one director, officer or trustee is considered to be a single act.

We do not cover assessments charged against you or a corporation or association of property owners by any governmental body.

SECTION II - EXCLUSIONS

A. Coverage E - Personal Liability and Coverage F - Medical Payments to Others.

Coverages E and F do not apply to "bodily injury" or "property damage":

1. Which is expected or intended by an "insured" even if the resulting "bodily injury" or "property damage":
   a. is of a different kind, quality or degree than initially expected or intended; or
   b. is sustained by a different person, entity, real or personal property, than initially expected or intended.

   However, this exclusion A.1. does not apply to "bodily injury" resulting from the use of reasonable force by an "insured" to protect persons or property.
2. Arising out of or in connection with a "business" conducted from an "insured location" or engaged in by an "insured", whether or not the "business" is owned or operated by an "insured" or employs an "insured". This exclusion A.2. applies to, but is not limited to, an act or omission, regardless of its nature or circumstance, involving a service or duty rendered, promised, owed, or implied to be provided because of the nature of the "business".

   This exclusion A.2. does not apply to:
   a. The rental or holding for rental of an "insured location";
      (1) On an occasional basis if used only as a residence;
      (2) In part for use only as a residence, unless a single family unit is intended for use by the occupying family to lodge more than two roomers or boarders;
      (3) In part, as an office, school, studio or private garage;
      (4) Shown in the Declarations as an ADDITIONAL RESIDENCE RENTED TO OTHERS; or
      (5) Shown in the Declarations as a STRUCTURE RENTED TO OTHERS.
   b. An "insured" under the age of 21 years involved in a part-time or occasional, self-employed "business" with no employees; or
   c. One or more activities, for which no "insured" receives more than $2,000 in total compensation for the consecutive 12 months before an "occurrence";
3. Arising out of the rendering of or failure to render professional services;
4. Arising out of a premises:
   a. Owned by an "insured";
   b. Rented to an "insured"; or
   c. Rented to others by an "insured";

   that is not an "insured location";
5. Caused directly or indirectly by war, including the following and any consequence of any of the following:
   a. Undeclared war, civil war, insurrection, rebellion or revolution;
   b. Warlike act by a military force or military personnel; or
   c. Destruction, seizure or use for a military purpose.

   Discharge of a nuclear weapon will be deemed a warlike act even if accidental;
6. Arising out of the transmission of a communicable disease by an "insured";
7. Arising out of sexual molestation, corporal punishment or physical or mental abuse;
8. Arising out of the use, sale, manufacture, delivery, transfer or possession by any person of a Controlled Substance(s) as defined by the Federal Food and Drug Law at 21 U.S.C.A. Sections 81 t and 812. Controlled Substances include but are not limited to cocaine, LSD, marijuana and all narcotic drugs. However, this exclusion does not apply to the legitimate use of prescription drugs

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by e person following the orders of e licensed physician;

9. Arising out of, consisting of, caused by, contributed to, eggravated by or resulting from, whether directly or indirectly, by "fungi", other microbes or rot. This includes:

   a. The cost of testing, monitoring, abating, mitigating, removing, remediating or disposing of "fungi", other microbes or rot;

   b. Any supervision, instruction, disclosures, or failures to disclose, recommendations, warnings, or advice given, or that allegedly should have been given, in connection with "bodily injury" or "property damage" consisting of, arising out of, caused by, contributed to, aggravated by or resulting from, whether directly or indirectly, by "fungi", other microbes or rot, or the activities described in 9.a. above;

   c. Any obligation to share with or repay another who must pay damages because of "bodily injury" or "property damage" damage of the type described in this exclusion. This applies regardless of any other cause that contributed directly or indirectly, concurrently or in any sequence to the "bodily injury" or "property damage"; and

   d. Liability imposed upon any "insured" by any governmental authority for "bodily injury" or "property damage" consisting of, arising out of, caused by, contributed to, aggravated by or resulting from, whether directly or indirectly, by "fungi", other microbes or rot; or

10. Arising out of, resulting from, caused by or contributed to by the escape or release of fuel from a "fuel system". This exclusion applies, but is not limited to:

    a. Any supervision, instructions, recommendations, warnings or advice given in connection with the above;

    b. Any obligation to share damages, losses, costs, payments or expenses with or repay someone else who must make payment because of such "bodily injury" or "property damage", damages, loss, cost, payment or expense; or

    c. Any request, order or requirement to test for, monitor, abate, mitigate, remediate, contain, remove, dispose of, or in any way respond to or assess the effects of fuel in any form.

    However, this exclusion does not apply to "bodily injury" or "property damage" arising out of fire or explosion that results from such escaped or released fuel.

11. Any loss, cost, payment or expense, including, but not limited to, defense and investigation, of any kind arising out of, resulting from, caused by or contributed to by the actual or alleged presence or actual, alleged or threatened dispersal, release, ingestion, inhalation or absorption of lead, lead pigment, lead compounds or lead in any form which is or was contained or incorporated into any material or substance. This exclusion applies, but is not limited to:

    a. Any supervision, instructions, recommendations, warnings or advice given in connection with the above;

    b. Any obligation to share damages, losses, costs, payments or expenses with or repay someone else who must make payment because of such "bodily injury" or "property damage", damages, loss, cost, payment or expense; or

    c. Any request, order or requirement to test for, monitor, abate, mitigate, remediate, contain, remove, dispose of, or in any way respond to or assess the effects of lead, lead pigment, lead compounds or materials or substances containing lead in any form.

B. Coverage E- Personal Liability and Coverage F- Medical Payments to Others.

Coverages E and F also do not apply to:

1. "Motor Vehicle Liability" unless, at the time of an "occurrence", the involved "motor vehicle" is:

   a. In dead storage on an "insured location";

   b. Used to service an "insured's" residence;

   c. Designed to assist the handicapped and, at the time of an "occurrence", it is:

      (1) Being used to assist a handicapped person; or

      (2) Parked on an "insured location";

   d. Designed for recreational use off public roads and:

      (1) Not owned by an "insured"; or

      (2) Owned by an "insured", provided the "occurrence" takes place on an "insured location" as defined in Definitions paragraphs 8.a., b., d., e. or h.; or

   e. A motorized golf cart that is owned by an "insured", designed to carry up to 4 persons, not built or modified after manufacture to exceed a speed of 25 miles per hour on level ground and, at the time of an "occurrence", is within the legal boundaries of:

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(1) A golfing facility and is parked or stored there, or being used by an "insured" to:

(a) Play the game of golf or for other recreational or leisure activity allowed by the facility;

(b) Travel to or from an area where "motor vehicles" or golf carts are parked or stored; or

(c) Cross public roads at designated points to access other parts of the golfing facility; or

(2) A private residential community, including its public roads upon which a motorized golf cart can legally travel, which is subject to the authority of a property owners association and contains an "insured's" residence.

However this exception to the exclusion from coverage does not apply if, at the time and place of an "occurrence", the involved "motor vehicle":

a. is registered for use on public roads or property;

b. is not registered for use on public roads or property, but such registration is required by a law, or regulation issued by a government agency, for it to be lawfully used at the place of the "occurrence"; or

c. is being:

(1) Operated in, or practicing for, any prearranged or organized race, speed contest or other competition;

(2) Rented to others;

(3) Used to carry persons or cargo for a charge; or

(4) Used for any other "business" purpose except for a motorized golf cart used for incidental "business" entertainment while on a golfing facility.

2. "Watercraft liability" unless, at the time of an "occurrence", the involved watercraft:

a. is stored;

b. is a sailing vessel, with or without auxiliary power that is:

(1) Less than 26 feet in overall length; or

(2) 26 feet or more in overall length and not owned by or rented to an "insured";

c. is not a sailing vessel and is powered by:

(1) An inboard or inboard-outdrive engine or motor, including those that power a water jet pump, of:

(a) 50 horsepower or less and not owned by an "insured"; or

(b) More than 50 horsepower and not owned by or rented to an "insured"; or

(2) One or more outboard engines or motors with:

(a) 25 total horsepower or less; or

(b) More than 25 horsepower if the outboard engine or motor is not owned by an "insured";

(c) More than 25 horsepower if the outboard engine or motor is owned by an "insured" who acquired it during the policy period, or:

(d) More than 25 horsepower if the outboard engine or motor is owned by an "insured" who acquired it before the policy period, but only if:

(1) You declare them at policy inception; or

(2) Your intent to insure them is reported to us in writing within 45 days after you acquire them.

The coverages in (c) and (d) above apply for the policy period.

Horsepower means the maximum power rating assigned to the engine or motor by the manufacturer.

However this exception to the exclusion from coverage does not apply if, at the time and place of an "occurrence", the involved watercraft is being:

a. Operated in, or practicing for, any prearranged or organized race, speed contest or other competition. This exclusion does not apply to a sailing vessel or a predicted log cruise;

b. Rented to others;

c. Used to carry persons or cargo for a charge; or

d. Used for any other "business" purpose.

3. "Aircraft Liability".

4. "Hovercraft Liability".

Exclusions A.4., B.1., B.2., B.3. and B.4. do not apply to "bodily injury" to a "residence employee" arising out

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of and in the course of the "residence employee's" employment by an "insured".

C. Coverage E - Personal Liability.

Coverage E does not apply to:

1. Liability:
   a. For any loss assessment charged against you as a member of an association, corporation or community of property owners, except as provided in Additional Coverage 4. Loss Assessment;
   b. Under any contract or agreement entered into by an "insured". However, this exclusion does not apply to written contracts:
      (1) That directly relate to the ownership, maintenance or use of an "insured location"; or
      (2) In which the liability of others is assumed by the "insured" prior to an "occurrence";

      unless excluded in a. above or elsewhere in this policy;
2. "Property damage" to property owned by the "insured". This includes costs or expenses incurred by an "insured" or others to repair, replace, enhance, restore or maintain such property to prevent injury to a person or damage to property of others, whether on or away from an "insured location".
3. "Property damage" to property rented to, occupied or used by or in the care of the "insured." This exclusion does not apply to "property damage" caused by fire, smoke or explosion;
4. "Bodily injury" to any person eligible to receive any benefits voluntarily provided or required to be provided by an "insured" under any:
   a. Workers' compensation law;
   b. Non-occupational disability law; or
   c. Occupational disease law;
5. "Bodily injury" or "property damage" for which an "insured" under this policy:
   a. Is also an insured under a nuclear energy liability policy issued by the:
      (1) Nuclear Energy Liability Insurance Association;
      (2) Mutual Atomic Energy Liability Underwriters;
      (3) Nuclear Insurance Association of Canada;

      or any of their successors; or
   b. Would be an insured under that policy but for the exhaustion of its limit of liability;
6. "Bodily injury" to you or an "insured" as defined in Definition 7.a. or b.

   This exclusion also applies to any claim made or suit brought against you or an "insured":
   a. To repay; or
   b. Share damages with;

   another person who may be obligated to pay damages because of "bodily injury" to an "insured"; or
7. "Bodily injury" to an "employee", "residence employee" or a temporary employee furnished to the "insured" to substitute for a permanent "residence employee" arising out of or in the course of the employee's employment by any Additional Insured named in the Declarations.

D. Coverage F - Medical Payments to Others.

Coverage F does not apply to "bodily injury":

1. To a "residence employee" if the "bodily injury":
   a. Occurs off the "insured location"; and
   b. Does not arise out of or in the course of the "residence employee's" employment by an "insured";
2. To any person eligible to receive benefits voluntarily provided or required to be provided under any:
   a. Workers' compensation law;
   b. Non-occupational disability law; or
   c. Occupational disease law;
3. From any:
   a. Nuclear reaction;
   b. Nuclear radiation; or
   c. Radioactive contamination;

   all whether controlled or uncontrolled or however caused; or
   d. Any consequence of any of these; or
4. To any person, other than a "residence employee" of an "insured", regularly residing on any part of the "insured location".

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SECTION II - CONDITIONS

1. **Limit of Liability.** Our total liability under Coverage E for all damages resulting from any one "occurrence" will not be more than the Coverage E limit of liability shown in the Declarations. This limit is the same regardless of the number of "insureds", claims made or persons injured. All "bodily injury" and "property damage" resulting from any one accident or from continuous or repeated exposure to substantially the same general harmful conditions shall be considered to be the result of one "occurrence".

   Our total liability under Coverage F for all medical expense payable for "bodily injury" to one person as the result of one accident will not be more than the Coverage F limit of liability shown in the Declarations.

2. **Severability of Insurance.** This insurance applies separately to each "insured". This condition will not increase our limit of liability for any one "occurrence".

3. **Duties After "Occurrence".** In case of an "occurrence", you or another "insured" will perform the following duties that apply. We have no duty to provide coverage under this policy if your failure to comply with the following duties is prejudicial to us. You will help us by seeing that these duties are performed:

   a. Give us written notice as soon as is practical, which sets forth:

      (1) The identity of the policy and the named "insured" shown in the Declarations;

      (2) Reasonably available information on the time, place and circumstances of the "occurrence"; and

      (3) Names and addresses of any claimants and witnesses;

   b. Cooperate with us in the investigation, settlement or defense of any claim or suit;

   c. Promptly forward to us every notice, demand, summons or other process relating to the "occurrence";

   d. At our request, help us:

      (1) To make settlement;

      (2) To enforce any right of contribution or indemnity against any person or organization who may be liable to an "insured";

      (3) With the conduct of suits and attend hearings and trials; and

      (4) To secure and give evidence and obtain the attendance of witnesses;

   e. With respect to Additional Coverage 3, Damage to Property of Others, submit to us within 60 days after the loss, a sworn statement of loss and show the damaged property, if in an "insured's" control;

   f. No "insured" shall, except at such "insured's" own cost, voluntarily make payment, assume obligation or incur expense other than for first aid to others at the time of the "bodily injury".

4. **Duties of an Injured Person - Coverage F - Medical Payments to Others.**

   a. The injured person or someone acting for the injured person will:

      (1) Give us written proof of claim, under oath if required, as soon as is practical; and

      (2) Authorize us to obtain copies of medical reports and records.

   b. The injured person will submit to a physical exam by a doctor of our choice when and as often as we reasonably require.

5. **Payment of Claim - Coverage F - Medical Payments to Others.** Payment under this coverage is not an admission of liability by an "insured" or us.

6. **Suit Against Us.** No action can be brought against us unless there has been full compliance with all of the terms under this Section II.

   No one will have the right to join us as a party to any action against an "insured". Also, no action with respect to Coverage E can be brought against us until the obligation of such "insured" has been determined by final judgment or agreement signed by us.

7. **Bankruptcy of an Insured.** Bankruptcy or insolvency of an "insured" will not relieve us of our obligations under this policy.

8. **Other Insurance.** This insurance is excess over other valid and collectible insurance except insurance written specifically to cover as excess over the limits of liability that apply in this policy.

9. **Policy Period.** This policy applies only to "bodily injury" or "property damage" which occurs during the policy period.

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10. Concealment or Fraud. We do not provide coverage to an "insured" who, whether before or after a loss, has:

    a. Intentionally concealed or misrepresented any material fact or circumstance;

    b. Engaged in fraudulent conduct; or

    c. Made false statements;

    relating to this insurance.

SECTIONS I AND II - CONDITIONS

1. Liberalization Clause. If we make a change which broadens coverage under this edition of our policy without additional premium charge, that change will automatically apply to your insurance as of the date we implement the change in your state, provided that this implementation date falls within 60 days prior to or during the policy period stated in the Declarations.

   This Liberalization Clause does not apply to changes implemented with a general program revision that includes both broadenings and restrictions of coverage, whether that general program revision is implemented through introduction of:

   a. A subsequent edition of this policy form; or

   b. An amendatory endorsement

2. Waiver or Change of Policy Provisions. A waiver or change of a provision of this policy must be in writing by us to be valid. Our request for an appraisal or examination will not waive any of our rights.

   The coverage provided and the premium charged are based on information you have given us. You agree to cooperate with us in determining if this information is correct and complete and to inform us of any change in title, use or occupancy of the "residence premises".

   You agree that, if within 60 days of the policy effective date this information changes, is incorrect or incomplete, we may adjust your coverage and premium accordingly by giving you notice. This notice may be delivered to you, or mailed to you at your mailing address shown in the Declarations. The notice will contain the changed, incorrect or incomplete information along with the resulting premium change.

3. Cancellation.

   a. You may cancel this policy at any time by returning it to us or by letting us know in writing of the date cancellation is to take effect.

   b. We may cancel this policy only for the reasons stated below by letting you know in writing of the date cancellation takes effect. This cancellation notice may be delivered to you, or mailed to you at your mailing address shown in the Declarations. Proof of mailing will be sufficient proof of notice.

      (1) When you have not paid the premium, we may cancel at any time by letting you know at least 10 days before the date cancellation takes effect.

      (2) When this policy has been in effect for less than 60 days and is not a renewal with us, we may cancel for any reason by letting you know at least 10 days before the date cancellation takes effect.

      (3) When this policy has been in effect for 60 days or more, or at any time if it is a renewal with us, we may cancel:

         (a) If there has been a material misrepresentation of fact which if known to us would have caused us not to issue the policy; or

         (b) If the risk has changed substantially since the policy was issued.

         This can be done by letting you know at least 30 days before the date cancellation takes effect.

   c. We will also mail a copy of any notice of cancellation to any Additional Insured named in the Declarations.

   d. When this policy is cancelled, the premium for the period from the date of cancellation to the expiration date will be refunded pro rata.

   e. If the return premium is not refunded with the notice of cancellation or when this policy is returned to us, we will refund it within a reasonable time after the date cancellation takes effect.

4. Nonrenewal. We may elect not to renew this policy. We may do so by delivering to you, or mailing to you at your mailing address shown in the Declarations, written notice at least 30 days before the expiration date of this policy. Proof of mailing will be sufficient proof of notice. We will also mail a copy of the notice to any Additional Insured named in the Declarations.

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if we offer to renew and you or your representative do not accept, this policy will automatically terminate without notice of termination at the end of the current policy period. Failure to pay the required renewal premium when due shall mean that you have not accepted our offer.

5. **Assignment.** Assignment of this policy will not be valid unless we give our written consent.

6. **Subrogation.** An "insured" may waive in writing before a loss all rights of recovery against any person. If not waived, we may require an assignment of rights of recovery for a loss to the extent that payment is made by us.

   If an assignment is sought, an "insured" must sign and deliver all related papers and cooperate with us.

   Subrogation does not apply under Section II to Medical Payments to Others or Damage to Property of Others.

7. **Death.** If any person named in the Declarations or the spouse, if a resident of the same household, dies:

   a. We insure the legal representative of the deceased but only with respect to the premises and property of the deceased covered under the policy at the time of death;

   b. "insured" includes:

      (1) An "insured" who is a member of your household at the time of your death, but only while a resident of the "residence premises"; and

      (2) With respect to your property, the person having proper temporary custody of the property until appointment and qualification of a legal representative.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PERSONAL PROPERTY REPLACEMENT COST LOSS SETTLEMENT

A. Eligible Property

1. Covered losses to the following property are settled at replacement cost at the time of the loss:
   a. Property described in Coverage C; and
   b. if covered in this policy:
      (1) Awnings, outdoor antennas and outdoor equipment; and
      (2) Carpeting and household appliances;

   whether or not attached to buildings.
2. This method of loss settlement will also apply to the following articles or classes of property if they are separately described and specifically insured in this policy and not subject to agreed value loss settlement:
   a. Jewelry;
   b. Furs and garments:
      (1) Trimmed with fur; or
      (2) Consisting principally of fur;
   c. Cameras, projection machines, films and related articles of equipment;
   d. Musical equipment and related articles of equipment;
   e. Silverware, silver-plated ware, goldware, gold-plated ware, platinumware, platinum-plated ware and pewterware, but excluding:
      (1) Pens or pencils;
      (2) Flasks;
      (2) Smoking implements; or
      (3) Jewelry; and
   f. Golfer's equipment meaning golf clubs, golf clothing and golf equipment.

Personal Property Replacement Cost loss settlement will not apply to other classes of property separately described and specifically insured.

B. Ineligible Property

Property listed below is not eligible for replacement cost loss settlement. Any loss will be settled at actual cash value at the time of loss but not more than the amount required to repair or replace.

1. Antiques, fine arts, paintings and similar articles of rarity or antiquity which cannot be replaced.
2. Memorabilia, souvenirs, collectors items and similar articles whose age or history contribute to their value.
3. Articles not maintained in good or workable condition.
4. Articles that are outdated or obsolete and are stored or not being used.

C. Replacement Cost Loss Settlement Condition

The following loss settlement condition applies to all property described in A. above:

1. We will pay no more than the least of the following amounts:
   a. Replacement cost at the time of loss without deduction for depreciation;
   b. The full cost of repair at the time of loss;
   c. The limit of liability that applies to Coverage C, if applicable;
   d. Any applicable special limits of liability stated in this policy; or
   e. For loss to any item described in A.2.a. - f. above, the limit of liability that applies to the item.
2. If the cost to repair or replace the property described in A. above is more than $2,500, we will pay no more than the actual cash value for the loss until the actual repair or replacement is complete.
3. You may make a claim for loss on an actual cash value basis and then make claim for any additional liability in accordance with this endorsement provided you notify us of your intent to do so within 180 days after the date of loss.

All other provisions of this policy apply.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SPECIAL PROVISIONS - SOUTH CAROLINA

SECTION I – EXCLUSIONS

The first paragraph of this section is deleted and replaced by the following:

We do not cover any direct or indirect loss or damage caused by, resulting from, contributing to or aggravated by any of these excluded perils. Loss from any of these perils is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss.

These exclusions apply whether or not the loss event:

(1) Results in widespread damage;

(2) Affects a substantial area; or

(3) Occurs gradually or suddenly.

These exclusions also apply whether or not the loss event arises from:

(1) Any acts of nature;

(2) Any human action or inaction;

(3) The forces of animals, plants or other living or dead organisms; or

(4) Any other natural or artificial process.

2. **Earth Movement** is deleted and replaced by the following:

2. **"Earth Movement"**, meaning events that include but are not limited to the following:

a. Earthquake and earthquake aftershocks;

b. Volcano activity including but not limited to:

1. Volcanic Eruption;

2. Volcanic Explosion;

3. Effusion of volcanic material; or

4. Lava Flow;

c. Mudslide, including mudflow, debris flow, landslide, avalanche, or sediment;

d. Sinkhole;

e. Subsidence;

f. Excavation collapse;

g. Erosion;

h. Any expansion, shifting, rising, sinking, contracting, or settling of the earth, soil or land.

This exclusion applies whether or not the earth, soil or land is combined or mixed with water or any other liquid or natural or man made material.

However, loss caused directly by the specific perils:

a. fire;

b. explosion;

c. breakage of building or dwelling glass or safety glazing material, including storm doors or windows; or

d. theft;

following any "earth movement" is covered.

3. **Water Damage** is deleted and replaced by the following:

3. "Water damage", meaning:

a. Flood, surface water, ground water, storm surge, waves, wave wash, tidal water, tsunami, seiche, overflow of a body of water, or spray from any of these, whether or not a result of precipitation or driven by wind;

b. any water or water borne material that enters through or backs up from a sewer or drain, or which overflows from a sump;

c. any water or water borne material located below the surface of the ground including water or water borne material:

(1) Which exerts pressure on, seeps, leaks or flows into:

(a) Any part of the dwelling or other structures;

(b) The foundation of the dwelling or other structures;

(c) Any paved surface located on the "residence premises"; or

(d) Any spa, hot tub, or swimming pool.

(2) Which causes "earth movement"; or

d. any overflow, release, migration or discharge of water in any manner from a dam, levee, dike, hurricane barrier or any water or flood control device.

Direct loss by fire, explosion or theft resulting from "water damage" will be covered.

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SECTION I - CONDITIONS

9. Suit Against Us is deleted and replaced by the following:

9. Suit Against Us. No action can be brought against us unless there has been full compliance with all of the terms under Section I of this policy and the action is started within three years after the date of loss.

The following condition is added to forms HO-2 and HO-3:

20. Valuation Clause. We agree that for the perils of fire and lightning the amount stated in the limit of liability section of the Declaration for Coverage A is the value of the described building. This value has been stated for insurance purposes only.

SECTION II - ADDITIONAL COVERAGES

The following additional coverage is added:

5. Property Damage Coverage For Military Personnel and Federal Government Employees:

   If an "insured" is:

   a. A United States Government Employee; or

   b. A member of the United States Military,

   We agree to pay for "property damage" to United States government property, for which such "insured" is responsible under applicable rules or regulations.

   Payment for such "property damage" will be at replacement cost. Under this endorsement "replacement cost" is defined as the amount necessary to repair or replace the damaged property with no deduction for depreciation, subject to the Limit of Liability for this Additional Coverage.

   Our Limit of Liability, per "occurrence", under this Additional Coverage for all damages resulting from any one "occurrence" shall not exceed two months basic pay for the "insured", as of the time of the "occurrence".

   We will not pay for "property damage" to:

   a. Aircraft;

   b. "Motor vehicles";

   c. Watercraft; or

   d. Weapons.

   We will not pay for "property damage":

   a. To the extent of any amount payable under Section I of this policy; or

   b. Caused intentionally by any "insured" who is 13 years of age or older.

SECTION I AND II - CONDITIONS

3. Cancellation. Paragraph b. is deleted and replaced by the following:

   b. We may cancel this policy only for the reasons stated below, by written notification to you and, if any, your insurance agent of the date cancellation takes effect and the precise reason for cancellation. This cancellation notice may be delivered or mailed to you and your agent at the mailing addresses shown in the Declarations or the last known addresses. Proof of mailing will be sufficient proof of notice.

      (1) When you have not paid the premium, we may cancel at any time by letting you and your agent know at least 10 days before the date cancellation takes effect.

      (2) When this policy has been in effect for less than 120 days and is not a renewal with us, we may cancel for any reason by letting you and your agent know at least 30 days before the date cancellation takes effect.

      (3) When this policy has been in effect for 120 days or more at any time if it is renewal with us, we may cancel:

         (a) If there has been a material misrepresentation of fact which if known to us would have caused us not to issue this policy;

         (b) If the risk has changed substantially since the policy was issued, except to the extent that we should reasonably have foreseen the change or contemplated the risk in writing this policy;

         (c) In the event of a substantial breach of a contractual duty, condition or warranty; or

         (d) If we lose our reinsurance covering all or a significant portion of this policy, or where continuation of the policy would imperil our solvency or place us in violation of the insurance laws of this state. Cancellation for these reasons is subject to approval by the Insurance Commissioner.

      This can be done by letting you and your agent know at least 30 days before the date cancellation takes effect.

4. Nonrenewal is deleted and replaced by the following:

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4. **Nonrenewel.** We may elect not to renew this policy. We may do so by giving the following written notification to you and your agent:

   1. if this policy was written for a term of one yeer or less, we may elect not to renew this policy by giving written notification at least:

      a. 60 days before the expiration date of the policy if such date is on or after November 1 and before June 1; or

      b. 90 days before the expiration dete of this policy if such date is on or after June 1 and before November 1.

   2. if this policy was written for a term of more then one year or for an indefinite term, we mey elect not to renew this policy by giving written notification et least:

      a. 60 days before the anniversary date of the policy if such date is on or after November 1 end before June 1; or

      b. 90 days before the enniversary dete of the policy if such date is on or after June 1 and before November 1. The nonrenewai notice, together with the precise reason for nonrenewai, may be delivered or mailed to you end your egent et the mailing addresses shown in the Declerations or the last known eddresses.

   We will elso meil e copy of the notice to eny Additionel insured named in the Declarations.

   If we offer to renew end you or your representetive do not eccept, this policy will eutomatically terminete without notice of terminetion at the end of the current policy period. Failure to pay the required renewai premium when due shall mean that you have not accepted our offer.

All other provisions of this policy apply.

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This policy is signed for the company which is the insurer under this policy.

Wendy C. Skjerven
Senior Vice President and
Corporate Secretary

Joseph Lecher
Chief Executive Officer
Personal Lines

IN WITNESS WHEREOF, the Company has executed and attested these presents.

PL-9107 8-97

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STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, that I, E. L. Matthews, of the County of Florence, (hereinafter whether singular or plural the "Grantor") in the State aforesaid, for and in consideration of the sum of Thirty Thousand and no/100 ($30,000) Dollars to the Grantor paid by Tammy D. Floyd of the County of Williamsburg (hereinafter whether singular or plural the "Grantee") has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto the said Grantee, her heirs and assigns the following described property.

All that certain piece, parcel or tract of land, lying, being and situate in Sumter Township, County of Williamsburg, State of South Carolina, containing Three and seven hundred twenty one thousandths (3.721) acres, being triangular in shape and more particularly shown and delineated as Tract No. 2 on a plat thereof prepared by L. M. Coleman, III, R.L.S., dated March 9, 1984, and recorded in the Office of the Clerk of Court for Williamsburg County in Plat Book 34 at page 186 and bounded and described as follows, to-wit: On the Northwest by lands of Heirs of Kenneth B. Floyd and Tract No. 1 as shown on the plat hereinabove referred to; on the Northeast by other lands of RRD, a South Carolina Limited Partnership, formerly lands of C. R. Coker, a ditch being the line; and on the South by US Highway 378.The same being the identical tract of land conveyed to E. L. Matthews by Blue, Inc. by deed dated the 15th day of November 1991, and recorded in the Office of the Clerk of Court for Williamsburg County in Deed Book 273 at page 230. Tax Map #45-118-46.

Address of Grantee: Route 2, Box 212
Lake City, SC 29560

BOOK A402 PAGE 048

EXHIBIT 19
5 Driggers
PENGAD 800-631-6989

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantee, Tammy D. Floyd, her Heirs and Assigns forever.

And the Grantor does hereby bind themselves and their Heirs, Executors and Administrators to warrant and forever defend all and singular the said premises unto the said Grantee and the Grantee's Heirs and Assigns, against the Grantor and the Grantor's Heirs and against every person whomsoever lawfully claiming or to claim, the same or any part thereof.

WITNESS the Hand and Seal of the Grantor this 30 day of January in the year of our Lord one thousand nine hundred and ninety-six and in the two hundredth and twentieth year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

E. L. Matthews (Seal)
E. L. Matthews

BOOK 1402 PAGE 039

STATE OF SOUTH CAROLINA

COUNTY OF WILLIAMSBURG

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named grantors sign, seal and as the Grantor's act and deed, deliver the within written Deed for the uses and purposes therein mentioned and that s/he with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me this 30)
day of January A.D. 1996.)
Dudley M. Welch (SEAL))
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: 2/25/98

Hans E. Hamblin
G. L. Matthews
Witness

BOOK A402 PAGE 050

STATE OF SOUTH CAROLINA)
) AFFIDAVIT
COUNTY OF WILLIAMSBURG)

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.

2. That the property located in Williamsburg County having Tax Map No. 45-118-046, was transferred by E. L. Matthews to Tammy D. Floyd on January 30, 1996.

3. check one of the following: The deed is

(a) xx subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.

(b) subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.

(c) exempt from the deed recording fee because (See Information section of affidavit):

(If exempt, please skip items 4-7, and go to item 8 of this affidavit)

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):

(a) xx The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of $30,000.

(b) The fee is computed on the fair market value of the realty which is .

(c) The fee is computed on the fair market value of the realty as established for property tax purposes which is .

5. Check yes or no xx to the following: A lien or encumbrances existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is: .

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6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here: $30,000.00

(b) Place the amount listed in item 5 above here: (If no amount is listed place zero here.)

(c) Subtract Line 6(b) from Line 6(a) and place result here: $30,000.00

7. The deed recording fee is based on the amount listed on Line 6(c) above and the deed recording fee due is: $111.00.

8. As required by Code Section 12-24-70, I state that I am a responsible person was connected with the transaction as: Attorney for Buyer.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Responsible person connected with the transaction

W. E. Jenkinson, III
Print or Type Name Here

SWORN to before me this 9 day of February, 1998.

Mari Anne P Langley
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 1/24/04

BOOK A 402 PAGE 052

78.00
33.00

State of South Carolina,

County of WILLIAMSBURG

RETURN TO:
JENKINSON & JENKINSON, P. A.
P. O. Drawer 669
Kingstree, SC 29556

E. L. Matthews

To

Tammy D. Floyd

COUNTY CONVEYANCE TAX
WILLIAMSBURG COUNTY, SC
DOCUMENTARY STAMP TAX
33.00 DATE 2-10-98 P

STATE OF SOUTH CAROLINA
DOCUMENTARY STAMP
$ 78.00 DATE 2-10-98 P

TITLE TO REAL ESTATE

I hereby certify that the within Deed was filed for record in my office at 12:19 P M. o'clock on the 10th day of February 1998 and was immediately entered upon the proper indexes and duly recorded in Book A402 of Deeds, page 49

Caroline F. Williams
Clerk of Court of Common Please and General Sessions for
County, S. C.

I hereby certify that the within Deed has been this 17th day of March, A. D. 1998. Recorded in Book of Deeds, page

Sally M. Mouzon Auditor

for WILLIAMSBURG County

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STATE OF SOUTH CAROLINA)
) CONTRACT FOR SALE AND PURCHASE
COUNTY OF WILLIAMSBURG)

THIS CONTRACT FOR SALE AND PURCHASE entered into on this 25th day of ~~May 1996~~ April 1997, by and between Tammy D. Floyd, Route 2, Box 212, Lake City, State of South Carolina, hereinafter referred to as "Seller" and Lisa Gamble, of the County of Williamsburg, State of South Carolina, hereinafter referred to as "Buyer."

In consideration of the sum of Five and no/100 ($5.00) Dollars and the mutual promises and covenants herein contained, the parties agree as follows:

1. PURCHASE PRICE: The Seller agrees to sell and the Buyer agrees to buy from the Seller the hereinbelow described tract of land, with the buildings and improvements thereon, in Williamsburg County, South Carolina, for a total purchase price of Eighty thousand and no/100 ($80,000.00) Dollars and is to be paid with interest according to the terms and conditions of this agreement. Financing terms are as follows:

(a) The Buyer will pay to the Seller the sum of Eight thousand and no/100 ($8,000.00) Dollars on or before May 1, 1996;

(b) This agreement shall be effective on the date of the agreement stated above;

(c) The balance due on the purchase price, the sum of Seventy two thousand and no/100 ($72,000.00) Dollars will be repaid with interest thereon from February 1, 1996,

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WILLIAMSBURG CO., S.C.

EXHIBIT 20
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until fully paid at the rate of Ten (10%) percent per annum. Such principal and interest shall be payable monthly with the first installment of principal and interest due on the 1st day of March 1996, and subsequent installments of principal and interest due on the same day of each succeeding month thereafter until paid in full, with Two hundred forty (240) monthly payments of Six hundred ninety four and 81/100 ($694.81) Dollars per month until all principal and interest is paid in full. The Buyer shall have a Ten (10) day grace period before any payment is in default. DEFAULT in the payment of any installment when due shall render the entire balance due at the option of the seller.

(d) Payments by cash, bank check or certified funds will be made to the following:

Leroy Driggers
Route 1, Box 589
Lake City, SC 29560

Payments shall be delivered or posted in the United States mail to the above person on or before the 15th day of each month. Any payment not received or posted on or before the last day of any month shall result in the contract being in DEFAULT.

(e) Williamsburg County taxes on the premises shall be paid on or before the 15th day of January of each year during the term of this agreement. Failure to pay taxes by the 15th day of January shall result in this agreement being in default.

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(f) Insurance (homeowners, fire and extended coverage) will be procured by the Buyer during the term of this agreement in a sum not less than Eighty thousand and no/100 ($80,000.00) Dollars in the name of Lisa Gamble. with a loss payable clause in favor of the Seller. Proof of insurance will be provided with a copy of paid receipt within fifteen (15) days of the execution of this Contract and annually on or before the renewal date.

3. DESCRIPTION OF PREMISES: The tract being sold is described as follows:

All that certain piece, parcel or tract of land, lying, being and situate in Sumter Township, County of Williamsburg, State of South Carolina, containing Three and seven hundred twenty one thousandths (3.721) acres, being triangular in shape and more particularly shown and delineated as Tract No. 2 on a plat thereof prepared by L. M. Coleman, III, R.L.S., dated March 9, 1984, and recorded in the Office of the Clerk of Court for Williamsburg County in Plat Book 34 at page 186 and bounded and described as follows, to-wit: On the Northwest by lands of Heirs of Kenneth B. Floyd and Tract No. 1 as shown on the plat hereinabove referred to; on the Northeast by other lands of RRD, a South Carolina Limited Partnership, formerly lands of C. R. Coker, a ditch being the line; and on the South by US Highway 378.The same being the identical tract of land conveyed to E. L. Matthews by Blue, Inc. by deed dated the 15th day of November 1991, and recorded in the Office of the Clerk of Court for Williamsburg County in Deed Book 273 at page 230. Tax Map #45-118-46.

4. ATTORNEYS REPRESENTING THE PARTIES: The Seller is represented by W. E. Jenkinson, III, Esquire, Jenkinson & Jenkinson, P.A., 120 West Main Street, Kingstree, South Carolina; Arthur McKenzie is represented by Daryl J. Corbin, Esquire, Florence, South Carolina.

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5. CLOSING DATE AND TIME: The closing date of sale of the property from the Seller to Buyer in accordance with the provisions of this contract shall take place on or before the 15th day of May 1996, at the law offices of Jenkinson and Jenkinson, P.A., 120 West Main Street, Kingstree, South Carolina.

6. DEFAULT: In every place in which this Contract refers to the term "default" or "DEFAULT", it shall result in the following rights or obligations of the Buyer and Seller:

(a) In the event of a DEFAULT by the Buyer, all contract rights of the Buyer, Gamble and McKenzie will terminate. Buyer and McKenzie acknowledge they have no rights to equity from rent paid. The Seller will notify the Buyer of any default in writing and to vacate the premises. The Buyer shall have the right to vacate within Thirty (30) days from written notice. If the Buyer fails to vacate within Thirty (30) days, the Seller shall commence eviction proceedings in Magistrate's Court. The notice shall have the event of default. The Buyer will have A TEN (10) DAY RIGHT TO CURE the default.

(b) Buyer or any occupants of the premises agree to vacate the premises upon written notice of DEFAULT.

(c) All payment made under the terms of this contract, in the event of DEFAULT will be treated as RENT by the Buyer and Seller during the term hereof, and the Buyer will have no right to claim any equity in the

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premises.

7. CONVEYANCE: Seller shall convey title to the property by quit claim deed subject to any liens, encumbrances or restrictions existing of record, taxes for the year of closing and such other matters as may be specifically approved by the Buyer. The Seller agrees it shall cause no liens, encumbrances or restrictions to be placed against the property during this contract.

8. EXPENSES AND PRORATION: Property taxes shall be paid by the Buyer in their entirety; the Buyer shall provide the documentary stamps on the deed when the deed is executed and delivered.

9. ATTORNEY'S FEES AND COSTS: In connection with any litigation arising out of a breach of this contract, the Seller shall be entitled to recover all reasonable costs incurred including reasonable attorney's fees.

10. WARRANTIES OR REPRESENTATIONS: The Seller makes no warranties of title or any warranties as to the condition of the house. It is being purchased as is where is with no warranty expressed or implied or any warranty, condition or representation as to the title to the premises.

DISCLAIMER WARRANTIES: NO WARRANTY, EXPRESSED OR IMPLIED, APPLIES IN THIS SALE OR TRANSACTION INCLUDING, BUT NOT LIMITED TO, THE CONDITION OF THE PREMISES IS BEING PROVIDED AND THE SELLER SPECIFICALLY

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DISCLAIMS ANY WARRANTY OF CONDITION OF TITLE BEING CONVEYED BY SELLER TO BUYER. BUYER PURCHASES "AS IS" "WHERE IS".

Buyer agrees at all times to keep the premises in reasonable repair during the term of this contract. Seller has the right to annually inspect at reasonable hours on Saturdays or other mutually agreed dates upon ten (10) days written notice. Buyer will have Forty five (45) days to correct any substantial defect or condition which should be repaired or the Seller can declare the contract in DEFAULT. Buyer shall have thirty (30) additional days to cure such defects or this contract shall be in DEFAULT.

11. FORECLOSURE: In the event a foreclosure action is commenced against the premises due to any other lien or mortgage other than the Seller's mortgage, Gamble agrees to keep making the payments to Driggers or their designee so long as she or McKenzie should live on the premises even in the event of foreclosure. Payments will be made until such time as Gamble actually vacates the premises. In the event a foreclosure action results in Gamble or McKenzie being evicted, then all obligation to Leroy Driggers, Shirley Driggers and Tammy D. Floyd under the terms of this contract will be extinguished. In the event a foreclosure action is commenced, under no circumstances will the seller provide a legal defense, legal expenses or costs related to the action if McKenzie or Gamble desire to contest the foreclosure of any other

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