

1986

Gordon J. Swenson v. Prudential General Insurance : Brief of Respondent

Utah Court of Appeals

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Gordon J. Swenson; Anderson & Holland; Attorney for Appellant.

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DOCKET NO. 860276-CA IN THE UTAH COURT OF APPEALS

GORDON J. SWENSON,)	
Plaintiff and)	
Appellant,	)	Case No. 860276-CA
-VS-)	
PRUDENTIAL GENERAL INSURANCE)	
COMPANY,	)	Classification No. 13-b
Defendant and)	
Respondent.)	

RESPONDENT'S BRIEF

Appeal from the Judgment of the
Third Judicial District Court
In and For Salt Lake County, State of Utah
The Honorable Judith M. Billings, Presiding

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PARTIES TO THE PROCEEDING

Plaintiff and Appellant:

Gordon J. Swenson

Defendant and Respondent:

Prudential General Insurance Company

Other Defendants, not parties to this appeal:

Chrysler Corporation

Hinckley's Incorporated

Universal Underwriters Insurance Company

Gordon T. Glenn

Western Surety Company

Nationwide Mutual Insurance Company

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<u>6A Moore's Federal Practice</u> , Paragraph 57.13 (2d Edition, 1986)	5
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IN THE UTAH COURT OF APPEALS

GORDON J. SWENSON,)	
Plaintiff and)	
Appellant,)	RESPONDENT'S BRIEF
-vs-)	
PRUDENTIAL GENERAL INSURANCE	)	Case No. 860276-CA
COMPANY,)	
Defendant and	)	Classification No. 13-b
Respondent.)	

STATEMENT OF ISSUES

1. Whether the settlement between the appellant and all the defendants except the respondent in an amount equal to the appellant's liquidated damages and partial attorney's fees makes this appeal moot. (This issue has been also presented in the respondent's "suggestion of mootness" according to Rule 37, Utah Rules of Appellate Procedure)
2. Whether the loss suffered by the appellant occurred during the effective dates of the policy of automobile insurance issued to the appellant by the respondent (hereinafter, the "policy").
3. Whether the loss suffered by the appellant is excluded under the "wear and tear" exclusion of the policy.

STATEMENT OF THE CASE

The respondent concurs in the appellant's assessment of the Nature of the Case, Course of Proceedings, and Disposition in the Lower Court as set forth in the Appellant's Brief.

Statement of Facts

1. On May 12, 1984, the appellant discovered that the transaxle mounts in a 1981 Dodge Omni 024 automobile, which he had purchased on June 14, 1980, had been mounted on his vehicle such that the transaxle mount holes had been drilled to a size larger than normal and rags had been stuffed into the holes to enable proper fit. The loss suffered by the appellant resulted from the failure of the vehicle's transaxle mounting system.

2. The appellant purchased the policy from the respondent, Policy No. 51-6A440785, which was effective from January 26, 1984 to July 26, 1984. (R. 200, Addendum A)

3. The appellant alleges that he is entitled to recover for damages resulting from the transaxle mount repairs under the policy. The appellant's claim was denied by the respondent because the incident of damage could not have occurred within the effective policy period and the type of loss suffered by the appellant is specifically excluded under a provision of the policy which reads as follows:

Wear and Tear

We won't pay for wear and tear, freezing, or mechanical or electrical breakdown or failure

unless it results from the theft of the car during the policy period.

(R. 226, Addendum A)

4. Prior to the issuance of the policy by the respondent on January 26, 1984, the appellant had had the vehicle in question repaired at least seven times for various problems. (See Plaintiff's Responses to Interrogatories of Defendants Hinckley's Incorporated and Gordon T. Glenn, No. 10(1) to (7), Addendum B)

5. During the policy period (January 26, 1984 to July 26, 1984), the appellant had the vehicle repaired twice, once for a flushing of the cooling system and once for the repair of a water pump and door handle. (See Plaintiff's Responses to Interrogatories of Defendants Hinckley's Incorporated and Gordon T. Glenn, No. 10(8) and (9), Addendum B) Neither of those repairs could have resulted in the mechanical breakdown suffered by the appellant.

6. On October 18, 1985, Judge Judith M. Billings granted summary judgment in favor of the respondent. That decision was formalized in an order entered on November 18, 1985. (R. 355-356)

7. On or about October 27, 1986, an Order of Dismissal (Addendum C) based upon the settlement between the appellant and all of the defendants except the respondent in an amount equal to the appellant's entire compensatory damages and partial reimbursement for attorney's fees. (R. 459-463)

SUMMARY OF ARGUMENT

This appeal is moot. The appellant in settlement negotiations with all of the defendants except the respondent, obtained a monetary settlement equal to the amount of damages claimed in his complaint, as well as a partial reimbursement for his litigation costs. Accordingly, this Court cannot grant the appellant any additional actual relief.

It is the appellant's burden to prove that an allegedly covered loss occurred during the effective dates of an insurance policy. The undisputed facts, however, demonstrate that the appellant's claim could not have arisen during the effective dates of the respondent's policy.

The appellant suffered an engine breakdown in his automobile because its transaxle motor mounts failed. That automobile was covered under an insurance policy issued by the respondent which excluded coverage for "wear and tear, freezing or mechanical or electrical breakdown or failure. . . ." The appellant's engine failure is mechanical breakdown and is excluded under the respondent's policy.

ARGUMENT

POINT I

THERE IS NO ACTUAL CONTROVERSY BEFORE THIS COURT; THEREFORE, THIS APPEAL IS MOOT.

In the October 1986 settlement between the appellant and all the defendants except the respondent, the appellant obtained

a monetary settlement of \$3,500.00. Of that amount, \$3,164.35 was for damages, including repair of the vehicle's transaxle and shifter, towing, substitute car rental, mileage, bus fare and long distance telephone calls. That \$3,164.35 represented the appellant's entire claim as set forth in his complaint in this action. The remaining \$335.65 of the settlement was for partial reimbursement for litigation costs and expenses, consisting of filing, typing, duplication, and postage costs, relating to portions of this litigation. Because the appellant has been fully compensated for his damages and partially compensated for his attorney's fees, his entire claim has been satisfied.

An actual controversy is an essential requisite to appellate jurisdiction. It is not within the province of an appellate court to decide abstract or hypothetical questions, disconnected from the granting of actual relief.

Fuller and Company v. Grant Investments Company, 492 P.2d 881 (Colo. App. Div. 1, 1971), citing Arnold v. Carey, 60 Colo. 499, 158 P. 303 (1915). That general principle is also cited with approval in 6A J. Moore, J. Lucas, and G. Grotheer, Moore's Federal Practice, Paragraph 57.13 (2d Edition, 1986).

Additionally, a claim that a case has become moot may be raised for the first time on appeal as it is directed at the jurisdiction of the court and "thus could be raised at any time." Citizens for Financially Responsible Government v. Spokane, 662

P.2d 845 (Wash. 1983); Rule 37, Utah Rules of Appellate Procedure.

The appellant has not only received all that he claimed in his complaint, but also his attorney's fees for bringing this litigation as well. This Court is unable to grant the appellant any additional actual relief. Accordingly, this appeal is moot.

POINT II

THE FACTS DEMONSTRATE THAT THE APPELLANT'S CLAIM COULD NOT HAVE ARISEN DURING THE EFFECTIVE DATES OF THE POLICY.

As is set forth in the Statement of Facts herein, the respondent issued the policy to the plaintiff effective from January 26, 1984 to July 26, 1984. It is unclear whether the plaintiff is claiming that the original installation of the transaxle mount or any subsequent repair to the transaxle mount was the incident that gave rise to his loss. Regardless of the position taken by the appellant, the incident could not have occurred within the effective policy period. The record of repairs stated in the Statement of Facts show that during the effective policy period prior to the transaxle replacement, the appellant had only two repairs performed. Those repairs included a flushing of the cooling system and replacement of the water pump. Neither of those repairs in any way involved the transaxle mount and could not have resulted in the loss suffered by the appellant.

POINT III

THE POLICY EXCLUDES PAYMENT FOR "WEAR AND TEAR, FREEZING, OR MECHANICAL OR ELECTRICAL BREAKDOWN OR FAILURE;" THEREFORE, THE CAUSE OF THE APPELLANT'S LOSS IS IRRELEVANT.

Assuming, arguendo, the appellant could establish some set of facts which would indicate that the incident that gave rise to the appellant's loss occurred during the effective policy period, the loss suffered by the appellant would nonetheless be excluded under the mechanical breakdown provisions in the policy. Causation of the "wear and tear, freezing, or mechanical or electrical breakdown or failure" is irrelevant, unless it occurs as a result of a theft. The vehicle in question was never stolen.

In Point I of the Appellant's Brief, the appellant maintains that the loss he suffered does not fall under the "wear and tear" exclusion of the policy because the loss resulted from "someone's affirmative act." In support of that position, the appellant cites three cases: Connie's Construction Co., Inc. v. Continental Western Insurance Company, 227 N.W.2d 204 (Iowa 1975); Sandoval v. Hartford Casualty Insurance Company, 653 S.W.2d 604 (Tex. App. 7 Dist. 1983); and Rust Tractor Company v. Consolidated Constructors, Inc., 86 N.M. 658, 526 P.2d 800 (1974). In each of those cases, the court was interpreting an insurance policy which excluded losses ". . . due to . . .

mechanical breakdown or failure. . . ." (Emphasis added). As the court in Rust stated, "[t]hus mechanical breakdown is relevant only when it is a causative factor."

The critical language of the relevant insurance policies in Connie's Construction, Sandoval and Rust is fundamentally different from that of the policy in the present case. The "wear and tear" exclusion of the respondent's Policy reads as follows:

We won't pay for wear and tear, freezing, or mechanical or electrical breakdown or failure unless it results from the theft of the car during the policy period.

(R. 226, Addendum A) There is no causation language in that exclusion. Thus, under the policy in the present action, "wear and tear, freezing, or mechanical or electrical breakdown or failure" is relevant only when it is the effect of the loss itself. Accordingly, if the actual loss, not the cause of the loss, suffered by the appellant is excluded under the "wear and tear" provision, that loss is excluded under the Policy.

POINT IV

**THE RESPONDENT'S POLICY DOES NOT PROVIDE
COVERAGE FOR THE LOSS CLAIMED BY THE
APPELLANT.**

The appellant seeks damages against the respondent for costs of repair associated with the repair of transaxle motor mount damage. As such, the appellant is seeking to recover against the respondent damages for mechanical failure which is

specifically excluded under the policy in effect at the time of the appellant's alleged loss.

The policy allows for certain insurance coverage for damage to the appellant's vehicle; however, damage for mechanical or electrical breakdown or failure to that vehicle is specifically excluded from coverage under the wear-and-tear provision cited above. The only way mechanical breakdown or failure is covered under the policy is if such breakdown or failure "results from the theft of the car during the policy period." The appellant has made no allegation that his vehicle was stolen; therefore, the mechanical or electrical breakdown which he is claiming could not have resulted from the theft of the car during the policy period.

The appellant claims that the transaxle motor mounts on his vehicle were either originally installed or subsequently reinstalled improperly. The improper installation which resulted in a failure of the engine is a mechanical breakdown and clearly falls within the policy exclusion. Such a loss is similar to the damage suffered by an insured in Farmers Mutual Hail Insurance Company of Iowa v. Stansbury, 291 S.W.2d 347 (Tex. App., Ft. Worth, 1956). In Stansbury, the insured's loss was occasioned by the breakdown of the structural parts of the trailer's axle which failed to keep the trailer wheel in place and allowed it to spin free of the axle. That breakdown was determined by the court to be a mechanical failure.

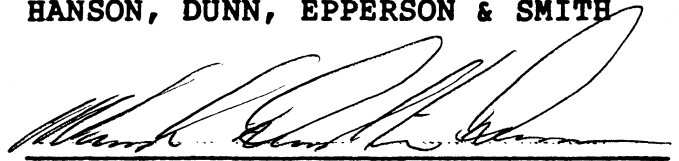
The appellant in this case is essentially asking the court to require the respondent to warrant the manufacture or repair of his vehicle. Such was clearly not the intent of the parties when the policy was purchased by the appellant. Accordingly, this court should uphold Judge Billings' decision that the breakdown of the appellant's vehicle's engine due to enlarged motor mount holes is a mechanical breakdown and excluded under the policy.

CONCLUSION

Based on the foregoing, the respondent respectfully seeks an order of this Court upholding Judge Judith M. Billings' summary judgment in favor of the respondent, which excluded the appellant's claim from coverage under the policy.

RESPECTFULLY SUBMITTED this 5th day of February,
1987.

HANSON, DUNN, EPPERSON & SMITH



TERRY M. PLANT
MARK DALTON DUNN
Attorneys for Respondent

CERTIFICATE OF DELIVERY

I hereby certify that I had delivered four (4) true and correct copies of the foregoing, this 5th day of February, 1987, to the following:

Gordon J. Swenson
ANDERSON & HOLLAND
623 East First South
Salt Lake City, Utah 84102

A handwritten signature in black ink, appearing to read "Gordon J. Swenson", written over a horizontal line.

ADDENDUMS

CERTIFICATION

The undersigned, a custodian of policy records for Prudential Property and Casualty Insurance Company, hereby certifies, to the best of his/her information, knowledge or belief, that the following is a true copy of the policy or file for the insured(s) and period indicated thereof.

V.G. Lorno

Title: Associate Manager
Insurance Services

Date: 7/9/85

Subscribed and sworn before me this 9th day of

July, 1985.

Ethel M. Campbell
Notary

My Commission Expires June 5, 1988

51	Pakery No 64440785
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UT 84105

301000041831223

FORM NO. 100	REV. 1-60	CLASS	DATE
518589	7	SLY	1058

07-26-84 3

1201 - as standard time of the address above

EMERSON GORDON J		121952													
You only keep the coverage for which specific premium charges are shown. For each coverage the company will not pay more than the amount shown below for the coverage.															
BODILY INJURY		PROPERTY DAMAGE		MEDICAL EXPENSES		UNINSURED MOTORIST		COMPREHENSIVE		COLLISION		THEFT		GLASS	
300		300		100		200		1000		300		300			
(ACT MEANS "ACTUAL CASH VALUE")															
81		P1P		51		81		35		2		12			
POLICY NUMBER: 283															
UNINSURED MOTORIST: 212 226 243 294 709 912219A															
DESCRIPTION OF VEHICLE: 1980 DODGE DASH HATCH 024 V1244AD328914 250880M 8811210															
Less Payor Any fee under Part I is payable on interest may appear in the interest earned and															
The car usually will be kept in the town shown in Item 1 above unless otherwise stated here.															
IMPORTANT: YOUR POLICY PREMIUM MAY HAVE CHANGED DUE TO RATING BY MAKE AND MODEL OF YOUR VEHICLE(S). PLEASE CHECK THE DESCRIPTION(S) SHOWN.															
ENDT PAC 221 ATTACHED COMPREHENSIVE COVERAGE DEDUCTIBLE AS SHOWN															
ENDT PAC 240 ATTACHED SUPPLEMENTARY UNINSURED MOTORISTS INSURANCE AFFORDED TERM PREMIUM INCLUDED IN COVERAGE J															
BUMPER DISCOUNT APPLIED TO COLLISION PREMIUM FOR CAR 81															
PERSONAL INJURY PROTECTION COVERAGE \$500 DED															
AFFORDED TERM PREMIUM INCLUDED IN COVERAGE A															

100-443886-1

51 Policy No
6AAA0804

Prudential

easy
reading

policy

Prudential Property and Casualty Insurance Company
Prudential General Insurance Company

subsidiaries of The Prudential Insurance Company of America

PAC 186 Ed. 9/80



to use your easy reading family auto policy

This package contains your Easy Reading Family Auto policy from Prudential Property and Casualty Insurance Company or Prudential General Insurance Company.

Take a look at the whole package.

If this is a new policy, you will find a Declarations Page included with the package. If you are presently insured with us, this new Easy Reading Family Auto policy replaces your current policy. Please detach the Declarations Page or Continuation Certificate from your old policy and slip it in your new policy. This page summarizes the coverages and the amounts of these coverages you have on each of your cars. It is an important part of your policy and should be kept with the policy where you can easily refer to it.

The application you received is also a part of the policy and should be kept with it.

If this is a new policy, the package will also contain a Billing Statement which tells you how much (if any) you still owe us for this insurance. We urge you to pay your premium promptly (using the enclosed envelope) since your policy will be cancelled if the premium is not paid when due.

The main part of this package is the policy, itself. We ask you (and anyone else in your family who drives one of your cars) to read it carefully. You will find it easy to read and understand. It describes what protection you have:

*If Your Car Is Damaged Or Stolen ...;
If You Are Injured In A Car Accident ...;
If You Injure Others Or Damage Their
Property ...; and
If You Are Hit By A Car Whose Driver Doesn't
Have Proper
Insurance...*

This package also includes the ENDORSEMENT BOOKLET. This booklet contains most of the endorsements we offer in your state. These endorsements add to or change parts of the policy. These changes may be necessary to conform to the laws of your state or to new programs we've implemented. Or they may provide optional coverages you've paid for. Only those endorsements whose numbers appear on your Declarations Page or most recent Continuation Certificate or Endorsement Certificate are a part of your policy. These endorsements are very important and should be kept with the policy.

If this is a new policy, the package also contains your Claim Reporting Brochure and Claim Telephone Directory. If you are presently insured with us, you received your Claim Reporting Brochure and Claim Telephone Directory with your original policy. The Directory has the telephone number of the claim office in your area. The Brochure contains instructions on what to do if you have an accident. We strongly recommend that you put this Claim Brochure in your glove compartment so that you have it with you if you need it.

If you have any questions about your coverages or if you want to add to or change any part of your policy in the future, please give us a call. If this is a new policy, you will find a brochure which will give you the telephone number of our Policyholder Service Department for your area included with this package. If you are presently insured with us, you received the Policyholder Service number with your original policy. We will be happy to help you in any way we can.

Thank you for letting us serve your auto insurance needs. Safe driving!

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easy
reading
family
auto
policy

introduction

the policy is a contract

This policy is a contract between you and us. Throughout this policy, when we refer to "you," we mean you, the person shown as the named insured on the Declarations Page of this policy, and your spouse, if he or she lives in your household. When we refer to "we" or "us," we mean Prudential Property and Casualty Insurance Company or Prudential General Insurance Company.

our agreement

- In exchange for the premium paid, we agree to pay for losses as described in this policy. In making this agreement, we are relying on the accuracy of the statements you made on the application for this policy. Because of the importance of your statements on the Application, it is made a part of this policy.

description of this policy

Most of this policy describes the protection provided:

*If your car is damaged or stolen...;
If you are injured in a car accident...;
If you injure others or damage their property...; and
If you are hit by a car whose driver doesn't have proper insurance....*

declarations page

The Declarations Page is a very important part of this policy. It lists you as the named insured and also describes the cars this policy covers. Refer to the Declarations Page to see which parts of the policy apply and what amount of insurance you have under each part for each of your cars. Parts which apply show premium charges under them on the Declarations Page.

continuation certificate endorsement certificate

When this policy refers to the Declarations Page, we also mean your most recent Continuation Certificate or Endorsement Certificate. When your policy is renewed,

you will receive a Continuation Certificate instead of a Declarations Page. When changes are made to your policy, we will send you an Endorsement Certificate.

endorsements

The endorsements are another part of this policy. Only those endorsements whose numbers appear on the Declarations Page are a part of your policy. They add to or change parts of the policy. These changes may be necessary to conform to the laws of your state or to new programs we've implemented. Or they may provide optional coverages you've paid for.

policy area

This policy covers only losses within the United States of America, its territories or possessions, or Canada, or while a car is being transported between these places.

policy period

This policy covers only losses during the policy period—the period of time the policy is in effect. This period can be found on the Declarations Page. If the policy is canceled, however, the cancellation date becomes the end of the policy period. At the end of the policy period, if we consent and you pay the proper premium, the policy will be renewed for another period. If you don't pay the renewal premium when required, your coverage will end on the date the renewal payment was due.

premium adjustment for change of cars

If you get rid of a car, replace it or get an additional one, any necessary adjustment in the premium will be made as of the date of the change in ownership.

cancellation

If you want to cancel this policy, notify us in writing of the future date on which you want it canceled or simply return the policy to us. If you're entitled to a premium refund, that refund will be calculated according to our standard short rate table. That means that we'll keep the premium for the time the policy was in effect, plus a service charge. The premium

will be sent to you as soon as practicable after we receive your notice of cancellation.

If you want to cancel this policy, we'll send you a written notice at least 10 days before the date on which the policy will be canceled, unless your state requires more advanced notice (as shown in the endorsements). We'll mail the notice to your address shown on the Declarations Page. We and you agree that the mailing of this notice is proof that you have been properly notified. We'll keep only the premium for the time the policy was in effect and we'll refund any premium remaining. Any refund due will be sent to you as soon as practicable on or after the date of cancellation. But coverage ends on the date given in the written notice and not on the date you get the premium refund.

Additional changes in cancellation and renewal provisions for your state can be found in the endorsements.

Notifying us if you have an accident

If any persons insured under this policy are involved in an accident or if the car is stolen or damaged, they or someone acting for them must get in touch with us as soon as practicable. Please call us at the Claim Service phone Number shown in the information you got when you got this policy. This information is not a part of this policy but it does contain important directions for reporting a claim. We'll want to know the names and addresses of people who were involved and anyone who witnessed the accident. We'll also want to know the details of the accident or theft. If the car is stolen, the insured must also promptly notify the police. If any persons insured under this policy are being sued, those persons must immediately send us copies of all legal documents received by them or their legal representatives.

Changes to this policy

Changes can be made to any part of this policy except by endorsement signed by our authorized

officer or representative. But the terms of this policy are automatically changed to conform to the statutes of the state in which you live.

Assignment

You can't sign this policy over to anyone else without our written approval. However, if you or your spouse dies, this policy will provide the survivor and the legal representative of your estate (but only while acting as such) with the same coverages that you had. Anyone who has proper custody of the car is covered as if he or she were a relative living in your household until a legal representative is appointed.

Your agreement with us

By accepting this policy, you agree that: the statements on the Application and Declarations Page are accurate, this policy is issued relying on the accuracy of those statements and this policy, as written, contains all the agreements that exist between you and us.

This isn't a complete and valid contract without an APPLICATION and DECLARATIONS PAGE properly filled out.

Prudential Property and Casualty Insurance Company

David H. Friedman Secretary *J. J. Kurland* President

Prudential General Insurance Company

David H. Friedman Secretary *Richard W. Hill* President

part 1

if your car is damaged or stolen...

our obligations to you (part 1)

collision coverage

If you've paid for this coverage (see the Declarations Page), we'll pay for accidental damage to a car, including its equipment, if it is involved in a collision with another object (such as another car, a tree or a bicycle) or rolls over.

comprehensive coverage

If you've paid for this coverage (see the Declarations Page), we'll pay for any direct and accidental loss of or damage to a car, including its equipment, caused by anything other than collision. For example, glass breakage (even if the glass is broken in a collision), losses caused by theft, fire, flood, hail, earthquake, vandalism, collision with a bird or animal, and so forth.

We'll pay up to \$100 for damage caused by fire or lightning to any personal property belonging to you or a relative living in your household while the property is in or on a car covered by this policy.

If the car is stolen, we'll reimburse you for your transportation costs until the car is back in use or until we offer to pay for the loss. Transportation costs will be covered beginning 48 hours after the theft has been reported to the police and to us. We'll pay up to \$10 a day for these transportation costs up to a total bill of \$300.

We'll also pay general average and salvage charges for which you, as owner or driver of the car, are held legally responsible.

towing and labor coverage

If you've paid for this coverage (see the Declarations Page), we'll pay for towing charges and the cost of labor done at the scene of a breakdown, up to the limit shown for this coverage on the Declarations Page.

your obligations to us (part 1)

protect the car

After an accident, you have to protect the car from further damage, whether or not the accident is covered by this policy. If you don't, any resulting damage won't be covered by this policy. We'll pay reasonable costs you incur doing this.

proof of loss

Within 91 days after the loss or accident, you have to give us written proof of your loss in a form containing any information we reasonably request. If we require it, you must show us the damaged property and give a statement under oath.

right of recovery

If we pay for a loss under this part, we have the right to get back the amount we paid from anyone responsible for the loss except persons insured under this part. Anyone insured under this policy must help us do this in any reasonable way we ask. No one insured under this policy may do anything to interfere with this right.

If the damage to or loss of the car was caused by someone you hired to transport the car for you, we will pay you for the damage or loss.

Then we have the right to get back what we paid from the person hired to transport the car.

cooperation

Anyone insured under this part must cooperate with us in any way we may reasonably request in settling losses under this part. Cooperation includes attending hearings and trials, helping in suing others who are responsible for the accident, giving evidence, helping us get witnesses to attend a trial and so on. If anyone

ntarily makes any payments, assumes any
ations or incurs any expenses except for first aid
thers at the scene of the accident or for
onable expenses incurred to protect the car from
ier damage, we won't be responsible for
bursement.

tion against us

one insured under this part may take any legal
on against us until 30 days after they've given us
ten proof of loss and only if all obligations under
policy have been fulfilled.

at cars part 1 covers

rs described on the declarations ge

is part covers all cars for which a premium charge
these coverages is shown on the Declarations
le.

placement cars

during the current policy period, you acquire
nership of a passenger car or a truck with a one
or smaller capacity, not used in any business
ept farming, to replace a car covered under this
t, the newly acquired car is automatically covered
der this part for the remainder of the policy period.
a new car has the same coverages as the old car
d. For example, if the old car wasn't covered for
llision, neither is the new car.

lditional cars

during the current policy period, you acquire
nership of another car in addition to those
scribed as covered under this part, this part covers
a new car, too. The new car has the same
verages as any of your old cars had. For example, if
u already have one car covered for Comprehensive
d another covered for Collision and Comprehensive
either for Towing and Labor), the new car is covered
r Collision and Comprehensive but not for Towing
d Labor. But the new car has to be a passenger car,
truck as described above or a trailer designed to be

pulled by a passenger car. The trailer can be used
with a passenger car or a truck as described above,
but it can't be used with any other kind of car for
business. This part doesn't cover home, office, store,
display or passenger trailers.

You must let us know within 30 days after you acquire
ownership of the new car that you want it insured
under this policy and not under some other policy
issued by us, or it will not be covered. All your other
passenger cars, trucks and trailers as described above
must be insured with us for this part to cover the
additional car.

substitute cars

If you can't use one of your own cars because it is
being serviced, breaks down, or is damaged in an
accident, this part covers a car you borrow (with the
owner's permission) to use temporarily while your car
is being repaired or replaced. The borrowed car has
the same coverages the car that's out of service has.
If the car that's out of service is covered for Collision
and Comprehensive, so is the borrowed car.

who is insured (part 1)

in your car

You are insured while using a car this part covers. Any
person or organization you give permission to use this
car (other than persons or organizations in the
automobile business) is insured, as long as they use it
in the way you intended when you gave them
permission.

in someone else's car

You and any relative living in your household are also
insured while using a passenger car or trailer as
described above, which is owned by someone else or
any organization when it is reasonable to expect that
the owner has given permission to use it and it is
used in the way intended by the owner. This non-
owned passenger car or trailer has the same
coverages as any one of your cars. But there is no

coverage for cars regularly used by you or such relatives.

We'll only pay that part of a loss caused by damage to or theft of a non-owned car that is excess over the amount payable under any other insurance which covers the loss. And we won't pay more than \$500 for a loss to a non-owned trailer.

losses we won't pay for (part 1)

cars we won't cover

We won't pay for damage to or loss of any of the following cars without endorsement:

cars for hire

Cars used as a taxi or car for hire. (But this does not mean a car pool.)

campers

Any camper, office, or camper unit, store or display type body, designed to be attached to a vehicle, whether or not attached at the time of loss, if the ownership or use of the unit has not been reported to the company and the required premium has not been paid.

recreational vehicles

Recreational vehicles or equipment designed for use mainly off public roads, whether licensed for road use or not (such as dune buggies, snowmobiles, golf carts, all-terrain vehicles, etc.).

motorcycles, motorscooters, mopeds

Motorcycles, motorscooters or mopeds, whether or not registered and licensed for road use.

racing cars

Cars which have been customized, modified or structurally altered for use in any kind of racing competition, whether or not for pay.

antique cars

Any car which is 25 years old or older and whose

value has increased because of its age.

motor homes

Motor homes, including their equipment and accessories built into them or usual for a car or truck, radio or TV antennas or equipment, or personal property in or on the Motor Home.

customized vehicles

We won't pay for damage to or loss of any furnishings carpeting, custom installed height-extending roofs, custom paint, custom painted windows, custom murals graphics or other custom applied designs or equipment of a type available from the manufacturer of the vehicle or elsewhere (whether done at the time of purchase or at any time thereafter) which is a part of your insured car.

racing

We won't pay for damage to or loss of any car covered under this Part if the damage or loss was caused while the car was being used in any sort of competitive event (such as a race or rally) whether or not for pay, or practice for that event.

auto business

We won't pay for damage to a car you don't own if you're using it in any kind of automobile business (such as selling, repairing, servicing, storing or parking cars).

wear and tear

We won't pay for wear and tear, freezing, or mechanical or electrical breakdown or failure unless it results from the theft of the car during the policy period.

tires

We won't pay for loss to tires unless the loss is caused by fire, vandalism, malicious mischief, theft, or unless the loss is caused by an accident covered under this policy.

not described on the Declarations page

We don't pay for any damage to or loss of a motor car, truck or trailer as described above that was shown but that isn't shown on the Declarations

Nor will we pay for any damage to or loss of a substitute car, truck, or trailer not shown on the Declarations Page, or a replacement or additionally insured car if the insured has purchased insurance coverage of these cars from another company.

Relatives and regularly used cars

We don't pay for loss of or damage to a car (not covered under this part) owned by a relative living in your household. Nor for a car (not covered under this part) which you don't own if it is regularly used by you or your relatives.

We don't pay for any damage caused by war.

Nuclear contamination

We don't pay for any damage caused by radioactive contamination.

How we'll settle a claim (part 1)

Amount

Under this part, the maximum amount we are liable to you for is the actual cash value of the damaged or stolen property at the time of the loss. We'll take into account the fact that it may no longer be new, minus the amount of the deductibles shown on the Declarations Page for these coverages. If you're in collision with any other car we insure (under another part), the deductible doesn't apply. But if two or more cars owned by you and insured under this part are damaged, the deductible applies separately to each car.

How we may settle the claim

We may pay for the loss in cash or repair or replace damaged or stolen property with material of the same kind and quality as the property was at the time of the loss. If the stolen property is recovered before

we've paid you for it or replaced it, we can return it to you, along with payment for any damage resulting from the theft. If we pay for any property or pay for its replacement, we may keep it. But you can't require us to assume the ownership of damaged property. We may settle a claim either with you or with the owner of the property.

Appraisal

If you disagree with us over the amount of the loss, either of us may demand an appraisal within 60 days after you give us written proof of your loss. In that case, each of us will select a qualified appraiser. The two appraisers will select an umpire. Each appraiser will then state both the actual cash value and the amount of the loss. If they disagree, they'll submit their differences to the umpire. A decision in writing of any two of these three persons will determine the amount of the loss. Each of us will pay our own appraiser and we'll share equally the other costs of the appraisal and of the umpire.

More than one car

If more than one car is insured under this part, these coverages apply separately to each car. Each car has a separate deductible applied to it (as shown on the Declarations Page). A car and a trailer attached to it are considered under this part to be two cars with two separate deductibles.

Other insurance—your car

If there is other insurance which covers damage to or theft of a car covered under this part, we'll pay our proportionate share of the loss.

Other insurance—someone else's car

In the case of a car you don't own, including substitute cars, we'll pay only that part of a loss caused by damage to or theft of the car that is excess over the amount payable under any other insurance that covers the loss. We'll only pay if you have this coverage on any of your own cars we insure.

part 2 **if you are** **injured in a** **car accident...**

our obligations to you (part 2)

medical and funeral expenses

If you've paid for this coverage (see the Declarations Page), we'll pay for all reasonable expenses for necessary medical and funeral services incurred within one year from the accident. These expenses include artificial limbs and necessary surgical, X-ray, dental, ambulance, hospital, and professional nursing services.

your obligations to us (part 2) **notify us**

Anyone insured under this part who is injured or someone acting for the injured person must notify us as soon as practicable. If we think necessary, we can require written statement (given under oath) of the details of the accident and expenses incurred.

medical records

Injured persons or someone acting for them must authorize us to get medical reports and records as often as we may reasonably require. Injured persons must also let our doctors examine them as often as we may reasonably require.

action against us

No one insured under this part may take any legal action against us unless all obligations under this policy have been fulfilled.

what cars part 2 covers

cars described on the declarations page

This part covers all cars for which premium charge for this coverage is shown on the Declarations Page.

replacement cars

If, during the current policy period, you acquire ownership of a passenger car or truck with a one ton or smaller capacity, not used in any business except farming, to replace a car covered under this part, the newly acquired car is automatically covered under this part for the remainder of the policy period. The new car has the same coverages as the car it replaced.

additional cars

If, during the current policy period, you acquire ownership of another passenger car or a truck as described above in addition to those covered under this part, this part covers the new car, too. The new car has the same coverage as any of your old cars had. For example, if you already own two cars, one of which is covered for medical expenses and one of which is not, the new car would be covered for medical expenses under this part. But you must let us know within 30 days after you get the new car that you want it insured under this policy and not under some other policy issued by us. All your other passenger cars and trucks as described above must be insured with us for the additional car to be covered under this part.

trailers

This part covers all trailers you own that are designed to be pulled by a passenger car. The trailer may be used with a passenger car or a truck as described above, but it may not be used with any other kind of car for business. This part also covers farm equipment pulled by a truck with a one ton or smaller capacity, not used in any business except farming.

substitute cars

If you can't use one of your own cars because it is being serviced, breaks down or is damaged in an accident, this part covers a car you borrow (with the owner's permission) to use temporarily while your car is being repaired or replaced. The borrowed car has

same coverage under this part the car that is out of your possession has.

Who is insured (part 2)

Who and family members— in your car

And any relative living in your household are insured while occupying a car covered under this part. If anyone dies in a car accident, any relative who was living in your household at the time the accident occurred is insured under this part.

Who in someone else's car

And these relatives are also insured while occupying a car which is owned by someone else or an organization when it is reasonable to expect that the owner has given permission to use it and it is being used in the way intended by the owner. This non-owned car has the same coverages as any one of our cars. But there is no coverage for cars regularly used by you or such relatives.

Who if hit by a car

And these relatives are also insured if hit by a car.

Who other people—in your car

Other people are insured while occupying a car covered under this part if it is being used by you, by a relative living in your household, or by anyone you have given permission to use it.

Who in someone else's car

Other people are also insured while occupying someone else's car when it is reasonable to expect that the owner has given permission to use it and it is being used in the way intended by the owner. However, they are insured in this car only if the accident results from their actions while you're the driver or passenger or the actions of your private driver who is operating the car for you.

Other people are also insured in someone else's passenger car or trailer if the accident results from

some action of a relative living in your household who reasonably believes he or she has the owner's permission to use the passenger car or trailer and is using it in the way intended by the owner.

In the case of cars you don't own, we'll only pay for medical expenses in excess of the total amount payable under any other available automobile medical expenses insurance.

What losses we won't pay for (part 2)

Cars and vehicles used off public roads

We won't pay for injuries or death suffered by you or a relative living in your household while occupying or being hit by a vehicle designed to be used mainly off public roads if the accident happens off a public road.

Business and residence use

We won't pay for injuries or death suffered by anyone occupying a car this part covers being used as a taxi or car for hire. (But we will cover car pools.) Nor will we pay for injuries suffered by anyone while occupying a car used as a place to live or as a place of business.

Auto business

We won't pay for injuries or death suffered by anyone (other than you or a relative living in your household) while that person is occupying a car you don't own being used as a taxi or car for hire.

We won't pay for injuries or death suffered by anyone (other than you or a relative living in your household) in someone else's car which result from their use of that car in any automobile business (such as selling, repairing, servicing, storing or parking cars).

Other business

We won't pay for injuries or death suffered by anyone (other than you or a relative living in your household) in someone else's car which result from their use of that car in any other business. But we will pay if the injury results from the use with permission by you or your private driver of a passenger car you don't own, or from the use of a trailer as described above.

attached to that car or to some car covered by this part.

workers' compensation

We won't pay for any injuries or death suffered by anyone employed in an automobile business (as described above) if the injuries are or are required to be covered under any workers' compensation law.

war

We won't pay for any injuries caused by war.

relatives and regularly used cars

We won't pay for injuries or death suffered by anyone while occupying or being hit by a car (not covered under this part) owned by a relative living in your household. Nor while occupying or being hit by a car (not covered under this part) which you don't own if it is regularly used by you or such relatives.

how we'll settle a claim (part 2)

amount

The amount shown on the Declarations Page under "MEDICAL PAYMENTS—EACH PERSON" is the maximum amount we'll pay under this part for each person injured in one accident.

to whom payments are made

We can make these payments either to the injured person, his or her legal representatives or heirs, or to those providing the services. By making these payments, we're not admitting that any person is responsible for the accident.

more than one car

When more than one car is insured under this part, the amount shown on the Declarations Page for Medical Payments applies to each car separately.

other insurance—your car

If there is any other automobile medical expenses insurance that covers a loss under this part, we'll pay our proportionate share of the loss.

other insurance—someone else's car

However, in the case of cars you don't own, including substitute cars, we'll only pay for medical expenses that are more than the total amount payable under any other automobile medical expenses insurance that covers the accident. We'll only pay under this part if you have this coverage on any of your own cars we insure.

Part 3

you injure others or damage their property ...

Obligations to you (part 3)

Liability

We'll pay, on behalf of persons insured under this part, claims they become legally obligated to pay as damages because of a car accident in which someone is injured or killed. Or in which someone else's property is damaged or destroyed.

First aid

We'll pay back anyone insured under this part the cost of immediate and necessary first aid to others at the scene of the accident involving a car insured under this part.

Bail bonds

If you or anyone else insured under this part is arrested as a result of the accident or the violation of a law and must put up bail, we'll pay up to \$250 the cost of a bail bond. The insured must first get the bond.

Legal defense

If other persons claim that you or anyone else insured under this part injured them or damaged their property in an accident, we can settle these claims out of court, if we want to. If they sue, we'll defend against claims covered under this policy, even if these claims turn out to be untrue. But if we wish, we can settle the suit out of court.

Use of attachment bonds

If a person sues you or anyone else insured under this part for damages to your property through a legal attachment, we'll pay the premium of a bond to

release that "attachment." But the amount of the bond can not be more than the maximum amount shown for the applicable coverage under this part shown on the Declarations Page.

Judgment

After the case is decided, we'll pay the amount which the court decides you or anyone else is responsible for, up to the maximum amount shown for this part on the Declarations Page. We'll pay any court costs you may be responsible for. We'll also pay all interest on the amount for which the court judges you or any other insured responsible that builds up between the time the court decides the amount and the time we pay the amount which we're obliged to pay.

Expenses

We'll pay any reasonable bills connected with the defense of you or any other insured incurred at our request, such as travel expenses to attend court. But we won't pay more than \$50 per day for actual net wages lost if the insured has to take time off from work.

Appeal bonds

We'll pay the cost of necessary appeal bonds if we decide to appeal the case to a higher court.

your obligations to us (part 3)

Cooperation

All persons insured under this part must cooperate with us in any way we reasonably request in settling claims under this part. Cooperation includes attending hearings and trials, helping in suing others who are responsible for the accident, giving evidence, helping us get witnesses to attend a trial and so on. If anyone voluntarily makes any payments, assumes any obligations, or incurs any expenses except for first aid to others at the scene of the accident, we won't be responsible for reimbursement.

Right of recovery

If we pay for a loss under this part, we acquire the right to get back the amount we paid from anyone responsible for the loss (except persons insured under

this part). Anyone insured under this part must help us to do this in any reasonable way we ask. No one insured under this part may do anything to interfere with this right.

action against us

No one insured under this part may bring any legal action against us unless all obligations under this policy have been fulfilled. You must also wait until the amount of the settlement has been determined, either in court or by agreement among the insured, us, and the person making the claim. No person is entitled to include *us in any legal action against you*. No one insured under this part may involve us in a suit as a defendant. Our obligations aren't changed in any way by the bankruptcy of any insured.

what cars part 3 covers

cars described on the declarations Page

This part covers all cars for which a premium charge for this coverage is shown on the Declarations Page.

replacement cars

If, during the current policy period, you acquire ownership of a passenger car or a truck with a one ton or smaller capacity, not used in any business except farming, to replace a car covered under this part, the newly acquired car is automatically covered under this part for the remainder of the policy period. The new car has the same coverage as the car it replaced had.

additional cars

If, during the current policy period, you acquire ownership of another passenger car or a truck as described above in addition to those covered under this part, this part covers the new car, too. But you have to let us know within 30 days after you get the new car that you want it insured under this policy and not under some other policy issued by us. If you don't notify us, it won't be covered. All your other passenger cars and trucks as described above must be insured with us for this part to cover the additional car.

trailers

This part covers all trailers that are designed to be pulled by a passenger car. The trailer may be used with a passenger car or a truck as described above, but it may not be used with any other kind of car for business. This part also covers farm equipment pulled by a truck as described above. Under this part, when trailer is attached to a car, the trailer and the car are considered to be one car.

substitute cars

If you can't use one of your own cars because it is being serviced, breaks down or is damaged in an accident, this part covers a car you borrow (with the owner's permission) to use temporarily while your car is being repaired or replaced. The borrowed car has the same coverage under this part that the car that is out of service has.

who is insured (part 3)

in your car

You and anyone living in your household are insured while using a car this part covers. Any persons you give permission to use this car are insured as long as they use it in the way you intended when you gave them permission. We also insure any other person or organization who might be held responsible for your use of a car this part covers, for its use by someone living in your household, or for its use by someone using it with your permission.

in someone else's car

You're insured while using a car you don't own. Relatives living in your household are insured while using a passenger car or trailer which is owned by someone else or any organization when it is reasonable to expect that the owner has given permission to use it and it is used in the way intended by the owner. This non-owned passenger car or trailer has the same coverages as any one of your cars. But there is no coverage for cars regularly used by you or such relatives.

uses we won't pay for (part 3)

uses for hire

We won't pay for any accident that happens while a car covered by this part is being used as a taxi or car for hire. You're covered, though, if you're responsible for an accident while you're a passenger in a car you don't own.

Intentional damage

We won't pay for any injury or damage caused intentionally.

Clear liability

We won't pay for any accident covered by a nuclear energy liability policy or that would have been covered by such policy if its maximum amount hadn't been reached.

Use of machinery

We won't pay for injury or damage caused by use of machinery.

Injury to employees

We won't pay for injuries suffered by any of your employees while they're on the job. But injury suffered by a domestic employee is covered under this part if it's not covered and don't have to be covered under workers' compensation.

Injury to fellow employees

We won't pay for injury to anyone insured under this part (for example, people living in your household or people to whom you give permission to use your car) injures a fellow employee while using a car in his or her employer's business. However, you are covered if you injure a fellow employee.

Use of car in business

We won't pay for injury or damage caused by anyone using a car in any automobile business (such as repairing, servicing, storing or parking cars). However, you, anyone living in your household, or any business associates (for whose use of the car you may

be held legally responsible) are insured while using any of your cars covered under this part.

Other business

We won't pay for injury or damage caused by anyone using someone else's car in your business or occupation or that of anyone else living in your household, unless it is a passenger car being used by you or your private driver, a trailer as described above used with someone else's passenger car, or a trailer as described above used with a car covered by this part.

Damage to your property

We won't pay for any damage to property you or any other insured owns or are transporting. Nor will we pay for damage to property rented to you or anyone else living in your household or which you or they have charge of except a residence or garage you or they rent from someone else.

newly acquired car

If you acquire ownership of another car while covered by this policy, even if such car qualifies as a replacement or additional car as described in this part, we won't pay for damage caused by that car if you have another insurance policy that covers it.

relatives and regularly used cars

We won't pay for injury or damage caused by anyone using a car (not covered under this part) owned by a relative living in your household. Nor by anyone using a car (not covered under this part) which you don't own if the car is regularly used by you or such relatives.

how we'll settle a claim (part 3)

Amount—Injury: each person

The amount shown on the Declarations Page under "BODILY INJURY LIABILITY—EACH PERSON" is the maximum amount we'll pay under this part for each person injured in an occurrence.

—injury: each occurrence

The amount shown on the Declarations Page under "BODILY INJURY LIABILITY—EACH OCCURRENCE" is the maximum total amount we'll pay under this part in any one occurrence, regardless of how many persons were injured.

—damage to property

The amount shown on the Declarations Page under "PROPERTY DAMAGE LIABILITY—EACH OCCURRENCE" is the maximum amount we'll pay under this part for all the property damaged in any one occurrence, including the loss of its use.

more than one car

If this part covers more than one car, the amounts shown for this part on the Declarations Page apply separately to each car. But the insuring of more than one car will not increase the amount payable for any one occurrence.

more than one insured person

Insurance under this part covers separately each person injured under this part against whom a claim is made. We won't pay more than the maximum amounts shown for this part on the Declarations Page even though more than one insured person is involved.

to whom payments are made

Once the amount of the settlement has been determined, the person making the claim against you can collect that amount from us—up to the amounts shown for this part on the Declarations Page.

other insurance—your car

If you or anyone else insured under this part has other insurance that covers a loss under this part, we'll pay our proportionate share of the loss. But we won't pay for a loss caused by a newly acquired (additional or replacement) car if you have another insurance policy that covers it.

other insurance—someone else's car

In the case of cars you don't own, including substituted cars, we'll only pay that part of the damages that is more than the amount payable under any other insurance that covers the loss.

financial responsibility laws (part 3)

If we certify this policy as a proof of financial responsibility in keeping with the laws of your state, the coverage provided under this part will comply completely with all the requirements of your state's law as to the extent of coverage and the limits required.

Part 4 if you are injured by a car whose driver doesn't have proper insurance...

Obligations to you (part 4)

pay what you are legally entitled to recover

We will pay for this coverage (see the Declarations page) if we paid for this coverage (see the Declarations page) we'll pay persons insured under this part the amount they are legally entitled to recover as damages for bodily injury from the person or organization responsible for the car accident in which they are involved, but only when they could not collect because:

the other person is not insured or is underinsured

The person or organization responsible for the accident has no liability insurance or has inadequate liability insurance (less than the amount required by your state's minimum financial responsibility law) liability insurance coverage or liability bond at the time of the accident.

the other person's coverage is denied.

The person or organization responsible for the accident has adequate liability insurance coverage at the time of the accident, but for some reason, the insurance company (by writing the insurance denies coverage or becomes) insolvent.

hit-and-run

The driver nor the owner of the car which caused injury by hitting a person insured under this part or by hitting a car that person was occupying at the time of the accident) can be identified.

your obligations to us (part 4)

notify the police

Persons insured under this part who are injured by a hit-and-run driver, or someone acting for injured persons, must report the accident to the police within 24 hours.

notify us

Persons insured under this part, or someone acting for injured persons, must report the accident to us within 60 days.

statement under oath

We may require any person insured under this part to give a statement under oath within 30 days of our request, giving the facts supporting a claim under this part.

inspection

At our request, injured persons insured under this part or their legal representatives must let us inspect the car they were occupying at the time of the accident.

file details

We may ask injured persons insured under this part or their legal representatives to file (under oath, if required) details of the claim on forms furnished by us describing the injury, treatment, and anything relevant to determining the amount to be paid. Anyone making a claim may be asked to furnish a statement under oath as often as reasonably necessary.

medical records

Any injured person insured under this part must let our doctors examine him or her as often as reasonably required. Injured persons (or, if they are severely disabled or they die, their legal representatives or survivors making the claim) must authorize us in writing to get any medical records or reports we need.

settlement

Neither you, your legal representative, nor anyone else entitled to payment under this part may settle with

anyone responsible for the accident without our consent. If, before we make a payment under this part, you or they or the legal representative of either starts any legal action against anyone responsible for the accident, that person must immediately send us a copy of the legal documents served relating to this action.

right of recovery

After a claim has been made under this part, we may require the person making the claim to take whatever action is necessary to preserve his or her right to recover damages from any persons legally responsible for the injury. In any legal action against us, we may require the person making the claim to include these persons as defendants. No one insured under this policy may do anything to interfere with this right.

action against us

Injured persons insured under this part may not take any legal action against us unless all obligations under this policy have been fulfilled.

what cars part 4 covers

cars described on the declarations page

Cars for which a premium charge for this coverage is shown on the Declarations Page are covered under this part.

replacement cars

If, during the current policy period, you acquire ownership of a passenger car or a truck with a one ton or smaller capacity, not used in any business except farming, to replace a car covered under this part, the newly acquired car is automatically covered under this part for the remainder of the policy period. The new car has the same coverages as the car it replaced.

additional cars

If, during the current policy period, you acquire ownership of another passenger car or a truck as described above in addition to those insured under this

part, the new car, too, is covered under this part. The new car has the same coverage applying to it as any of your old cars have. For example, if you already own two cars, one of which is covered under this part and the other of which is not, the new car would be covered under this part. But you have to let us know within 30 days after you acquire ownership of the new car that you want it insured under this policy and not under some other policy issued by us. If you don't notify us, it won't be covered. All your other passenger cars and trucks as described above must be insured with us for this part to cover the additional car.

substitute cars

If you can't use one of your own cars because it is being serviced, breaks down or is damaged in an accident, a car you borrow (with the owner's permission) to use temporarily while your car is being repaired or replaced is covered under this part. This coverage applies to the borrowed car only if you have it on the car that is out of service.

trailers

This part covers all trailers you own that are designed to be pulled by a passenger car. The trailer may be used with a passenger car or a truck as described above, but it may not be used with any other kind of car for business. This part also covers farm equipment pulled by a truck with a one ton or smaller capacity, not used in any business except farming.

cars you don't own

Cars which are not owned by you or residents of your household and which are not furnished for your or their regular use are insured under this part if you are driving at the time of the accident and have this coverage on any of your own cars.

who is insured (part 4)

You are insured under this part, as well as any relative living in your household, anyone occupying a car covered under this part or anyone as to damages he or she might be entitled to receive because of injury to one of these persons.

Things we won't pay for (part 4)

Things you own

We won't pay for injuries suffered by anyone insured under this part if occupying or hit by a car, other than insured under this part, owned by you or a relative living in your household.

Workers' compensation

We won't pay for injuries that are, or should be, covered under benefits provided under any workers' compensation law, disability law, or any similar law.

Things owned or used by residents

We won't pay for injuries suffered by anyone other than you or a relative living in your household while occupying a car or trailer as described above owned by someone other than you who lives in your household. Nor will we pay for injuries suffered by persons other than you or a relative living in your household while occupying a car used as a taxi or car pool car or any car being used without the owner's permission.

Things not included

We won't pay for injuries caused by any of the following vehicles, even though they may not have any liability insurance applying to them:

- cars owned or operated by anyone considered to be a self-insurer under any financial responsibility law or similar law; a car you don't own if it is furnished for your regular use or for the regular use of a relative living in your household (for example, a company car);

- any cars owned by a government agency in the United States of America or in Canada;

- any motor vehicles operated on crawler-treads or tracks or used as places to live or as places for business;

- any equipment or vehicles designed for use mainly off public roads (unless the accident happens on a public road); and

- motorcycles owned by you or by a relative living in

your household.

We won't pay for injuries caused by any of these vehicles.

How we'll settle a claim (part 4)

Amount—per person

The maximum amount we'll pay to an insured person under this part can be found on the Declarations Page under "PROTECTION AGAINST UNINSURED MOTORISTS—EACH PERSON."

—per accident

The maximum total amount we'll pay under this part for injuries in any one accident, regardless of how many people are involved, may be found on the Declarations Page under "PROTECTION AGAINST UNINSURED MOTORISTS—EACH ACCIDENT."

Arbitration

Whether the insured is legally entitled to recover damages, and the actual amount we'll pay under this part, will be determined by agreement between the insured person and us. If no agreement can be reached, upon written demand of either party, the matter will be submitted for arbitration according to the rules of the American Arbitration Association. Both we and the injured person agree to be bound by the decision of the arbitrators.

Judgment

Unless legal action is taken with our written consent, no judgment of a court against anyone who may be responsible for the accident will determine (so far as the insured and we are concerned) either who was responsible for the accident or what amount of damages is due.

To whom payments are made

We can make payments to the person insured under this part or, if that person is a minor, to his or her parent or guardian. If the insured person dies, payments can be made to the surviving spouse. In any case, we can make payments to a person authorized

by law to get these payments or to a person legally entitled to receive damages the payment represents.

more than one insured person

If more than one person is insured under this part, the insurance applies separately to each person. But we won't pay more than the maximum amounts shown for this part on the Declarations Page, even though more than one insured person is injured.

more than one car

If more than one car is insured under this part, the limits shown on the Declarations Page for this part apply separately to each car.

payments reduced

The amount we agree to pay under this part will be reduced by any amount recovered from persons responsible for the accident, and by any amount provided under any workers' compensation law, disability benefits law, or any similar law. The amount paid under this part will also be reduced by any amount paid under Part 2 or Part 3 of this policy.

other insurance—your car

If there is other similar insurance that covers injuries suffered in a car you own, we'll pay our proportionate share of the amount due.

other insurance—someone else's car

In the case of cars you don't own, we'll only pay if the amount due is more than the amount payable under any other similar insurance that covers the accident. And then we'll only pay that amount by which the maximum amount for this part shown on the Declarations Page exceeds the maximum amount provided by the other insurance. We'll only pay if you have this coverage on any of your own cars insured with us.

trust agreement

If we pay any person under this part, we're entitled to get back that amount from any settlement or judgment

that person makes with anyone responsible for the injury. Persons receiving payments from us must hold in trust for us any rights of recovery they have against anyone responsible for the accident and must do whatever is necessary to guarantee these rights and may not do anything to interfere with these rights. If we request it in writing, persons who have received payments from us under this part must do anything necessary in their own name, through any representative we designate, to recover these payments as damages from those responsible for the accident. Out of any amount recovered, they must pay us back any expenses, costs and lawyers' fees which we incurred helping them make this recovery. Persons receiving payments from us under this part must also provide us with any legal documents necessary to secure their rights and ours as outlined here.

THIS BOOKLET CONTAINS MOST OF THE ENDORSEMENTS AVAILABLE IN UTAH. YOU ONLY HAVE COVERAGE FOR THE ENDORSEMENTS LISTED ON YOUR DECLARATIONS PAGE BY PAC NUMBER. SEE LIST BELOW FOR LOCATION WITHIN THIS BOOKLET.

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PAC 202 (Ed. 1/80)B **EXTENDED COVERAGE FOR CARS YOU DON'T OWN**

Under Part 3 (*IF YOU INJURE OTHERS OR DAMAGE THEIR PROPERTY*) the insurance provided for cars you don't own applies to any car or trailer. Only the person specified on the Declarations Page (*and that person's spouse, if he or she lives in the same household*) and any person or organization which doesn't own or hire the car, but which might be held responsible for the specified individual's use of the car, are insured under this endorsement.

The CARS FOR HIRE provision under *Losses We Won't Pay For (Part 3)* doesn't apply.

The OTHER BUSINESS provision under *Losses We Won't Pay For (Part 3)* is replaced by the following paragraph:

We won't pay for injury or damage caused by anyone using a car in your business unless it's a car being used by you or your private driver, a trailer (*as described above*) used with that car, or a trailer (*as described above*) used with a car covered under this part.

Under *Who Is Insured (Part 2)*, you, relatives and their spouses are insured while occupying a car furnished for the regular use of the individual specified on the Declarations Page or that person's spouse. The specified individual and his or her spouse are also insured in any car furnished to you or a relative for regular use.

Under the OTHER PEOPLE provisions of *Who Is Insured (Part 2)*, the insurance covering *IN SOMEONE ELSE'S CAR* applies to any car or trailer. The injury must result from its use by the specified individual (or spouse) or their private driver.

The AUTO BUSINESS provision of *Losses We Won't Pay For (Part 2)* doesn't apply.

We won't pay for injury to people, other than you and relatives living in your household, in a taxi or car for hire. Nor for injury to those other people using a car in the automobile business. We'll pay for injuries to those other people in other kinds of business only if the injury results from the use by the specified individual or spouse or their private driver of a car, a trailer used with it, or a trailer with a car you own.

The insurance under this endorsement doesn't apply to any car owned by the person specified on the Declarations Page or by a member of the same household other than their private driver. The insurance applies only to those coverages referred to which are indicated by specified premium charges on the Declarations Page.

PAC 206 (Ed. 1/80)B **AUTO HOMES**

The coverages described in Part 1 (*IF YOUR CAR IS DAMAGED OR STOLEN*) also apply to an Auto Home described on the Declarations Page.

The policy applies to direct or accidental loss of or damage to the Home, including equipment and accessories built into it or which are for a car or truck. But we won't pay for radio or TV antennas or equipment designed to provide extra living area while the Auto Home is off a high lift. Nor will we pay for loss to personal property in or on the Auto Home.

This endorsement doesn't apply if the Auto Home is or becomes subject to any legal encumbrance (*such as a purchase agreement or mortgage*) which isn't described in the policy. Nor does it apply to damage to tires or other parts caused by an accident covered under this policy.

The third paragraph of the COMPREHENSIVE COVERAGE provision (*Our Obligations To You (Part 1)*), which deals with paying your transport costs if your car is stolen, doesn't apply to insurance under this endorsement.

You only have the coverages for which specific premium charges are shown on the Declarations Page. For each coverage, we won't pay more than the amount for the coverage shown on the Declarations Page.

§ 207 (Ed. 1/80)B

ADDITIONAL FINANCIAL INTEREST

Under *Who Is Insured (Part 3)*, the words "any other person or organization" mean the person or organization shown on the Declarations Page.

§ 212 (Ed. 1/80)

TIME RENEWAL AT AGE 65

We won't refuse to renew or continue this policy if you've had auto insurance with us continuously for at least 5 years on the first anniversary of this policy (or any renewal or replacement of it) following your 65th birthday.

However, this agreement doesn't apply if you fail to pay a premium when required, if you are not the principal operator of a car described on the Declarations Page, or if your driver's license or that of anyone who lives in your household (or who regularly uses a car insured under this policy) has been suspended or revoked during the current policy period or within the 12 months prior to the beginning of the current period.

This agreement doesn't apply if the corrected vision of your better eye is less than 20/70 of any persons living in your household (or any person who regularly uses a car insured under this policy) is less than 20/70. Nor does it apply if the visual field of you or these persons is less than 110 degrees.

This agreement doesn't apply if you or these persons have reached the age of 72 but don't give us, on request, a medical report from a licensed physician stating that your vision and/or that of these other drivers over 72 meets the requirements given above and that, in the doctor's opinion, and/or they are physically and mentally competent to drive safely. We won't request these medical reports more than once every three years. However, after you or other drivers reach the age of 80, we can request these reports every year.

This agreement applies only to cars and trucks as described in this policy. This agreement stops as of the effective date of any other automobile policy which applies to a car described on the Declarations Page, but only those coverages provided by the other automobile policy.

PAC 215 (Ed. 1/80)

SNOWMOBILES

If you've got a snowmobile, we agree to pay for the following coverages shown on the Declarations Page with a specific premium charge.

"Snowmobile" is included under the words "car," or "passenger car" in the policy unless otherwise specified in this endorsement.

"Snowmobile" means a land motor vehicle which is designed for use mainly off public roads but exclusively for use on snow or ice. It includes trailers designed to be pulled by these vehicles but doesn't include trailers designed to carry snowmobiles. It means only a vehicle propelled by wheels, crawler-treads, belts, or similar mechanical devices but not propelled by fans or airplane-type propellers.

In the COMPREHENSIVE COVERAGE provision of *Our Obligations To You (Part 1)*, the second and third paragraphs don't apply to this endorsement.

Coverage for trailers under Part 1 (*IF YOUR CAR IS DAMAGED OR STOLEN*) doesn't apply to this endorsement unless it's a trailer designed to be pulled by a snowmobile. The description of "trailer" under Part 1 doesn't apply to this endorsement.

All the provisions under *Losses We Won't Pay For (Part 1)* apply to this endorsement except CARS NOT DESCRIBED ON THE DECLARATIONS PAGE.

The following paragraphs are added to *Losses We Won't Pay For (Part 1)*:

We won't pay for damages to crawler-type treads, belts or similar mechanical devices used to propel the snowmobile, unless the loss is caused by fire, vandalism, theft, or unless the loss is caused by an accident covered under this policy.

We won't pay for loss of or damage to the snowmobile caused by its falling or breaking through ice, unless you've paid a specific premium to remove this limitation as shown on the Declarations Page.

The last sentence of the second paragraph of *IN SOMEONE ELSE'S CAR* under *Who Is Insured (Part 1)* doesn't apply to this endorsement.

The *VEHICLES USED OFF PUBLIC ROADS* provision under *Losses We Won't Pay For (Part 2)* doesn't apply to snowmobiles.

Under Part 2 (*IF YOU ARE INJURED IN A CAR ACCIDENT*) we won't pay more than \$500 for any one person injured in a snowmobile accident, regardless of the amount shown on the Declarations Page under "MEDICAL PAYMENTS — EACH PERSON."

We won't pay for any injury under Part 2 or Part 4 or loss under Part 3 while any snowmobile is being rented or leased to any person or organization other than you. Nor will we pay for these injuries or losses while any snowmobile is being used in any sort of competitive event (*such as a race, jumping contest and so forth*) or practice for that event. We won't pay for these injuries or losses if there is other valid and collectible insurance covering them.

Under this endorsement, the first sentence of *IN YOUR CAR Under Who is Insured (Part 3)* is changed to:

You are insured while...

Under this endorsement, the second sentence of the *IN SOMEONE ELSE'S CAR* provision under *Who is Insured (Part 3)* is changed to:

Relatives living in your household are insured.

The description of "trailer" under *What Cars Part 3 Covers* is replaced by the definition of "trailer" included in the above definition of "snowmobile."

Under Part 4 (*IF YOU ARE HIT BY A CAR WHOSE DRIVER DOESN'T HAVE PROPER INSURANCE*) the word "car" also includes snowmobiles, except under *What Cars Part 4 Covers* where it means only cars, trucks, or trailers as defined in that section.

In regard to this endorsement, the words "any relative living in your household" are deleted from *Who is Insured (Part 4)*.

Under *What Cars Part 4 Covers*, the following paragraph is added:

This part covers a snowmobile you own while it's being used by you or by someone else who has your permission to use it. Snowmobiles you don't own are also covered, but only if you are using them (*with the owner's permission*). Otherwise, snowmobiles you don't own are not covered. Neither are snowmobiles being used as taxis or cars for hire nor snowmobiles owned by or furnished for the regular use of anyone other than you who lives in your household.

The following phrases are deleted from *SELF-INSURERS under Losses We Won't Pay For (Part 4)*:

land motor vehicles operated on crawler-treads or rails or used as places to live or as places of business; and

equipment designed for use off public roads (*unless the accident happens on a public road*).

The insurance provided by this endorsement applies only to those coverages for which a specific premium charge is shown on the Declarations Page. The maximum amounts we'll pay under these coverages are the amounts indicated in this endorsement or on the Declarations Page.

PAC 220 (Ed. 1/80)F

LOSS PAYEE AND LIENHOLDER AGREEMENT

Payments for loss of or damage to a car covered under Part 1 (*IF YOU, CAR IS DAMAGED OR STOLEN*) will be made to the person or organization shown on the Declarations Page as the "loss payee". These payments will be made to the extent that the loss payee has a financial interest in the car.

With respect to the financial interest of any lienholder*, this insurance won't be invalidated because of your action or neglect or by any change in the title or ownership of the car. Your conversion, embezzlement or secretion of the car is not covered. If you don't pay a premium when due, the lienholder must pay it on demand.

We reserve the right to cancel or non-renew the policy at any time as provided by its terms, but if we do, we'll notify the lienholder at least 10 days before the coverage ends, as to the lienholder's financial interest. We have the right to end this Agreement on the same kind of notice.

If you don't send us proof of your loss within the time the policy requires, the lienholder must send proof to us within 60 days after the time period, in the way the policy provides. The lienholder shall be subject to the provisions of the policy relating to appraisal, time of payment and time of bringing suit.

Whenever we pay the lienholder any amount for loss or damage under the policy while claiming that we have no liability to the insured, we acquire, to the extent of the amount we have paid, the lienholder's legal status and its right to collect the debt on the car from you. Collecting our part of the debt doesn't interfere with the lienholder's right to collect its part. Or, if we wish, we can pay off the debt (with interest) and acquire the full lien.

Whenever we make any kind of payment under this policy, we make separate payments to each party at interest, provided we protect the ownership interest of all parties.

*Lienholder means a secured party, such as a bailment lessor, condit vendor, mortgagee or an assignee of any secured party.

221 (Ed. 1/80)C

COMPREHENSIVE COVERAGE DEDUCTIBLE

Comprehensive Coverage, an amount as stated in the Declarations is deducted from the amount of each loss. This deductible applies equally to each car covered for Comprehensive under this policy. But deductible won't apply to damage to the car caused by:

fire or lightning;

smoke or smudge due to a sudden, unusual or faulty operation of any fixed heating equipment servicing the place where the car is kept; or

damage to or destruction of any vehicle in which the car is being transported.

policy also provides Collision Coverage, glass breakage caused by an object can be considered under the Collision provisions of the policy instead of Comprehensive provisions, if you wish.

226 (Ed. 12/82) UTAH **CIVIL STATE PROVISIONS**

TRUCKS IN "TRUCK" SPECIFICATIONS

Trucks covered by the policy are four-wheel land motor vehicles with ton or smaller capacity. The truck can be used for personal pleasure, commuting or in an insured's business as a craftsman. Trucks used for the transportation, maintenance, or repair of furnishings or equipment are covered. Trucks used primarily for wholesale, retail, or for-hire deliveries are covered.

CHANGES TO PART 1

TOWING AND LABOR COVERAGE

Following replaces the TOWING AND LABOR COVERAGE section under *Obligations To You (Part 1)*:

If you've paid for this coverage (*see the Declarations Page*), we'll pay for the towing charges and the cost of labor done at the scene of a breakdown, up to a limit of \$50.

COMPREHENSIVE COVERAGE

The following replaces the last sentence of the third paragraph of COMPREHENSIVE COVERAGE under *Our Obligations To You (Part 1)*:

We'll pay up to \$15 a day for these transportation costs up to a total bill of \$450.

SOUND (RECEIVING, RECORDING, REPRODUCING, OR TRANSMITTING) EQUIPMENT

The insurance provided under Part 1 (*IF YOUR CAR IS DAMAGED OR STOLEN*) only applies to loss or damage of permanently installed sound (*receiving, recording, reproducing or transmitting*) equipment. The equipment must be installed in the dash or console opening specified by the manufacturer of the car to be considered permanently installed. Theft Coverage for all sound (*receiving, recording, reproducing, or transmitting*) equipment is limited to \$1,000 less the Comprehensive Coverage Deductible.

CLAIM SETTLEMENT

Under *How We'll Settle A Claim (Part 1)* the first sentence under the AMOUNT provision is replaced by the following:

Our limit of liability for damaged or stolen property will be the lesser of the:

1. Amount stated in the Declarations;
2. Actual cash value at the time of the loss; or
3. Amount necessary to repair or replace with material of like kind and quality as the property was at the time of the loss.

Our payment for loss will be reduced by any applicable deductible shown on the Declarations.

CHANGES TO PART 2

CHANGE IN MEDICAL EXPENSES

Under *Our Obligations To You (Part 2)*, the MEDICAL AND FUNERAL EXPENSES provision is replaced by the following paragraph:

If you've paid for this coverage (*see the Declarations Page*) we'll pay for all reasonable expenses for necessary medical and funeral services incurred within three years from the accident, and that resulted from the accident, providing that it is known that there will be future medical expenses within one year of the accident. These expenses include prosthetic devices, and necessary surgical, X-ray, dental, ambulance, hospital and professional nursing services.

RIGHT OF RECOVERY

The following is added under *Your Obligations To Us (Part 2)*:

When we pay for a loss under Part 2, we get all rights of recovery against others up to the amount we have paid. Anyone insured under this part must:

1. Not interfere with our right to recovery; and
2. Do whatever is necessary to help us get our money back.

CHANGES TO PART 3

DEFENSE CLAUSE

The following replaces the LEGAL DEFENSE provision under *Our Obligations To You (Part 3)*:

If other persons claim that you or anyone else insured under this part injured them or damaged their property in the accident, we can provide a defense at our expense by counsel of our choice. We may make any investigation and settle any claim or suit that we decide is appropriate. Our obligation to defend any claim or suit ends when the amount we pay for damages resulting from the occurrence equals our limit liability.

SUPPLEMENTARY PAYMENTS

Under *Our Obligations To You (Part 3)*, the following sentence is added to the provisions for FIRST AID, BAIL BONDS, LEGAL DEFENSE, RELEASE OF ATTACHMENT BONDS, JUDGEMENT (*court costs and post-judgement interest*), EXPENSES, and APPEAL BONDS:

This is a supplementary coverage which will be paid in addition to the amount of liability shown for this coverage on the Declarations page.

Under *How We'll Settle A Claim (Part 3)* the following sentence is added to the AMOUNT provision:

— supplementary payments

Supplementary payments, as shown under *Our Obligations To You (Part 3)*, will be paid in addition to the amount of coverage shown on the Declarations page.

COOPERATION

The following is added to the COOPERATION provision under *Your Obligations To Us (Part 3)*:

We agree that your failure to cooperate with us will not affect our obligations under this policy to someone else. But not if that person

was in a collision with you or was a passenger in the insured car. If we pay that person, we are entitled to get back the amount we paid from you.

ACTION AGAINST US

Under Part 3, the following provision is deleted from the ACTION AGAINST US paragraph:

No person is entitled to include us in any legal action against you WHO IS INSURED

Under *Who Is Insured (Part 3)*, the persons insured while IN YOUR CAR also includes any person using your car with the permission of an adult member of your household, other than a chauffeur or domestic servant.

INJURIES AND DEFENSE

The following is added to *Losses We Won't Pay For (Part 3)*:

We won't pay for death or injuries suffered by you or a household resident caused by you or a household resident.

We won't defend you or a household resident in any suits brought against each other directly or indirectly by a third party.

CHANGES TO PART 4

SETTLEMENT

The following is added to the SETTLEMENT section under *Your Obligations To Us (Part 4)*:

We have the right to any legal action allowable by law in our own name or in the name of the owner operator, (*or both*) of the insured motor vehicle.

INJURIES NOT COVERED

The following sentence is added under the CARS NOT INCLUDED section of *Losses We Won't Pay For (Part 4)*:

We will not pay for losses under this part when coverage is denied or excluded under another part.

ARBITRATION

The following paragraph replaced the ARBITRATION paragraph under *How We'll Settle A Claim (Part 4)*:

If we and a covered person disagree on policy coverages and/or amount payable either party may make a written demand for arbitration. In this event, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction.

Each party will pay the expenses it incurs and share the expenses of the third arbitrator equally. Unless both parties agree otherwise, arbitration will take place in the county and state in which the covered person lives. Local rules of law as to procedure and evidence will apply. A decision agreed to by two arbitrators will be binding.

C 233 (Ed. 5/82)

ITAL REIMBURSEMENT

If you have paid for this coverage and have Comprehensive Coverage on your car (see the Declarations Page), we'll pay your cost of renting a similar car if a passenger car you own is out of use for more than 24 hours because of a collision or any loss covered by Comprehensive Coverage, except theft of the car. If the car is stolen, you will receive car payments for transportation costs under OUR OBLIGATIONS TO YOU (PART 1). See that part of the policy for details.

We will only pay for rental costs for the time it would normally take to repair or replace the damaged car. But we won't pay more than \$15 a day up to a total bill of \$450. Nor will we pay you more than you actually spent renting the car.

These rental payments are in addition to the maximum amounts shown for Collision and Comprehensive coverages on the Declarations Page. No deductible applies to these rental payments.

You must notify us, as soon as practicable, of any loss covered under this endorsement and furnish us with proof of the amount you spent for rental of the car in a form and within a time we reasonably request.

C 240 (Ed. 2/80)

SUPPLEMENTARY UNINSURED MOTORISTS COVERAGE

The following paragraphs are added to *Our Obligations To You (Part 4)*.

The car which caused injury by hitting a person insured under this part (or by hitting a car that person was occupying at the time of the accident) is an underinsured highway vehicle.

A highway vehicle is any land motor vehicle or trailer. But not a farm type tractor or other vehicle designed for use mainly off public roads (while not on a public road), a vehicle run on rails or crawler-treads or a vehicle used as a place to live or as a place of business.

A highway vehicle is underinsured if the total bodily injury liability limits of all bonds and insurance policies applying to an injury it causes are less than the limits shown for Part 4 on the Declarations Page.

We won't have to make any payments under this coverage until all the bonds and insurance policies which apply to the injury have been used up in paying court judgments or settlements.

The following is added to *Your Obligations to Us (Part 4)* under "settlement."

You may not settle with anyone responsible for the accident without our written consent.

The "trust agreement" under *How We'll Settle a Claim*, applies to this coverage.

PAC 243 (Ed. 1/80)

OUT OF STATE INSURANCE

While you're in another state, territory or province of Canada, in which the laws require non-residents to carry higher limits or other coverages than those provided by this policy, the limits and coverages of this policy will change to meet the requirements of those laws. However, those limits and coverages will be reduced to the extent that there's any other valid and collectible insurance which applies to the loss. Under no circumstances is anyone entitled to receive duplicate payments for the same loss.

PAC 280 (Ed. 1/80)

ADDITIONAL AUTO ACCIDENT COVERAGE

We agree to pay the following benefits for losses (*resulting directly and independently of all other causes*) if you or any eligible person are injured while occupying a passenger car or truck with a one ton or smaller capacity, not used in any business except farming, while a passenger in a car for hire, or if you or your children are hit by a car, as long as the injury occurs while this endorsement is in effect. For the purpose of this endorsement, "eligible person" includes you and your unmarried children under age 18 if they live in your household as shown on the Declarations Page; anyone who becomes an eligible person after the effective date of this endorsement is automatically covered, and any of your children become ineligible when they marry or when they reach age 18.

If within 90 days after the accident any eligible person:

Loses both hands or both feet, or loses the sight of both eyes, we'll pay \$10,000.

Loses one hand and one foot, we'll pay \$10,000.

Loses either hand or either foot, we'll pay \$5,000.

Loses the sight of one eye, we'll pay \$2,500.

If any eligible person dies as a result of the accident, we'll pay \$10,000.

With regard to hands and feet, loss shall mean the entire and permanent amputation at or above the ankle or wrist joint.

With regard to eyes, loss shall mean the entire and permanent loss of sight.

The most we'll pay for multiple injuries from any one accident is the one highest amount that's applicable to the injury.

If any eligible person who is gainfully employed doesn't die or have any of the above injuries, but is completely and continuously disabled within 20 days after the accident and needs medical treatment, we'll pay that person \$60 a week during the period of disability, but only up to a limit of 52 consecutive weeks for any one accident.

If any eligible person who isn't gainfully employed but provides ordinary and necessary household and other services doesn't die or have any of the above injuries, and is completely and continuously disabled within 20 days after the accident and needs medical treatment, we'll pay that person \$30 a week during a period of disability but only up to a limit of 26 consecutive weeks for any one accident.

We won't pay for any loss caused by suicide or a suicide attempt, whether or not the eligible person is sane.

We won't pay for loss caused by disease (*except pus forming infection resulting from an accidental wound*).

We won't pay for loss caused by any kind of war, rebellion, or insurrection.

We won't pay for loss suffered by any member of the military services of any country at war.

We won't pay for any injury which happens while an eligible person is committing a crime or trying to avoid lawful capture or arrest by the police, while intentionally causing injury or damage, or while driving under the influence, as defined under applicable law, or any narcotic drug or alcohol.

The only policy provisions that apply to this endorsement are **CHANGES TO THIS POLICY, CANCELLATIONS, ASSIGNMENT, and YOUR AGREEMENT WITH US**, all of which are found in the **INTRODUCTION** part of the policy.

If any loss covered by this endorsement happens, the injured person, their beneficiary, or someone acting for them must notify us as soon as practicable.

The injured persons, their beneficiary, or someone acting for them must give us written proof of the loss (*under oath, if requested*) and must authorize us to get copies of any medical reports or records we request.

The beneficiary of the insured is his or her spouse, and the beneficiary of all eligible persons is the insured. The death benefit will be paid to the above beneficiaries. If there aren't any beneficiaries at the time of payment, the death benefit will be paid to the estate of the insured. If any benefit of this endorsement is payable to anyone legally incompetent to release our obligation, or if this payment is made to the estate of the insured, we can pay such benefits, (*up to \$1,000*) to any relative of the insured or anyone else we think is entitled to it. If we make this payment in good faith our obligations in this matter are completely fulfilled (*to the extent of that payment*).

Any of the "lump-sum" amounts for death, dismemberment, or loss of sight will be paid as soon as we get written proof of the loss. After we get proper written proof of the loss, we'll pay the disability benefits every 4 weeks during the time these payments are due. If an eligible person recovers during one of these 4-week periods, we'll pay the amount due as of that date as soon as we get proper written proof of the loss.

We can have an injured person examined as often as we reasonably require while there is a claim. If the person dies, we can request an autopsy, when it is not prevented by law.

No person can take any legal action against us, until 60 days after proof of loss has been filed with us, and unless they have fulfilled the term of this endorsement.

You can change the beneficiary of this endorsement without his or her consent.

PAC 294 (Ed. 1/80) **PERSONAL INJURY PROTECTION**

The Company agrees with the named insured, subject to all of the provisions in this endorsement and to all of the provisions of the policy except as modified herein, as follows:

in 1

Personal Injury Protection Coverage

The company will pay personal injury protection benefits to or on behalf of an eligible injured person for:

medical expenses,

work loss,

funeral expenses, and

survivor loss

With respect to bodily injury sustained by an eligible injured person caused by an accident involving the use of a motor vehicle as a motor vehicle.

Provisions

Insurance coverage does not apply:

to bodily injury sustained by any person while occupying a motor vehicle which is owned by the named insured and which is not an insured motor vehicle;

to bodily injury sustained by the named insured and any relative while occupying a motor vehicle which is owned by a relative and for which the security required by the Utah Automobile No-Fault Insurance Act is not in effect;

to bodily injury sustained by any person while operating the insured motor vehicle without the express or implied consent of the insured or while not in lawful possession of the insured motor vehicle;

to bodily injury sustained by any person injured while occupying or, while a pedestrian through the use of any motor vehicle, other than the insured motor vehicle, for which the security required under the Utah Automobile No-Fault Insurance Act is in effect;

to bodily injury sustained by any person, if such person's conduct contributed to his injury under either of the following circumstances;

(1) causing injury to himself intentionally, or

(2) while committing a felony;

to bodily injury sustained by any person arising out of the use of any motor vehicle while located for use as a residence or premises;

to bodily injury due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing;

(h) to bodily injury resulting from the radioactive, toxic, explosive or other hazardous properties of nuclear material;

(i) to bodily injury to any person who is entitled to payments or benefits under the provisions of Utah's Workmen's Compensation Law.

Definitions

When used in reference to this coverage:

"bodily injury" means bodily injury, sickness or disease, including death resulting therefrom;

"eligible injured person" means

(a) the named insured or any relative who sustains bodily injury caused by an accident involving the use of any motor vehicle;

(b) any other person who sustains bodily injury caused by an accident while

(1) occupying the insured motor vehicle with the consent of the insured, or

(2) occupying any other motor vehicle, other than a public or livery conveyance, operated by the named insured or a relative, or

(3) a pedestrian if the accident involves the use of the insured motor vehicle;

"funeral expenses" means funeral, burial or cremation expenses incurred;

"insured" means the named insured, the spouse or other relative or the named insured who resides in the same household as the named insured, including those who usually make their home in the same household but temporarily live elsewhere, or any person using the described motor vehicle with the permission, either expressed or implied, of the owner;

"insured motor vehicle" means a motor vehicle with respect to which

(a) the bodily injury liability insurance of the policy applies and for which a specific premium is charged, and

(b) the named insured is required to maintain security under the provisions of the Utah Automobile No-Fault Insurance Act;

"medical expenses" means the reasonable expenses incurred for necessary medical, surgical, x-ray, dental and rehabilitation services, including prosthetic devices, necessary ambulance, hospital, and nursing services, and any nonmedical remedial care and treatment rendered in

accordance with a recognized religious method of healing; however, it does not include expenses in excess of those for a semi-private room, unless more intensive care is medically required.

"motor vehicle" means any vehicle of a kind required to be registered with the Division of Motor Vehicles of the Utah State Tax Commission under Title 41-1-19, Utah Code Annotated 1953 but excluding motorcycles;

"named insured" means the person or organization named in the Declarations;

"occupying" means being in or upon a motor vehicle as a passenger or operator or engaged in the immediate acts of entering, boarding or alighting from a motor vehicle;

"pedestrian" means any person not occupying or riding upon a motor vehicle, other than any person occupying or riding upon a motorcycle;

"relative" means a spouse or any other person related to the named insured, by blood, marriage or adoption (including a ward or foster child) who is a resident of the same household as the named insured, or who usually makes his home in the same household but temporarily lives elsewhere;

"survivor loss" means compensation on account of the death of the eligible injured person;

"work loss" means (a) loss of income and loss of earning capacity by the eligible injured person during his lifetime, from inability to work during a period commencing three days after the date of the bodily injury and continuing for a maximum of 52 consecutive weeks thereafter, provided that if such eligible injured person's inability to work shall so continue for in excess of a total of two consecutive weeks after the date of the bodily injury, this three day elimination period shall not be applicable; and (b) an allowance for services actually rendered or expenses reasonably incurred for services that; but for the bodily injury, the eligible injured person would have performed during his lifetime for his household commencing three days after the date of the bodily injury and continuing for a maximum of 365 consecutive days thereafter, provided that if such eligible injured person's inability to perform such services shall continue for in excess of 14 consecutive days after the date of the bodily injury, this three day elimination period shall not be applicable.

Policy Period; Territory

This coverage applies only to accidents which occur during the policy period and within the United States of America, its territories or possessions, or Canada.

Limits of Liability

Regardless of the number of persons insured, policies or bonds applicable, claims made, or insured motor vehicles to which this coverage applies, the Company's liability for personal injury protection benefits with respect to bodily injury sustained by any one eligible injured person in any one motor vehicle accident, is limited as follows:

1. the maximum amount payable for medical expenses will not exceed \$2,000;
2. the maximum amount payable for work loss is
 - (a) eighty five per cent of any loss of gross income and earning capacity, not to exceed the total of \$150 per week;
 - (b) \$12 per day for inability to perform services for his household;
3. the maximum amount payable for funeral expenses shall not exceed 1,000;
4. the amount payable for survivor loss is \$2,000 and is payable only to natural persons who are the eligible injured person's heirs;
5. any amount payable by the Company under the terms of this coverage shall be reduced by the amount paid, payable, or required to be provided on account of such bodily injury
 - (a) under any workmen's compensation plan or any similar statutory plan other than Utah's Workmen's Compensation plan,
 - (b) by the United States or any of its agencies because of his or her being on active duty in the military services,
 - (c) under any applicable deductible set forth in this endorsement or in the policy to which it is attached.

Conditions

- A. **Action Against Company.** No action shall lie against the Company unless a condition precedent thereto, there shall have been full compliance with all the terms of this coverage.
- B. **Notice.** In the event of an accident, written notice containing particulars sufficient to identify the eligible injured person, and also reasonably obtainable information respecting the time, place and circumstances of the accident shall be given by or on behalf of each eligible injured person to the Company or any of its authorized agents as soon as practicable. If any eligible injured person, his legal representative or his survivors shall institute legal action to recover damages for bodily injury against a person or organization who is or may be liable in tort therefor, a copy of the summons and complaint or other process served in connection with

such legal action shall be forwarded as soon as practicable to the Company by such eligible injured person, his legal representative, or his survivors.

C. Medical Reports; Proof of Claim. As soon as practicable the eligible injured person or someone on his behalf shall give to the Company written proof of claim, under oath if required, including full particulars of the nature and extent of the injuries and treatment received and contemplated, and such other information as may assist the Company in determining the amount due and payable. The eligible injured person shall submit to physical and mental examinations by physicians selected by the Company when and as often as the Company may reasonably require.

D. Subrogation. In the event of any payment under this coverage, the Company is subrogated to the rights of the person to whom or for whose benefit such payments were made, to the extent of such payments, and such person must execute and deliver instruments and papers and do whatever else is necessary to secure such rights. Such person shall do nothing after loss to prejudice such rights.

E. Reimbursement and Trust Agreement. In the event of any payment to any person under this coverage;

1. the Company shall be entitled to the extent of such payment to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury because of which such payment is made; and the Company shall have a lien to the extent of such payment, notice of which may be given to the person or organization causing such bodily injury, his agent, his insurer or a court having jurisdiction in the matter;
2. such person shall hold in trust for the benefit of the Company all rights of recovery which he shall have against such other person or organization because of such bodily injury;
3. such person shall do whatever is proper to secure and shall do nothing after loss to prejudice such rights;
4. such person shall execute and deliver to the Company instruments and papers as may be appropriate to secure the rights and obligations of such person and the Company established by this provision.

F. Non-Duplication of Benefits; Other Insurance. No eligible injured person shall recover duplicate benefits for the same elements of loss under this or any similar insurance.

In the event the eligible injured person who is a named insured, a relative, or who is injured in an accident involving the use of an insured motor vehicle, has other similar insurance available and applicable to the accident, the maximum recovery under all such insurance shall not exceed the amount which would have been payable under the provisions of the insurance providing the highest dollar limit, and the Company shall not be liable for a greater proportion of any loss to which this coverage applies than the limit of liability hereunder bears to the sum of the applicable limits of liability of this coverage and such other insurance.

In the event that an eligible injured person, other than a named insured, relative, or a person who is injured in an accident involving the use of an insured motor vehicle, has other similar insurance available and applicable to the accident, the coverage provided under this endorsement shall be excess over such other insurance.

Section II

In consideration of the coverage afforded under Section I and the adjustment of applicable rates:

- (a) Any amount payable under the Protection Against Uninsured Motorists Coverage shall be reduced by the amount of any personal injury protection benefits paid or payable under this or any other automobile insurance policy because of bodily injury sustained by an eligible injured person;
- (b) any Automobile Medical Payments Coverage afforded under this policy shall be excess insurance over any personal injury protection benefits paid or payable under this or any other automobile insurance policy because of bodily injury sustained by an eligible injured person.

Section III

The premium for the policy is based on rates which have been established in reliance upon the limitations on the right to recover for damages imposed by the provisions of the Utah Automobile No-Fault Insurance Act. In the event a court of competent jurisdiction declares, or enters a judgment the effect of which is to render, the provisions of such act invalid or unenforceable in whole or in part, the Company shall have the right to recompute the premium payable for the policy and the provisions of this endorsement shall be voidable or subject to amendment at the option of the Company.

PAC 295 (Ed. 1/80)**ADDITIONAL PERSONAL INJURY PROTECTION –
INCREASED LIMITS**

It is agreed that the Personal Injury Protection Endorsement (Utah) (Form No. PAC 294) is amended as follows, but only with respect to any amounts payable thereunder because of *bodily injury to and eligible injured person who is a named insured or relative*:

- a. with respect only to any amounts payable by the Company in accordance with the Utah Automobile No-Fault Insurance Act personal injury benefits, the Limits of Liability provision of the Personal Injury Protection Endorsement (Utah), PAC 294, shall be increased as stated herein for the selected option designated in the Declarations by identification of the appropriate Additional Personal Injury Protection Coverage Option 1, 2, 3, 4, 5, 6, 7, 8, 9, or 0:

Additional Personal Injury Protection

Options	Medical Expenses	Work Loss
	Per Person Per Accident Not to Exceed (Including PIP Coverage, PAC 294)	85% of Work Loss Not to Exceed (Including PIP Coverage, PAC 294)
1	\$ 5,000	\$250 per person per week
2	\$ 5,000	\$350 per person per week
3	\$ 5,000	\$450 per person per week
4	\$ 5,000	\$550 per person per week
5	\$10,000	\$250 per person per week
6	\$10,000	\$350 per person per week
7	\$10,000	\$450 per person per week

8	\$10,000	\$550 per person per week
9	\$25,000	\$550 per person per week
0	\$25,000	\$550 per person per week

- b. With respect to survivor loss under Additional Personal Injury Protection Option 9 or 0, the Limits of Liability provision of the Personal Injury Protection Endorsement (Utah), PAC 294, shall be increased to \$5,000 for Option 9 and \$10,000 for Option 0.
- c. This endorsement is subject to all terms and provisions of the Personal Injury Protection Endorsement (Utah) not expressly modified herein.

PAC 297 (Ed. 1/80)**DESIGNATED INSURED
PERSONAL INJURY PROTECTION**

It is agreed that each individual shown on the Declarations Page as an insured shall be a named insured for the purposes of the coverage given by the Personal Injury Protection Endorsement and the Additional Personal Injury Protection Endorsement indicated by the entry of a specific premium charge on the Declarations Page.

PAC 709 (Ed. 1/80)**PUNITIVE DAMAGES**

It is agreed that:

We won't pay for damages assessed as punitive, exemplary or vindictive regardless of any other provisions of this policy.

PAC 912 (Ed. 6/82)

AMENDMENT OF TERMINATION PROVISIONS

The following paragraphs replace the first sentence of the second paragraph of the CANCELLATION provision in the INTRODUCTION of the policy:

If we want to cancel the policy and if the policy has been in effect for less than 60 days, or if this policy covers more than four cars, we'll send you a written notice at least 10 days before the policy will be cancelled.

The following paragraphs do not apply to policies insuring more than four cars:

If the policy has been in effect for 60 days, we will only cancel it if:

1. You don't pay a premium or premium installment when required. We'll send you a written notice at least 10 days before the policy will be cancelled;
2. Your driver's license (or that of any other driver either living in your household or regularly using your car) has been suspended or revoked, during the policy period. We'll send you a written notice at least 20 days before the policy is cancelled; or
3. The policy was obtained through fraud or material misrepresentation. *(This does not waive our right to void the policy for these reasons.)* We'll send you a written notice at least 20 days before the policy will be cancelled.

The following paragraphs are added to the INTRODUCTION of the policy.

If we decide not to renew the policy, we'll send a written notice to you at your address (as shown on the Declarations Page) at least 30 days before the policy is to expire. We and you agree that the mailing of this notice is proof that you were properly notified.

If we send you a renewal notice and you fail to pay the renewal premium, your policy expires as of the due date. No further notices will be sent you.

However, if you decide to insure any car covered by this policy with another policy issued by some other insurer, coverage on that car under this policy will stop as of the effective date of the other insurance.

PAC 1671 (Ed. 1/80)B

MOTOR HOMES

The coverages described in Part 1 *(IF YOUR CAR IS DAMAGED OR STOLEN)* also apply to a Motor Home described on the Declarations Page.

The policy applies to direct or accidental loss of or damage to the Motor Home, including equipment and accessories built into it or which are usual for a car or truck. But we won't pay for radio or TV antennas or equipment designed to provide extra living area while the Motor Home is off a highway. Nor will we pay for loss to personal property in or on the Motor Home.

This endorsement doesn't apply if the Motor Home is or becomes subject to any legal encumbrance (such as a purchase agreement or mortgage) which isn't described in the policy. Nor does it apply to damage to tires unless caused by an accident covered under this policy.

You only have the coverages for which specific premium charges are shown on the Declarations Page. For each coverage, we won't pay more than the amount for the coverage shown on the Declarations Page.

PAC 2105 (Ed. 1/80)B
CUSTOMIZED VEHICLES BUY-BACK

Under *Losses We Won't Pay For* (Part 1), the *CUSTOMIZED VEHICLES* section does not apply to customized features which are permanently installed.

Under *How We'll Settle A Claim* (Part 1), the first sentence under the *AMOUNT* provision is replaced by the following:

The maximum amount we are responsible to you for is the actual cash value of the damaged or stolen property at the time of the loss (*taking into account the fact that it may no longer be new*), up to the stated value, minus the amount of the deductibles, shown on the Declarations Page for these coverages.

This coverage applies only to the vehicle with customized features which are reported to the company. These customized features must be permanently installed in or on the car shown on the Declarations and indicated by a specific premium charge.

PAC 2120 (Ed. 1/80)
LIMITATION OF PERSONAL INJURY PROTECTION

The following condition replaces the Policy Period; Territory provision contained in the Utah Personal Injury Protection Endorsement:

Policy Period; Territory

This coverage applies only to accidents which occur during the policy period and within the State of Utah.

PAC 2219A (Ed. 10/81)G
STACKING OF COVERAGES PROHIBITED

The following replaces the "more than one car" provision under *How We'll Settle a Claim* for Parts 2, 3, and 4, and is added:

1. to the "more than one car" provision under *How We'll Settle a Claim* for Part 1; and
2. to the "Limits of Liability" section of the no-fault endorsement.

Regardless of the number of cars to which this policy applies, if you or any other person insured under this policy are in an accident while in a car covered by this policy, we won't pay more than the limit of applicable coverages for that particular car (as shown on the Declarations Page). Regardless of the number of cars to which this policy applies, if you or other insured persons are in an accident while in a car that is not covered under this policy or while a pedestrian, we won't pay more than the limits of applicable coverages which you have on any one of your cars (as shown on the Declarations page). In neither case can coverages on other cars insured by us be added to or stacked upon the coverage of the particular car involved.

Attaching Clause

Those endorsements in this booklet whose numbers appear on the Declarations Page are subject to the Declarations and other terms of the policy consistent with them. They form a part of your policy.

Prudential Property and Casualty Insurance Company

Joseph R. Leichman

Secretary

C. H. Whitten

President

Prudential General Insurance Company

Joseph R. Leichman

Secretary

Robert A. Wall

President

ALLEN N. HENDERSON
Attorney for Plaintiff
607 Crandall Building
Salt Lake City, Utah 84101
Telephone: (801) 322-1279

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

GORDON J. SWENSON,)	
)	
Plaintiff,	)	PLAINTIFF'S RESPONSES TO
	)	INTERROGATORIES OF DEFENDANTS
-vs-	)	HINCKLEY'S INCORPORATED AND
	)	GORDON T. GLENN
CHRYSLER CORPORATION, HINCKLEYS)	
INCORPORATED a/k/a HINCKLEY'S)	
INCORPORATED a/k/a HINCKLEY'S)	
INC., UNIVERSAL UNDERWRITERS	)	CIVIL NO. C84-6816
INSURANCE COMPANY, GORDON T. GLENN,)	
WESTERN SURETY COMPANY, AND)	
PRUDENTIAL GENERAL INSURANCE)	
COMPANY,	)	JUDGE JUDITH M. BILLINGS
)	
Defendants.)	

PLAINTIFF Gordon J. Swenson, being duly sworn upon oath, submits the following Responses to Interrogatories of Defendants Hinckley's Incorporated and Gordon T. Glenn:

INTERROGATORY NO. 1

State each and every fact upon which you base your allegation that the transaxle mounts in the subject automobile had been detached prior to May 12, 1984.

RESPONSE TO INTERROGATORY NO. 1

Prior to May 12, 1984, the transaxle mount holes in such automobile

had been drilled to a size larger than normal, and rags had been stuffed into mount holes. This would not have been possible without detachment of the transaxle.

INTERROGATORY NO. 2

Set forth each and every fact upon which you base your allegation that the transaxle mounts in the subject vehicle had been defectively reinstalled prior to May 12, 1984.

RESPONSE TO INTERROGATORY NO. 2

Prior to May 12, 1984, the transaxle mount holes in such vehicle had been drilled to a size larger than normal, and rags had been stuffed into mount holes. Such a method of reinstallation was defective.

INTERROGATORY NO. 3

Set forth each and every fact upon which you base your claim that the transaxle mounts in the subject automobile had been altered or weakened prior to May 12, 1984.

RESPONSE TO INTERROGATORY NO. 3

Prior to May 12, 1984, the transaxle mount holes in such automobile had been drilled to a size larger than normal, and rags had been stuffed into mount holes. Since the size of the mounting bolts had not been changed, the mounts were weakened thereby.

INTERROGATORY NO. 4

Identify each and every fact upon which you base your allegation that defendant Hinckley's had knowledge of any alleged detachment, reinstallation or alteration of the transaxle mounts in the subject vehicle.

RESPONSE TO INTERROGATORY NO. 4

Such vehicle was in the possession of defendant Hinckley's at all times subsequent to its purchase from Defendant Chrysler Corporation and prior to its purchase by Plaintiff. Such substantial modification would not have been possible without Hinckley's knowledge.

INTERROGATORY NO. 5

Identify each and every fact upon which you base your allegation that defendant Glenn had any knowledge of the alleged detachment, reinstallation or alteration of the transaxle mounts on the subject vehicle.

RESPONSE TO INTERROGATORY NO. 5

Glenn was an employee of Hinckley's throughout the period of Hinckley's possession of such vehicle. Glenn was informed as to the quantity, quality, and condition of Hinckley's inventory at the time of Plaintiff's purchase of such vehicle.

INTERROGATORY NO. 6

What statements or representations, if any, were made to you concerning the vehicle at the time of purchase and by whom were such statements or representations made?

RESPONSE TO INTERROGATORY NO. 6

It was understood throughout purchase negotiations for the vehicle that Plaintiff was only interested in buying a "new" car. All cars shown to Plaintiff by Defendant Glenn, including the subject vehicle, were purportedly "new" cars and had "new" car manufacturer's invoice stickers in their windows. Plaintiff's retail order for the subject vehicle indicated that it was "new". Defendants Hinckley's and Glenn were under a duty to either disclose the substandard method by which the transaxle mounts in the subject vehicle had been modified, or to represent that the subject vehicle was a "used" car, and said Defendants did neither.

INTERROGATORY NO. 7

What written warranty or other writing, if any, accompanied the initial sale? You may attach copies as your answer to this Interrogatory.

RESPONSE TO INTERROGATORY NO.

Copies of the Retail Order and New Vehicle Preparation are attached and marked Exhibit "A". Additional writings, if any, may be obtained from Defendant Hinckley's.

INTERROGATORY NO. 8

Where, when and from whom did you obtain possession of the product involved in this case.

RESPONSE TO INTERROGATORY NO. 8

Possession of the subject vehicle was obtained from Defendant Glenn

and a service agent of Hinckley's (whose name is unknown to Plaintiff) at Defendant Hinckley's service center, several days after purchase thereof (approximately June 16, 1980).

INTERROGATORY NO. 9

What statements or representations, if any, concerning the product were made to you when you initially obtained possession of it?

RESPONSE TO INTERROGATORY NO. 9

The product was represented to be a "new" car. No disclosure was made concerning the defective condition of the transaxle mounts.

INTERROGATORY NO. 10

Identify specifically each and every repair, modification, or parts or replacement to the vehicle and with regard to each such repair, modification or parts replacement set forth the following:

- (a) The date;
- (b) Person making such modification, repair or replacement;
- (c) The reason necessitating such work;
- (d) Attach copies of any and all invoices or other documentation relating in any way to said work.

RESPONSE TO INTERROGATORY NO. 10

Documents referred to herein are marked Exhibit "B" and made a part hereof by reference.

1. Repair of exterior damage, right rear.
 - (a) April 1-3, 1981.
 - (b) Glen's Polish and Paint.
 - (c) Collision damage.
 - (d) Copy attached.
2. Repair of fuel pump and fuel tank.
 - (a) June 30, 1981.
 - (b) Hinckley's Dodge.
 - (c) Fuel pump malfunction.
 - (d) Copy attached.
3. Wheel alignment and balance.
 - (a) March 10, 1982.
 - (b) Shio Bros. Automotive.
 - (c) Wheel vibration.
 - (d) Copy attached.
4. Wheel replacement.
 - (a) May 4, 1982.
 - (b) Freed Chrysler Plymouth, Goodyear Tire Center.
 - (c) Wheel damage.
 - (d) Copies attached.
5. Rear shock absorber replacement.
 - (a) May 5, 1982.
 - (b) Cottonwood Tire Center.
 - (c) Shocks worn.
 - (d) Copy attached.

6. Front shock absorber replacemnt.
 - (a) October 26, 1982.
 - (b) Goodyear Tire Center.
 - (c) Shocks worn.
 - (d) Copy attached.
7. Repair of left front fender.
 - (a) October 4, 1983.
 - (b) Pioneer Body and Paint (Dennis Wilson).
 - (c) Collision damage.
 - (d) Copies attached.
8. Cooling system flush & repair.
 - (a) April 12, 1984.
 - (b) Conoco.
 - (c) Cooling system malfunction.
 - (d) Copy attached.
9. Replacement of water pump and door handle.
 - (a) May 9, 1984.
 - (b) Foreign Service Center.
 - (c) Water pump malfunction, door handle malfunction.
 - (d) Copy attached.
10. Transaxle replacement and door handle replacement.
 - (a) May 14, 1984 through July 31, 1984.
 - (b) Lunt Motor Company (Dennis Huntsman).
 - (c) Transaxle mount failure, door handle malfunction.
 - (d) Copy attached.

11. Gas cap replacement.
 - (a) August 6, 1984.
 - (b) Gordon J. Swenson (purchased from Hinckley's Dodge).
 - (c) Lost gas cap.
 - (d) Copy attached.
12. Distributor replacement, hose replacement, and brake repair.
 - (a) August 16, 1984.
 - (b) Cottonwood Chrysler-Plymouth-Honda.
 - (c) Distributor, hose, and brake malfunction.
 - (d) Copy attached.
13. Shift linkage adjustment.
 - (a) August 28, 1984.
 - (b) Cottonwood Chrysler-Plymouth-Honda.
 - (c) Shifter malfunction.
 - (d) Copy attached.
14. Defroster repair.
 - (a) October 24, 1984.
 - (b) Pioneer Dodge Center.
 - (c) Defroster malfunction.
 - (d) Copy attached.
15. Bearing pack and replacement.
 - (a) December 11, 1984.
 - (b) Pioneer Dodge Center.
 - (c) Bearing wear.
 - (d) Copy attached.

16. Axle shaft and ignition repair.

- (a) December 18, 1984.
- (b) Shio Bros. Automotive.
- (c) Axle and steering failure; ignition malfunction.
- (d) Copy attached.

INTERROGATORY NO. 11

Identify by name, current address and current work and telephone numbers each and every person who has ever driven said vehicle.

PARTIAL RESPONSE TO INTERROGATORY NO. 11

Plaintiff has objected to this Interrogatory on grounds set forth in Plaintiff's Objections to Interrogatories of Defendants Hinckley's Incorporated and Gordon T. Glenn. Without waiving such grounds and such objections, Plaintiff states that it is his belief that no persons other than the following have driven the subject vehicle substantial distances:

Gordon J. Swenson
1696 Atkin Avenue #1
Salt Lake City, Utah 84106
(801) 467-7420 (home)
(801) 363-0344 (work)

Sarah H. Fox
1696 Atkin Avenue #1
Salt Lake City, Utah 84106
(801) 467-7420 (home)
(801) 581-3461 (work)

Glen R. Swenson
3152 Valley Street
Salt Lake City, Utah 84109
(801) 485-5383 (home)
(801) 328-8500 (work)

Marian O. Swenson
3152 Valley Street
Salt Lake City, Utah 84109
(801) 485-5383 (home)
(801) 581-4657 (work)

Adrienne Swenson
2670 Morning Star #11
Salt Lake City, Utah 84124
(801) 277-8361 (home)
(801) 355-0711 (work)

Brian Beard
605 East 900 South
Salt Lake City, Utah 84105
(801) 533-0714 (home & work)

Jacquita Corry
3191 Bon View Drive
Salt Lake City, Utah 84109
(801) 272-2031 (home)
(801) 581-7767 (work)

Fabienne A. Morck
966 Lake Street
Salt Lake City, Utah 84105
(801) 359-5047 (home)
(801) 278-2691 (work)

Annique Morck
1560 Summit View
Anchorage, Alaska 99504
(907) 333-7760 (home)
No business telephone.

Lynn Kelly
2038 East 4675 South
Salt Lake City, Utah 84117
(801) 277-8004 (home)
(801) 582-1565 Ext. 390 (work)

INTERROGATORY NO. 12

Identify each and every person who has performed any maintenance on the subject vehicle.

PARTIAL RESPONSE TO INTERROGATORY NO. 12

Plaintiff has objected to this Interrogatory on grounds set forth in Plaintiff's Objections to Interrogatories of Defendants Hinckley's Incorporated and Gordon T. Glenn. Without waiving such grounds and such objections, Plaintiff restates his Response to Interrogatory No. 10 as though set forth in full and states that at approximately every 4000 miles he was in the habit of having the oil changed and fluid levels checked in the subject vehicle at stations such as, and including, those operated by "Minit-Lube", and that he generally had his tires rotated twice a year at Goodyear Tire Center.

INTERROGATORY NO. 13

Identify any and all documents relating to the performance of any maintenance on said vehicle.

PARTIAL RESPONSE TO INTERROGATORY NO. 13

Plaintiff has objected to this Interrogatory on grounds set forth in Plaintiff's Objections to Interrogatories of Defendants Hinckley's Incorporated and Gordon T. Glenn. Without waiving such grounds and such objections, Plaintiff states that certain documents are referred to in his Response to Interrogatory No. 10, which is hereby restated as though set forth in full, and states that copies of several additional receipts are attached hereto, marked Exhibit "C", and made a part hereof by reference.

INTERROGATORY NO. 14

Describe any damage, however slight, to the exterior, interior or

mechanical parts of the vehicle, whether resulting from accident, collision or any other source and with regard to each such damage, set forth the following:

- (a) The date of such damage;
- (b) The circumstances regarding the cause of such damage;
- (c) The date or dates when the damage was repaired;
- (d) The person or persons performing such repairs;
- (e) Who paid for said repairs.

PARTIAL RESPONSE TO INTERROGATORY NO. 14

Plaintiff has objected to this Interrogatory on grounds set forth in Plaintiff's Objections to Interrogatories of Defendants Hinckley's Incorporated and Gordon T. Glenn. Without waiving such grounds and such objections, Plaintiff states that damage which has been repaired is set forth in his Response to Interrogatory No. 10, which is hereby restated as though set forth in full, that each Item of damage occurred on a date not recalled by Plaintiff (except the transaxle mount failure, Item 10, discovered on May 12, 1984, and resulting shift linkage adjustment, Item 13, which are the subject of this litigation), and that repair Item 1 was paid for by Fabienne A. Morck or Nationwide Insurance Company, Item 2 was paid for by Fabienne A. Morck, Item 7 was paid for by Nationwide Insurance Company, Item 9 was paid for by Sarah H. Fox, and all others were paid for by the Plaintiff, Gordon J. Swenson.

INTERROGATORY NO. 15

State the date and describe the circumstances of your first giving

notice to defendant Hinckley's or Gordon T. Glenn of the alleged defect and/or breach of warranty.

RESPONSE TO INTERROGATORY NO. 15

Hinckley's was notified by letter dated May 23, 1984, a copy of which is attached hereto, marked Exhibit "D", and made a part hereof by reference.

INTERROGATORY NO. 16

Identify by name, current address and current business and home telephone numbers the person who currently has custody of the subject vehicle.

RESPONSE TO INTERROGATORY NO. 16

The subject vehicle is in the custody of the Plaintiff, Gordon J. Swenson, 1696 Atkin Avenue #1, Salt Lake City, Utah 84106, (801) 363-0344 (work), (801) 467-7420 (home).

INTERROGATORY NO. 17

Identify by name, current address and current business and home telephone numbers each and every person who has any parts to the subject vehicle.

RESPONSE TO INTERROGATORY NO. 17

All parts still known to Plaintiff are in the possession of the Plaintiff, Gordon J. Swenson, 1696 Atkin Avenue #1, Salt Lake City, Utah 84106, (801) 363-0344 (work), (801) 467-7420 (home). If any parts have been retained by persons previously performing maintenance on the subject vehicle, those

persons have been identified in Plaintiff's Responses to Interrogatories Nos. 10 and 12, which responses are hereby restated as though set forth in full.

INTERROGATORY NO. 18

Identify each and every witness whom you claim to have any knowledge with regard to the facts set forth in your Complaint.

RESPONSE TO INTERROGATORY NO. 18

Persons with knowledge of facts set forth in the Complaint include Tom Gillis, Ray Potter, Kathy Coleman, and each and every person named in Responses to Interrogatories Nos. 1 through 17, inclusive, and 19, herein, which Responses to Interrogatories are hereby restated as though set forth in full.

INTERROGATORY NO. 19

Identify each and every expert witness whom you expect to call at the trial of this action.

RESPONSE TO INTERROGATORY NO. 19

The expert witnesses to be called at trial are not yet known to Plaintiff. A supplemental response will be provided when their names become available.

DATED THIS 5th day of February, 1985.

Gordon J. Swenson
Gordon J. Swenson

SUBSCRIBED and sworn to before me this 5th day of February,
1985.

Nancy Larsen
Notary Public
Residing in the State of Utah

(SEAL)

My Commission Expires:

08-24-88

DEALER NAME, ADDRESS, CODE

HINCKLEYS INC.
1060 SOUTH MAIN ST.
SALT LAKE CITY, UT. 84101



CHRYSLER
CORPORATION

REPAIR ORDER NUMBER

101822
80-403

DEALER STOCK NUMBER

CUSTOMER

VEHICLE IDENTIFICATION NUMBER

1 1 1 Z L 2 4 A A D 3 2 8 9 1 4

DATE PERFORMED

5/17/80

MECHANIC #

2

74 56189

ZONE		DEALER CODE			

NEW VEHICLE PREPARATION

INSPECTION AND ROAD TEST

PASSENGER CARS & TRUCKS

PERFORM THE INSPECTION AND ADJUSTMENTS AS LISTED BELOW

☒ UNDER HOOD

- CHECK OPERATION OF HOOD LATCH AND SAFETY CATCH—ADJUST AS REQUIRED
- CHECK ALL FLUIDS FOR PROPER LEVEL & TOP OFF AS REQUIRED—ENGINE OIL, AUTO TRANS FLUID, BRAKE MASTER CYL., POWER STEERING, WINDSHIELD WASHER, COOLING SYSTEM (TEST FOR PROTECTION LEVEL)
- CHECK BRAKE, FUEL, POWER STEERING LINES FOR PROPER ROUTING AND CONNECTIONS FOR LEAKS, TIGHTEN LOOSE CONNECTORS AS REQUIRED
- CHECK ROUTING AND CONNECTIONS OF UNDERHOOD WIRING, VACUUM & COOLANT HOSES—REROUTE & TIGHTEN AS REQUIRED
- CHECK BATTERY LEVEL, CABLES AND STATE OF CHARGE—TOP OFF AND CHARGE AS REQUIRED
- CHECK STEERING COUPLING PIN OR LOCK BOLT FOR PROPER INSTALLATION
- CHECK THROTTLE LINKAGE & CHOKE OPERATION—ADJUST AS REQUIRED
- CHECK EGR VALVE FUNCTION
- CHECK IGNITION TIMING, IDLE SPEED AND MIXTURE - ADJUST AS REQUIRED (IMPORTS ONLY)

☒ BODY

- CHECK OPERATION AND FIT OF DOORS, TRUNK LID, HOOD, TAILGATE OR LIFTGATE, FENDERS. ADJUST STRIKERS AND LATCHES AS REQUIRED (INCLUDES WEATHERSTRIIP SEAL ON TRUNK LID & TAILGATE/LIFTGATE)
- CHECK OPERATION OF WINDOWS
- CHECK OPERATION OF SEATS, SEAT BACK LATCHES, SEAT & SHOULDER BELTS & RETRACTORS AND HEAD RESTRAINT
- INSTALL SHIPPED LOOSE ITEMS
- TOUCH UP MINOR PAINT CHIPS & SCRATCHES

☒ UNDER VEHICLE

- CHECK ALL STEERING & SUSPENSION COMPONENTS FOR LOOSE ATTACHMENTS AND PROPER KEYING.—BALL JOINTS, CONTROL ARMS, IDLER ARMS, STRUTS, PITMAN ARM—TIGHTEN & KEY AS REQUIRED
- CHECK BRAKE, FUEL AND EXHAUST SYSTEMS FOR PROPER CLEARANCE, ROUTING AND LEAKS—ADJUST AS REQUIRED
- CHECK ALL UNDERBODY FLUID LEVELS AND TOP OFF AS REQUIRED—AXLES, TRANSMISSION, TRANSFER CASE, TRANS AXLE
- CHECK & ADJUST TIRE PRESSURE TO SPEC'S.
- TORQUE WHEEL STUD NUTS—DUAL REAR WHEELS
- CHECK FRONT DRIVE SHAFT FLANGE ATTACHMENT SCREWS LOCKING CAPS FOR PROPER INSTALLATION ("L" BODY MANUAL TRANS AXLE ONLY)
- REMOVE SHIPPING BRACKETS WHERE APPLICABLE
- CHECK MANIFOLD HEAT CONTROL VALVE FUNCTION.

☒ ROAD TEST & INSPECT FOR PROPER OPERATION

- CHECK STEERING COLUMN LOCK, SEAT BELT & KEY BUZZER
- CHECK CLUTCH OR NEUTRAL START SWITCH OPERATION ADJUST IF REQUIRED
- CHECK OPERATION OF GAUGES, INSTRUMENTS, LIGHTS, HORN, SIGNALS, MIRRORS, WINDSHIELD WIPERS & WASHERS (ADJ. WIPERS AND AIM WASHERS AS REQUIRED)
- CHECK OPERATION OF HEATER/AIR CONDITIONER, RADIO AND OTHER OPTIONS—TRIM RADIO ANTENNA IF REQUIRED
- CHECK BRAKE OPERATION INCLUDING PARKING BRAKE & WARNING SYSTEM
- CHECK ENGINE, TRANSMISSION & TRANSFER CASE PERFORMANCE—ADJUST AS REQUIRED
- CHECK STEERING, POWER ASSIST AND STEERING WHEEL CENTER—ADJUST AS REQUIRED
- CHECK FOR SQUEAKS, RATTLES, AIR LEAKS & VIBRATIONS—TIGHTEN OBVIOUS LOOSE FASTENERS
- REMOVE PROTECTIVE SEAT CUSHION AND CARPET COVERS, AND CERTIFY FOR DELIVERY

☐ OTHER

☐ OTHER

FOR CUSTOMER CONVENIENCE:

- ☐ RECORD KEY NUMBERS
- ☐ ALL SPECIAL OWNER INSTRUCTIONS, TAGS, LABELS, SUN VISOR SLIP, ETC. SHOULD BE LEFT ON



DEALER'S CERTIFICATION

I certify that this vehicle has been inspected and road tested, and that adjustments were performed, as indicated by the check mark in the boxes.

John A. Vea



HINCLEYS SINCE 1915

1000 SOUTH MAIN — SALT LAKE CITY, UTAH 84101
2309 SOUTH STATE — SALT LAKE CITY, UTAH 84115
2810 WASHINGTON BLVD. — OGDEN, UTAH 84401

(801) 359-7655
(801) 484-8755
(801) 394-8844



WHERE YOUR NEW DODGE CAR OR TRUCK IS GUARANTEED FOR AS LONG AS YOU OWN IT.
AS STATED IN HINCLEYS ORIGINAL GUARANTEE

PURCHASER'S NAME Gordon Swenson SOCIAL SECURITY NO. 6-1016 AGE 41 DA 10/10/47
STREET ADDRESS 1912 So. Douglas St. #5 CITY SLC STATE UT ZIP 84106

RESIDENCE PHONE 467-7420 BUSINESS PHONE

VEHICLE BEING PURCHASED		CASH DELIVERED PRICE OF VEHICLE	
PLEASE ENTER MY ORDER FOR THE FOLLOWING	<input checked="" type="checkbox"/> NEW <input type="checkbox"/> USED <input type="checkbox"/> DEMO <input type="checkbox"/> CAR <input type="checkbox"/> TRUCK <input type="checkbox"/> OTHER	<u>5yr. 50,000 Est price</u>	<u>295</u>
YEAR <u>1980</u> MAKE <u>Dodge</u>		ACCESSORIES <u>AM/FM CASSETTE</u>	<u>245</u>
MODEL OR SERIES <u>OMNI</u> BODY TYPE <u>034</u>		<u>2 Spk</u>	
COLOR <u>LIGHT CASHMERE</u> TRIM			
IDENTIFICATION NO. <u>ZL24AA0328917</u> ENGINE TYPE <u>4 Cyl.</u>			
MILEAGE <u>10</u>			
TO BE DELIVERED ON OR ABOUT	STOCK NO. <u>80-403</u>		
SALESMAN <u>Gordon</u>		<u># 5520 \$6861.75 6-14-80 m.d</u>	
USED VEHICLE TRADED IN AND/OR OTHER CREDITS			
MAKE OF TRADE-IN <u>None</u>			
YEAR MODEL BODY			
SERIES			
I CERTIFY THAT THE ODOMETER READING ON MY ABOVE TRADE READS _____ MILES. THE ODOMETER HAS _____ HAS NOT _____ EXCEEDED 100,000 MILES.			
Signature _____			
IDENTIFICATION NO.		Cash Price of Vehicle & Accessories	<u>\$6525</u>
BALANCE OWED TO		STATE AND LOCAL TAXES	<u>311</u>
ADDRESS		License, License Transfer, Title, Registration Fee	<u>25</u>
USED TRADE-IN ALLOWANCE	\$	TOTAL PRICE OF UNIT	<u>\$6861</u>
BALANCE OWED ON TRADE-IN	\$	TOTAL CREDIT (TRANSFERRED FROM LEFT COLUMN)	<u>\$6861</u>
NET ALLOWANCE ON USED TRADE-IN	\$	UNPAID CASH BALANCE DUE ON DELIVERY	<u>\$ - 0 -</u>
DEPOSIT OR CREDIT BALANCE	\$		
CASH WITH ORDER	<u>\$6861</u>		
TOTAL CREDIT (TRANSFER TO RIGHT COLUMN)	<u>\$6861</u>		

Purchaser agrees that this Order includes all of the terms and conditions on both the face and reverse side hereof, that this Order cancels and supersedes any prior agreement and as of the date hereof comprises the complete and exclusive statement of the terms of the agreement relating to the subject matter covered hereby, and that THIS ORDER SHALL NOT BECOME BINDING UNTIL ACCEPTED BY DEALER OR HIS AUTHORIZED REPRESENTATIVE.

Purchaser by his execution of this Order acknowledges that he has read its terms and conditions and has received a true copy of this Order

"THANK YOU — WE APPRECIATE YOUR BUSINESS"

PURCHASER'S SIGNATURE Gordon Swenson

ACCEPTED BY Hincleys Inc

PER [Signature] (NAME AND TITLE)

DATE 6-14-80

ORIGINAL

RETAIL ORDER FOR A MOTOR VEHICLE

"A CREDIT SALE, REQUIRED INFORMATION CONTAINED ON A SEPARATE DISCLOSURE STATEMENT IS MADE A PART OF THIS FC



"Complete Auto Reconditioning" INC. Phone: 328-1539
337 West American Avenue (955 South) Salt Lake City, Utah 84101

P. O. ORDER NO. _____ DATE _____ 19__

payable at the office of Glen's Polish & Paint, Inc. in Salt Lake City, Utah. Due the 10th day of the month following the date of charge. In the event this claim is not paid within 30 days after due date, I or We agree to pay reasonable attorney fees with or without suit together with 10% interest until paid both before and after judgement.

No 9537 REC'D BY



"Complete Auto Reconditioning" INC. Phone: 328-1539
337 West American Avenue (955 South) Salt Lake City, Utah 84101

P. O. ORDER NO. _____ DATE _____ 19 _____

Payable at the office of Glen's Polish & Paint, Inc. in Salt Lake City, Utah. Due the 10th day of the month following the date of charge. In the event this claim is not paid within 30 days after due date, I or We agree to pay reasonable attorney fees with or without suit together with 10% interest until paid both before and after judgement.

No 9528 REC'D BY



"Complete Auto Reconditioning" INC. Phone: 32
337 West American Avenue (955 South) Salt Lake City, Utah

P. O. ORDER NO. _____ DATE _____ 19__

Payable at the office of Glen's Polish & Paint, Inc. in Salt Lake City, Utah. Due 1 of the month following the date of charge. In the event this claim is not paid within 10 days after due date, I or We agree to pay reasonable attorney fees with or without suit and with 10% interest until paid both before and after judgement.

No 9526 REC'D BY

ALL PARTS INS	ALL D ARE NEW
UNLESS SPEC	IED OTHERWISE
TIRES	
TOTAL PARTS	
QTY	GAS, OIL & LUBRICANTS
	GASOLINE @
	QTS. OIL @
	LBS. GREASE @
	AUTO TRANS. FLUID @
TOTAL GAS, OIL & LUBRICANTS	
P.O. NUMBER	SUBLET REPAIRS
TOTAL SUBLET	

TERMS ARE FOR CASH ON DELIVERY. ESTIMATES ARE FOR LABOR ONLY. MATERIAL IS EXTRA.

REPAIR CONTRACT

I HEREBY REQUEST THE PERFORMANCE OF THE ABOVE REPAIR WORK AND THE FURNISHING OF PARTS AND MATERIALS YOU DEEM NECESSARY. I EXPRESSLY GRANT YOU A LIEN ON THE VEHICLE TO SECURE PAYMENT FOR SUCH REPAIRS. I AUTHORIZE YOU AND YOUR EMPLOYEES TO OPERATE THE VEHICLE FOR TEST OR INSPECTION PURPOSES. I ASSUME THE RISK OF LOSS BY FIRE OR THEFT AND/OR BY ANY OTHER CAUSE OTHER THAN YOUR NEGLIGENCE AFFIRMATIVELY INVOYED. AND AGREE THAT I HAVE OR WILL PROVIDE MY OWN INSURANCE PROTECTION AGAINST SUCH RISKS.

STORAGE WILL BE CHARGED 48 HOURS AFTER REPAIRS ARE COMPLETED.

10th SOUTH & MAIN
DIAL 359-7855
SALT LAKE CITY, UTAH
ZIP CODE 84101

2610 WASHINGTON BLVD.
DIAL 384-8844
OGDEN, UTAH
ZIP CODE 84401

2308 SOUTH STATE STREET
DIAL 484-8755
SALT LAKE CITY, UTAH
ZIP CODE 84115

S. 39070

TIME RECEIVED
8:35 AM

TIME PROMISED
WED PM

CASH ☒ CHARGE CARD ☐

PURCH. ORDER NO. ESTIMATED COST OF REPAIRS \$

ADDITIONAL AUTHORIZED AMOUNT DATE TIME DIRECT PHONE BIRTH AMOUNT

SAVE OLD PARTS FOR INSPECTION? YES NO

STYLE MAKE LICENSE NUMBER WRITTEN BY

BUSINESS PHONE RESIDENCE PHONE SPEEDOMETER

MECH. NO. DESCRIPTION

LUBRICATE
CHANGE OIL
CHANGE OIL FILTER
FUEL FILTER
STATE INSPECT

ALL PARTS INS ALL D ARE NEW
UNLESS SPEC IED OTHERWISE
TIRES

TOTAL PARTS

QTY GAS, OIL & LUBRICANTS

GASOLINE @

QTS. OIL @

LBS. GREASE @

AUTO TRANS. FLUID @

TOTAL GAS, OIL & LUBRICANTS

P.O. NUMBER SUBLET REPAIRS

TOTAL SUBLET

TERMS ARE FOR CASH ON DELIVERY. ESTIMATES ARE FOR LABOR ONLY. MATERIAL IS EXTRA.

REPAIR CONTRACT

I HEREBY REQUEST THE PERFORMANCE OF THE ABOVE REPAIR WORK AND THE FURNISHING OF PARTS AND MATERIALS YOU DEEM NECESSARY. I EXPRESSLY GRANT YOU A LIEN ON THE VEHICLE TO SECURE PAYMENT FOR SUCH REPAIRS. I AUTHORIZE YOU AND YOUR EMPLOYEES TO OPERATE THE VEHICLE FOR TEST OR INSPECTION PURPOSES. I ASSUME THE RISK OF LOSS BY FIRE OR THEFT AND/OR BY ANY OTHER CAUSE OTHER THAN YOUR NEGLIGENCE AFFIRMATIVELY INVOYED. AND AGREE THAT I HAVE OR WILL PROVIDE MY OWN INSURANCE PROTECTION AGAINST SUCH RISKS.

STORAGE WILL BE CHARGED 48 HOURS AFTER REPAIRS ARE COMPLETED.

SHOP SUPPLIES: A token charge equivalent to 5% of labor is included for supplies used on your vehicle. Maximum charge is \$5.00. Applicable supply items are: Nuts, bolts, washers, tape pens, aerospray, shellac, solvent, rags, carburetor cleaner, towels, solder, battery cleaner, wire, window sealer, etc.

PARTS, ACCESSORIES AND SERVICE

THE WARRANTY COVERING PARTS AND SERVICE IS THE WARRANTY OF THE MANUFACTURER OF THE PARTS THAT WARRANTY IS THE ONLY WARRANTY APPLICABLE. THE SELLER, HINCKLEY'S DODGE HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES EITHER EXPRESS OR IMPLIED INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND HINCKLEY'S DODGE NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY LIABILITY IN CONNECTION WITH THE SALE OF PARTS, ACCESSORIES AND SERVICE.

WE APPRECIATE YOUR PATRONAGE

Dodge **Mopar**

HINCKLEY'S DODGE Where your new Hinckley Dodge is guaranteed for as long as you own the car.

HINCKLEY'S DODGE "THE WORLD'S OLDEST DODGE DEALER"

all repairs guaranteed 90 days or 4000 miles

SERVICE & PARTS SALES

LABOR MECHANICAL	37.00
LABOR NON AUTO	
SUBLET WORK	
GAS OIL & LUBRICANTS	
LABOR BODY & PAINT	
BODY & PAINT MATERIAL	
PARTS & ACC MECH	
PARTS & ACC BODY & PAINT	
SUPPLIES	1.25
TIRES	
TAX	1.24
CHARGE SALES	
CASH SALES	

[illegible]

50 SOUTH 3rd EAST • SALT LAKE CITY • UTAH 84111 • TELEPHONE (801) 328-0105



91425

SOLD TO ASA

ADDRESS

DATE 5-2 1982

[illegible]

THANK YOU

ALL CLAIMS AND RETURNED GOODS MUST BE ACCOMPANIED BY THIS BILL.
RETURNED MERCHANDISE SUBJECT TO 10% HANDLING CHARGES.
NO RETURN AFTER 30 DAYS.

GOODYEAR TIRE CENTER

OWNED & OPERATED BY
COTTONWOOD TIRE, INC.

2165 S. Highland SALT LAKE CITY, UT 84108
5331 (801) 487-0829

2450 *
INVOICE NUMBER

5/4/82
DATE

☐ CASH ☐ CHARGE

P
R
I
N
T

BUYER'S NAME
ADDRESS
CITY

Gordon Svensson
1912 So Douglass
SLC Utah

CUSTOMER ORDER NO.
APR 24 1982
LICENSE NO. 33475
PAGE NO. 467
TIME PAID 7420
W.O. 12000

G1112 (6-81)

1 ☐ DEALER 2 ☒ CONSUMER 4 ☐ COMMERCIAL
TYPE SALE STATE CODE SALESMAN NO. 0 0 4

DUE DATE

PRODUCT CODE	QTY	SIZE	DESCRIPTION	PRY	EACH	EXTENSION	TRADE-IN	TOTAL	EXCISE EACH	EXCISE TOTAL
20401	02		SNOW DISMOUNTS					447		
			Mount on New Wheel + R.F.							
20401	02		Rotate Fts to Rear					NC		
			Discard L.Fo Wheel							
20411	01		VALVES Rubber					200		
20441	02		WHEEL BAL. Spin		600			1200		
20442	02		WHEEL WTS. Sets		100			200		
<input type="checkbox"/> NUMBER OF CARCASSES RECAPPABLE <input type="checkbox"/> NUMBER OF CARCASSES NOT RECAPPABLE TAG NOS.				ABOVE MDSE. RECEIVED IN GOOD CONDITION				TOTAL EXCISE TAX 105 SALES TAX 2099 PAY THIS TOTAL 2204		

R - REGULAR BILLING
EXCEPT FOR FOLLOWING:
A - ADJUSTMENT - STORE MANAGER
B - ADJUSTMENT - PRODUCT B-19
E - EXCHANGE OR CHANGE OVER
G - GOVERNMENT - STATE OR LOCAL

0 - FIRST
1 - SECOND
2 - NEW FOREIGN
3 - CHANGE OVER
4 - FOREIGN C.O.
5 - REPT. NEW
6 - BLEMISH
7 - W.D. 50%
8 - WRITTEN OFF

THIS IS YOUR INVOICE DO NOT DESTROY

CUSTOMER SIGNATURE

CUSTOMER

SERVICE ESTIMATE

THIS IS NOT AN INVOICE

No 068631

P R I N T	NAME	G. SWENSON		
	ADDRESS			
	CITY	STATE	ZIP	
STORE ADDRESS STAMP				
COTTONWOOD TIRE CENTER				
2165 HIGHLAND DRIVE				
SALT LAKE CITY, UTAH 84106				
487-0829				

DATE	MAKE OF CAR AND YEAR	LICENSE NO.	MILEAGE	PHONE NO.	TIME PROMISED
5-5-82	PONTIAC OMNI				
QUAN.	DESCRIPTION	PARTS	LABOR	TOTAL	
	REAR SHOCKS 44.00 + 20.00 EXTRA			64.00	
SUB-TOTALS					

PRICE IS FIRM FOR 10 DAYS - AFTER 10 DAYS PRICE MUST BE RECONFIRMED.

BALL JOINT TOLERANCES	
LEFT	RIGHT

TO KEEP YOUR FINAL BILL DOWN, SOME PARTS MAY BE RETURNED TO THE MANUFACTURER,
BUT ALL PARTS WILL BE NEW UNLESS OTHERWISE SPECIFIED.

SALES
TAX
ESTIMATE
TOTAL



CUSTOMER COPY

"YOU ARE ENTITLED TO A PRICE ESTIMATE FOR REPAIRS YOU HAVE AUTHORIZED. THE REPAIR PRICE MAY BE LESS THAN THE ESTIMATE, BUT WILL NOT EXCEED THE ESTIMATE WITHOUT YOUR PERMISSION. YOUR SIGNATURE WILL INDICATE YOUR ESTIMATE SELECTION."

- I REQUEST AN ESTIMATE IN WRITING BEFORE YOU BEGIN REPAIRS. (SIGNATURE)
- PLEASE PROCEED WITH REPAIRS, BUT CALL ME BEFORE CONTINUING
IF THE PRICE WILL EXCEED \$ (SIGNATURE)
- I DO NOT WISH TO RECEIVE AN ESTIMATE TO WHICH I AM
ENTITLED BY LAW BEFORE REPAIRS ARE AUTHORIZED. (SIGNATURE)

GOODYEAR TIRE CENTER

OWNED & OPERATED BY

GOODYEAR TIRE, INC.

1745 S. HIGHWAY 100, SUITE 100, DALLAS, TEXAS 75241

DATE TO
06/01/82

1112 S. BRUCLAN

STC

UT 841.8

DRIVER PERMIT NO.

INSURANCE POLICY NO.

VEHICLE MAKE AND MODEL

REPAIRS DISCLOSURE DATE

CUSTOMER'S SIGNATURE

LEASE PLATE NO.

REPORT NUMBER

00696

PREV. INVOICE NO.

AMILEAGE

37920

TIME PROVIDED

ACCOUNT NO.

1111

CP. AMT.

CLASS. CODE

842

DATE OF SALE

6/1

DATE OF SALE

CHUCK

TYPE STATE

0 0 0

STATE AMOUNT	PRODUCT CODE	QUANTITY	DESCRIPTION	AMOUNT APPLIED	EXCISE TAX, LABOR PRE. EACH	DISCOUNT
25 R C431		1	MOUNT SPARE	4.00		4.00
25 R C431		2	WHEEL END L. L. R. L.	1.00		2.00
25 R C431		2	WHEEL END L. L. R. L.	6.00		12.00
25 R C431		2	WHEEL END L. L. R. L.	1.00		2.00
34 R C432		2	SHOCKS PARTS	34.00		68.00

MECHANIC (S) NAME AND NO. THAT PERFORMED REPAIRS

REPAIRS
PAID TO
CUSTOMER

☐ YES

☐ NO

REPAIR TOTAL

51.00

AMOUNT OF TAXES

4.00

TAXABLE AMOUNT

55.00

SALES TAX

4.00

INVOICE TOTAL

64.00

Good condition of the vehicle and its contents is guaranteed in good condition

Customer Signature

[illegible]

T 10301 T, 4/12/22

DATE 4-12

NAME <i>Gordon Swenson</i>	CUSTOMERS ORDER NO.	YEAR, MAKE AND MODEL <i>90 Dodge Omni</i>	PROMISED AM
ADDRESS	PHONE <i>467-7420</i>	SERIAL NUMBER	LICENSE NUMBER
CITY, STATE & ZIP	ORDER WRITTEN BY	MOTOR NUMBER	SPEEDOMETER

SERVICE	AMOUNT	QTY.	PARTS AND ACCESSORIES	AMOU
GAS <input type="checkbox"/> FILL <input type="checkbox"/> PREM. <input type="checkbox"/> REG. <input type="checkbox"/> UNL. <input type="checkbox"/> DIESEL _____ GAL		1	HD Rad cleaner	4
LUBRICATION				
TRANSMISSION <input type="checkbox"/> FULL/OK <input type="checkbox"/> ADD <input type="checkbox"/> CHANGE _____ PTS./LBS.		1	Antifreeze + w/f flwr	2
DIFFERENTIAL <input type="checkbox"/> FULL/OK <input type="checkbox"/> ADD <input type="checkbox"/> CHANGE _____ PTS./LBS.				
POWER STEERING <input type="checkbox"/> FULL/OK <input type="checkbox"/> ADD _____ OZ.				
BRAKE FLUID <input type="checkbox"/> FULL/OK <input type="checkbox"/> ADD _____ OZ.				
OIL <input type="checkbox"/> FULL/OK <input type="checkbox"/> ADD <input type="checkbox"/> CHANGE _____ QTS.				
OIL FILTER <input type="checkbox"/> OK <input type="checkbox"/> REPLACE				
AIR FILTER <input type="checkbox"/> OK <input type="checkbox"/> REPLACE <input type="checkbox"/> CLEAN				
FUEL FILTER <input type="checkbox"/> OK <input type="checkbox"/> REPLACE				
PCV <input type="checkbox"/> OK <input type="checkbox"/> REPLACE				
ANTIFREEZE <input type="checkbox"/> OK <input type="checkbox"/> ADD <input type="checkbox"/> CHANGE <i>6 qts</i>	10.50			
WASH <i>Silicone Silicate</i>				
① SERVICE TOTAL →	10.50	③ PARTS & ACCESS. TOTAL →	7	

LABOR	AMOUNT	TIRES	AMOU
<i>Flush Cooling System - pressure test, install antifreeze</i>	12.50		
② LABOR TOTAL →	12.50	④ TIRE TOTAL →	
		⑤ BATTERY TOTAL →	

I HEREBY AUTHORIZE THE ABOVE REPAIR WORK TO BE DONE ALONG WITH THE NECESSARY MATERIAL YOU AND YOUR EMPLOYEES MAY OPERATE ABOVE VEHICLE FOR PURPOSES OF INSPECTION, TESTING AND DELIVERY AT MY RISK. AN EXPRESS MECHANICS LIEN IS HEREBY ACKNOWLEDGED ON THE ABOVE VEHICLE TO SECURE THE AMOUNT OF REPAIRS THERETO.

I ☐ DO ☐ DO NOT WISH TO RECEIVE AN ESTIMATE BEFORE REPAIRS ARE AUTHORIZED

SIGNATURE _____

DATE _____

JOB SUMMARY	①	SERVICE	10
	②	LABOR	12
	③	PARTS & ACCESSORIES	7
	④	TIRES	
	⑤	BATTERY	
		(TOWING)	30
		TAX	1
		TOTAL DUE	32

Date Promised

RECORD OF MATERIAL USED				
QUAN.	PART NO.	DESCRIPTION	SALE AMOUNT	
1	5212541	Joint	177	25
1	5212567	Tripart Joint	44	73
1	4205853	Bowl	26	83
1	5212569	Bowl	26	83
1	5212539	Seal	4	76
1	5212572	Hoisting	87	47
1	5240048	Trans	143	50
2	4318331	List	328	1
1	4184226	11-11	24	19
Charles - copy sent to				
PARTS TOTAL				
SUBLET REPAIRS				
SUBLET REPAIR TOTAL				
GASOLINE, OIL AND GREASE TOTAL				

DATE 5-14-84		"BETTER SERVICE BUILT THIS BUSINESS"		M 20083	
TIME RECEIVED		Dodge		LUNT MOTOR CO.	
TIME PROMISED		Sales & Service		DODGE - CHRYSLER - DODGE TRUCKS	
PHONE WHEN READY		PHONE 586-6591		CEDAR CITY, UTAH	
BUSINESS		Accounts due and payable to Lunt Motor Co., Cedar City, Utah, on or before the 10th of month following date of purchase. A FINANCE CHARGE of 1 1/2 % per month (21 % PER ANNUM) will be charged on past due accounts. If account is placed in hands of an attorney for collection, I agree to pay a reasonable attorney's fee and court costs.			
NAME		Gordon Swanson			
ADDRESS		426 EMERSON AVE			
CITY AND STATE		SALT LAKE CITY			
YEAR		MAKE		TYPE OR MODEL	
MOTOR NO.		SERIAL NO.		SPEEDOMETER	
LICENSE NO.		57913			
LUBRICATE		<input type="checkbox"/>			
CHANGE OIL		<input type="checkbox"/>			
CHANGE OIL FILTER		<input type="checkbox"/>			
SERVICE AIR CLEANER		<input type="checkbox"/>			
SERVICE A-TRANS.		<input type="checkbox"/>			
BALANCE WHEELS		<input type="checkbox"/>			
REPACK FRONT WHEELS		<input type="checkbox"/>			
REPACK 4-JOINT		<input type="checkbox"/>			
ROTATE TIRES		<input type="checkbox"/>			
WASH		<input type="checkbox"/>			
POLISH		<input type="checkbox"/>			

OPER. NO.	INSTRUCTIONS
	467 7420/363-6344
	Check out Drive train + Axle
	Small new transaxle + Repl. auto
	to Jant + Bolt + Drive Jant + Bolt + Bolt
	on left side <u>only</u> Bolt hole 5/16"
	nut + had to be that could before
	Rtx Drive Jant + Repl. auto Drive
	handle Repl. auto
	Repl. auto left by

WE PROPOSE TO MAKE THE ABOVE REPAIRS UNDER THE TERMS AND CONDITIONS HEREINAFTER SPECIFIED. PRICES QUOTED ARE FOR LABOR ONLY. PARTS AND MATERIALS ARE ADDITIONAL. WE ARE NOT RESPONSIBLE FOR ANY LOSS BY FIRE, THEFT, ACCIDENTS OR ANY CAUSE BEYOND OUR CONTROL. ALL NECESSARY TESTS WILL BE MADE BY OUR EMPLOYEES AT YOUR RISK. YOUR SIGNATURE HERE-UNDER CONSTITUTES ACCEPTANCE OF THIS PROPOSAL.		TOTAL LABOR	226.50
SIGNED		DEALER MATERIALS	
RECEIVED		TOTAL PARTS	194.33
CUSTOMERS		SUBLET REPAIRS	
INTERNAL		TOTAL GAS, OIL AND GREASE	
		TOTAL ACCESSORIES	
		SUB TOTAL	212.13
		TAX	11.61

WARRANTY ACCOUNT			INTERNAL ACCOUNT			CUSTOMER PAY DESCRIPTION		
COST	ACCOUNT	AMOUNT	COST	ACCOUNT	AMOUNT	COST	ACCOUNT	AMOUNT

						COTTONWOOD CHRYSLER-PLYMOUTH-HONDA 4646 SO. STATE STREET • PHONE 262-3331 MURRAY, UTAH 84107						INVOICE NO. DATE PAGES WORK ORDER NO.	
VEHICLE IDENT. NO.				VEHICLE CTL. NO.		MILEAGE	ADV.	YR/MODEL	PHONE-BUS.	RES.	CUSTOMER NO.	TAG NO.	WORK ORDER NO.
PARTS COST	ACTUAL HOURS	ACCT CODE	OP	TECH RATE	FLAT RATE HOURS	SMS	DESCRIPTION						CHARGES
		L00910	-	0010	0.5	34	CHECK & ADJ. HIET SPRING						
<div>PAID</div> <div>AUG 28 1984</div>													
DISCLAIMER OF WARRANTIES							WARRANTY ACCOUNT		INTERNAL ACCOUNT		CUSTOMER PAY DESCRIPTION		AMOUNT
Any warranties on the products sold hereby are those made by the manufacturer. The seller, COTTONWOOD CHRYSLER-PLYMOUTH-HONDA, hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and COTTONWOOD CHRYSLER-PLYMOUTH-HONDA neither assumes nor authorizes any other person to assume for it any liability in connection with this sale.													

10-2,310

PARTS AND SERVICE WORK GUARANTEED 4,000 MILES OR 90 DAYS - WHICHEVER OCCURS FIRST.	WE RECOMMEND THE FOLLOWING REPAIRS
	1. _____
	2. _____
	3. _____
REPLACED PARTS REQUESTED	

090571 C201 W2 3170NW SQ1 BMDU40

[illegible]

HOP REPAIR ORDER

N3

1327

DESCRIPTION AND PARTS NUMBER

AMOUNT

14.50

SHIO BROS. AUTOMOTIVE

328 West 600 South
Salt Lake City, Utah 84101
Phone (801) 621-7153

Name Gordon Swanson Date 12-18-81
Address _____ City 167-7420
Home Phone _____ Business Phone 363-0344
Year 1981 Make Oldsmobile Color _____ License _____
Speedometer _____

Vehicle ID's _____

☐ Repair as per Estimate Form

INSTRUCTIONS

HOURS

AMOUNT

Check Right Side Sheet
Replace Ignition Switch
- 18.20

Gas OK Open Items

NOT RESPONSIBLE FOR ANY PERSONAL ITEMS LEFT IN CAR
I hereby authorize the above repair work to be done along with the necessary
materials. You and your employees may operate the above vehicle for purposes
of test drive, inspection or delivery at my risk. An express mechanic's lien is
created against the above vehicle to secure the amount of repairs thereto. You
will not be held responsible for loss or damage to or articles left in
vehicle in case of fire, theft, accident or any other cause beyond your control.
STORAGE WILL BE CHARGED FORTY-EIGHT HOURS AFTER REPAIRS
ARE COMPLETED. IN THE EVENT LEGAL ACTION IS NECESSARY TO
ENFORCE THIS CONTRACT, I WILL PAY REASONABLE ATTORNEY'S
FEES AND COURT COSTS.

SIGNED X _____

Total CASHLESS CASH! Unless Arrangements Made.

PARTS	11.50
LABOR	50.20
PAINT MAI	
BODY MAI	
TOWING	
STORAGE	
CASHLESS	
SUB TOTAL	

Gordon J. Swenson #3172
Plaintiff and Attorney Pro Se
1120 Windsor St. #2
Salt Lake City, Utah 84105
Telephone: (801) 521-8026

00121155

C. Pocher

IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY
STATE OF UTAH

GORDON J. SWENSON,)	
)	
Plaintiff,	)	MOTION, STIPULATION, AND
	)	ORDER OF DISMISSAL WITH
v.	)	PREJUDICE AND ON THE MERITS
)	
CHRYSLER CORPORATION, et al.,	)	Civil No. C-84-6816
)	
Defendants.	)	Judge Judith M. Billings
)	

The plaintiff, Gordon J. Swenson, pro se, and the defendants, Chrysler Corporation, Inc., Hinckleys Incorporated, Universal Underwriters Insurance Company, Gordon T. Glenn, Western Surety Company, and Nationwide Mutual Insurance Company (the "Settling Defendants"), by and through their attorneys of record, move the above court for an order dismissing the above-captioned matter, with prejudice and on the merits as to the Settling Defendants. The motion is based upon the complete settlement between the above-named parties and the General Release signed by the plaintiff.

The parties hereto agree and stipulate that the amount of three thousand five hundred dollars (\$3,500.00), paid to the plaintiff as consideration for settlement with the Settling Defendants, is to compensate the plaintiff for the following:

1. Three thousand one hundred sixty-four dollars and

thirty-five cents (\$3,164.35) for damages itemized as follows:

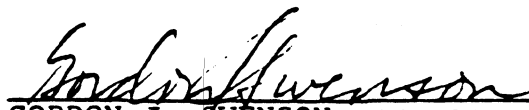
Repair including parts (transaxle)	\$2,102.03
Repair (shifter)	19.04
Towing	442.00
Substitute car rental	282.08
Estimated mileage, borrowed cars (@ 20c/mi.)	246.00
Bus fare (Cedar City)	25.86
Telephone long distance (Cedar City)	47.34

2. Three hundred thirty-five dollars and sixty-five cents (\$335.65) as partial reimbursement for litigation costs and expenses, consisting of filing, typing, duplication, and postage costs, relating to portions of this litigation involving the Settling Defendants, and not the defendant Prudential General Insurance Company ("Prudential").

Nothing in this dismissal shall affect the plaintiff's rights, including rights of appeal, against Prudential, except to the extent that the plaintiff's claim against Prudential results from the items of damage, and in the amounts, stated in numbered paragraphs 1 and 2 hereinabove.

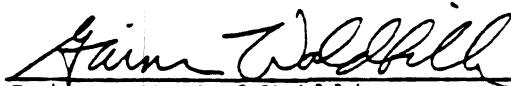
The parties, by and through their attorneys of record, and Gordon J. Swenson, pro se, hereby stipulate to the entry of an Order of Dismissal With Prejudice and on the Merits as to the plaintiff and the Settling Defendants in accordance with the Motion.

DATED this 17th day of October, 1986.


GORDON J. SWENSON, pro se


DATED this 17th day of October, 1986.

CHRISTENSEN, JENSEN & POWELL

By 
Gainer M. Waldbillig
Attorneys for Defendant
Chrysler Corporation


DATED this 20 day of October, 1986.

SNOW, CHRISTENSEN & MARTINEAU

By 
Dennis Ferguson
Attorneys for Hinkley's Inc.
Universal Underwriters
Insurance Company, Gordon
T. Glenn, Western Surety
Company

DATED this 17th day of October, 1986.

STRONG & HANNI

By 
Mark J. Taylor
Attorneys for Nationwide
Mutual Insurance Company

ORDER

Based upon the parties' Motion and Stipulation to an Order of Dismissal With Prejudice and on the Merits, and for good cause appearing, it is hereby ORDERED, ADJUDGED AND DECREED:

1. The above-entitled action shall be and is hereby dismissed with prejudice and on the merits as to the defendants Chrysler Corporation, Inc., Hinckleys Incorporated, Universal Underwriters Insurance Company, Gordon T. Glenn, Western Surety Company and Nationwide Mutual Insurance Company (the "Dismissed Defendants").

2. The amount of three thousand five hundred dollars (\$3,500.00) which has been paid to the plaintiff by the Dismissed Defendants as consideration for settlement herein shall be deemed to have compensated the plaintiff as follows:

(a) Three thousand one hundred sixty-four dollars and thirty-five cents (\$3,164.35), for damages itemized as follows:

Repair including parts (transaxle)	\$2,102.03
Repair (shifter)	19.04
Towing	442.00
Substitute car rental	282.08
Estimated mileage, borrowed cars (@ 20c/mi.)	246.00
Bus fare (Cedar City)	25.86
Telephone long distance (Cedar City)	47.34


(b) Three hundred thirty-five dollars and sixty-five cents (\$335.65) as partial reimbursement for litigation costs and expenses, consisting of filing, typing, duplication, and postage costs, relating to portions of this litigation involving the Dismissed Defendants, and not the defendant Prudential General Insurance Company ("Prudential").

3. All previous orders, judgements and decrees in this

action, including the Summary Judgement entered November 18, 1985, in favor of the defendant Prudential, are hereby declared final for purposes of Rule 3(a), Utah Rules of Appellate Procedure, and Rule 54(b), Utah Rules of Civil Procedure. The court hereby expressly directs entry of judgement in favor of the defendant Prudential, and expressly determines that there is no just reason for delay.

DATED this 27 day of October, 1986.

BY THE COURT


Judith M. Billings
District Court Judge
Third Judicial District

H. THOMAS HANLEY

By C. F. Felt
Clerk of Court

CERTIFICATE OF MAILING

I hereby certify that on this 17th day of October, 1986, I caused to be mailed, postage prepaid, a true and correct copy of the foregoing MOTION, STIPULATION, AND ORDER OF DISMISSAL WITH PREJUDICE AND ON THE MERITS to Terry M. Plant, Hanson, Dunn, Epperson & Smith, 650 Clark Leaming Office Center, 175 South West Temple, Salt Lake City, Utah 84101.

