

1989

Kelly Wagner v. Farmers Insurance Exchange : Brief of Appellant

Utah Court of Appeals

Follow this and additional works at: https://digitalcommons.law.byu.edu/byu_ca1



Part of the [Law Commons](#)

Original Brief Submitted to the Utah Court of Appeals; digitized by the Howard W. Hunter Law Library, J. Reuben Clark Law School, Brigham Young University, Provo, Utah; machine-generated OCR, may contain errors.

M. David Eckersley; Prince, Yeates & Geldzahler; Attorneys for Plaintiff/Appellant.

Don J. Hanson; Bayle, Hanson, Nelson and Chipman; Attorneys for Defendant/Respondent.

Recommended Citation

Brief of Appellant, *Wagner v. Farmers Insurance Exchange*, No. 890316 (Utah Court of Appeals, 1989).
https://digitalcommons.law.byu.edu/byu_ca1/1909

This Brief of Appellant is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Court of Appeals Briefs by an authorized administrator of BYU Law Digital Commons. Policies regarding these Utah briefs are available at http://digitalcommons.law.byu.edu/utah_court_briefs/policies.html. Please contact the Repository Manager at hunterlawlibrary@byu.edu with questions or feedback.

UTAH COURT OF APPEALS
BRIEF

UTAH
DOCUMENT
KFU
50

.A10
DOCKET NO. 89-0316

IN THE SUPREME COURT
OF THE STATE OF UTAH

KELLY WAGNER,	:	
	:	
Plaintiff/Appellant,	:	
	:	
vs.	:	
	:	Case No. 880195
FARMERS INSURANCE EXCHANGE,	:	
	:	Category 14b
Defendant/Respondent.	:	

BRIEF OF APPELLANTS

APPEAL FROM A FINAL JUDGMENT
OF THE THIRD DISTRICT COURT,
HONORABLE SCOTT DANIELS, DISTRICT JUDGE

Don J. Hanson
Bayle, Hanson, Nelson & Chipman
1300 Continental Bank Building
Salt Lake City, UT 84111
Attorney for Defendant/Respondent

M. David Eckersley
Prince, Yeates & Geldzahler
175 East Fourth South
City Centre I, Suite 900
Salt Lake City, UT 84111
Attorney for Plaintiff/
Appellant

OCT 04 1989

IN THE SUPREME COURT
OF THE STATE OF UTAH

KELLY WAGNER,	:	
	:	
Plaintiff/Appellant,	:	
	:	
vs.	:	
	:	Case No. 880195
FARMERS INSURANCE EXCHANGE,	:	
	:	Category 14b
Defendant/Respondent.	:	

- - - - -
BRIEF OF APPELLANTS
- - - - -

APPEAL FROM A FINAL JUDGMENT
OF THE THIRD DISTRICT COURT,
HONORABLE SCOTT DANIELS, DISTRICT JUDGE

- - - - -

Don J. Hanson
Bayle, Hanson, Nelson & Chipman
1300 Continental Bank Building
Salt Lake City, UT 84111
Attorney for Defendant/Respondent

M. David Eckersley
Prince, Yeates & Geldzahler
175 East Fourth South
City Centre I, Suite 900
Salt Lake City, UT 84111
Attorney for Plaintiff/
Appellant

TABLE OF CONTENTS

JURISDICTIONAL STATEMENT	1
ISSUE PRESENTED FOR REVIEW	1
DETERMINATIVE PROVISIONS OF LAW.	1
STATEMENT OF THE CASE.	1
SUMMARY OF ARGUMENT.	4
ARGUMENT	
POINT I.	
AN INSURANCE POLICY, AS A CONTRACT OF ADHESION, MUST BE INTERPRETED IN A MANNER WHICH WILL HONOR THE REASONABLE EXPECTATIONS OF THE INSURED.	5
CONCLUSION	18
ADDENDUM	20

TABLE OF AUTHORITIES

Cases Cited

<u>Banner County v. Panhandle Rodeo Ass'n, Inc.,</u> 101 Idaho 772, 620 P.2d 1102 (1980).	14
<u>Darner Motor Sales, Inc. v. Universal</u> <u>Underwriters Ins. Co.,</u> 140 Ariz. 383, 682 P.2d 388 (1984).	9, 10, 11, 16, 17
<u>Erickson v. Nationwide Mutual Ins. Co.,</u> 97 Idaho 288, 543 P.2d 841 (1975).	14
<u>Farmers Ins. Exchange v. Call,</u> 712 P.2d 231, 236 (Utah 1985).	6, 8, 11
<u>Gray v. Zurich Ins. Co.,</u> 65 Cal.2d 263, 419 P.2d 168 (1966).	10
<u>Reserve Ins. Co. v. Pisciotto,</u> 30 Cal.3d 800, 640 P.2d 764 (1982).	18
<u>State Farm Mut. Auto. Ins. Co. v. Gibbs,</u> 678 P.2d 459 (Ariz.App. 1983)	15, 16
<u>State Farm Mut. Auto. Ins. Co. v. Herron,</u> 123 Ariz. 315, 599 P.2d 768 (1979)	15
<u>State Farm Mutual Auto. Ins. Co. v. Mastbaum,</u> 748 P.2d 1042 (Utah 1987).	12

OTHER AUTHORITIES CITED

<u>Abraham, Judge-Made Law and Judge-Made Insurance:</u> <u>Honoring the Reasonable Expectations of</u> <u>the Insured,</u> 67 Va.L.Rev. 1151 (1981).	9
<u>Keeton, Insurance Law Rights at Variance</u> <u>with Policy Provisions,</u> 83 Harv.L.Rev. 961 (1970)	7, 9
<u>Llewellyn, The Common Law Tradition,</u> (1960).	10
<u>Murray, The Parole Evidence Process and</u> <u>Standardized Agreements under the Restatement</u> <u>(Second) of Contracts,</u> 123 U.Pa.L.Rev. 1342 (1975).	10

JURISDICTIONAL STATEMENT

This Court has jurisdiction over this appeal by virtue of the provisions of Utah Code Ann. § 78-2-2(3)(j)(Supp. 1988).

ISSUE PRESENTED FOR REVIEW

Should the reasonable expectations of an insured be enforced even if they are inconsistent with the express terms of a policy of insurance issued to him?

DETERMINATIVE PROVISIONS OF LAW

There are no constitutional provisions, statutes, ordinances, rules or regulations which are determinative of this appeal.

STATEMENT OF THE CASE

This is an action wherein Plaintiff Kelly Wagner is seeking a judicial declaration that she is entitled to uninsured motorist benefits pursuant to a contract entered into between her late husband, Thomas Wagner, and Defendant Farmers Insurance Exchange. The matter was submitted to the Court below on cross motions for summary judgment on the basis of stipulated and undisputed facts. Judgment was entered for the Defendant on April 20, 1988.

The facts of this action have never been disputed. Thomas Wagner died as a result of injuries received in a single vehicle automobile accident which occurred in the morning hours of November 15, 1986. He was survived by the Plaintiff, his

wife, and a six-month-old son, Tyler Thomas Wagner. At the time of the accident, Mr. Wagner was riding as a passenger in his own insured vehicle, a 1979 Porsche 928. The car was being driven by Charles P. Lingle with the permission of Mr. Wagner and the accident was caused by the negligence of Charles Lingle.

The vehicle involved in the accident was owned by Tom Wagner and insured by Farmers under a policy which had \$100,000 liability, uninsured and underinsured motorist coverage. (A copy of the policy issued by Farmers is included herein as Exhibit "1" in the addendum to this brief.) Mr. Lingle had no liability insurance at the time of the accident except that provided by Mr. Wagner's own coverage through Farmers. (See Exhibit "2" in addendum, Stipulation, R. at 51-52).

The Farmers' agent who conducted the negotiations which resulted in the issuance of the policy in question testified that he had no specific recollection of his negotiations with Mr. Wagner, but he did indicate that his habit and practice in describing the scope of Farmers' insurance coverage was to explain that Farmers offers "underinsurance" benefits as a part of its uninsured motorist coverage, which insurance will pay up to a specified amount selected by the insured (\$100,000 in this case) in the event an insured is injured in an accident through the fault of another person who has no insurance or a lesser amount of liability coverage than the limits chosen by the insured for uninsured

motorist coverage. (R. at 79, Depo. of Calvin Coleman at pp. 14-15).

The agent also testified that he does not routinely explain the exclusions applicable to Farmers' "underinsurance" coverage and that a proposed purchaser cannot negotiate to obtain different policy provisions than those contained in the policy issued to Mr. Wagner. (R. at 79, Depo. of Calvin Coleman at pp. 28-29).

The policy in question has several different provisions which are brought into play by the unusual facts of this case. First, the liability section of the policy defines as an "insured" any person driving the insured vehicle with the owner's permission. (Part I--Liability, paragraph 3a). However, the exclusions under the liability portion of the policy exclude "liability for bodily injury to an insured person." (Part I--Liability Exclusions, paragraph 11).

The Uninsured Motorist section of the policy provides for payment of sums sustained as damages by the neglect of the operator of an uninsured motor vehicle. (Part II--Uninsured Motorist). One definition of an "uninsured motor vehicle" includes vehicles which are insured but "in amounts less than the limits of Uninsured Motorist Coverage shown in the Declaration." (Part II--Uninsured Motorist, paragraph 3b). Mr. Wagner's Declaration showed \$100,000/\$300,000 Uninsured Motorist Coverage. The policy also provides that the term

"Uninsured motor vehicle, however, does not mean a vehicle:
a. Owned by or furnished or available for the regular use of
you or any family member." (Part II--Uninsured Motorist,
paragraph 4). The exclusions under this coverage include a
disclaimer of any liability for bodily injury sustained by a
person "occupying any vehicle owned by you or a family member
for which insurance is not afforded under this policy or
through being struck by that vehicle." (Part II--Uninsured
Motorist Exclusions, paragraph 1).

Finally, in the liability section of the policy, under
a heading entitled "Other Insurance," there is a proviso that
Farmers "will provide insurance for an insured person, other
than you or a family member, up to the limits of the Financial
Responsibility Law only." (Part I--Liability, Other Insurance).

SUMMARY OF ARGUMENT

Insurance policies are contracts of adhesion and, as
such, they should be interpreted in a fashion which honors the
reasonable expectations of the insured. If an insurer promises
to provide coverage to protect an insured from the risk of loss
arising from injuries caused by a motorist who has less
liability insurance coverage than the insured purchases for
underinsured motorist protection, the insurer is not thereafter
free to alter this promise by issuing a policy term which
operates to define certain underinsured motorists as not being
underinsured for the purposes of the policy issued.

If a literal application of a policy's terms would defeat the very purpose for which the insured purchased the insurance then the offending provision cannot be given effect.

The reality of how insurance policies are marketed in a modern economy mandate that the Court abandon the fiction that such policies are contracts whose terms are bargained for by the parties. Insurance policies must be construed in such a fashion as to provide coverage where an objectively reasonable expectation of coverage has been created by the basic promise of coverage made by the insurer's selling agent.

ARGUMENT

AN INSURANCE POLICY, AS A CONTRACT OF ADHESION,
MUST BE INTERPRETED IN A MANNER WHICH WILL
HONOR THE REASONABLE EXPECTATIONS OF THE INSURED

The insurance policy in question contains numerous interrelated provisions which, if read literally, operate to deny the Plaintiff the very benefits for which her husband contracted with Farmers Insurance Exchange. Mr. Wagner requested a policy giving him \$100,000 of "underinsured" motorist coverage, which coverage Farmers' agent represented would "supplement the bodily injury insurance" (R. at 79, Coleman Depo. at 15) of any individual who negligently caused Mr. Wagner injury if that person was insured for liability in an amount less than \$100,000. In the instant case, Mr. Wagner died as a result of the negligence of an individual who had no personal liability insurance. Farmers acknowledged that this

individual had liability coverage under Mr. Wagner's own policy but asserted that this liability coverage was limited to \$20,000.00 by virtue of the "other insurance" portion of Mr. Wagner's policy. Farmers further asserted that the Wagner policy provided no supplemental "underinsurance" because that form of coverage was defined in the policy itself not to be available for an operator of an underinsured vehicle owned and insured by the named insured in the policy itself (Mr. Wagner), even if that vehicle was rendered "underinsured" by virtue of the terms of the very policy in question.

There is no suggestion in the record that Mr. Wagner was even made aware that the convoluted interplay of his policy's numerous definitions and exclusions operated to deprive him of underinsurance coverage in a situation where he was injured by the negligence of an otherwise uninsured permissive user of his own insured vehicle. An interpretation of the contract which would permit such a result is contrary to the reasonable expectations of any insured and to the dictates of sound public policy.

In analyzing the provisions of an insurance policy, it must be borne in mind that they are not typical contracts, the terms of which are bargained for by the parties. As this Court noted in Farmers Ins. Exchange v. Call, 712 P.2d 231, 236 (Utah 1985),

automobile insurance is generally sold
through adhesion contracts that are not

negotiated at arm's length. Purchasers commonly rely on the assumption that they are fully covered by the insurance that they buy.

As occurred in this case, an insurance purchaser generally requests particular categories of coverage (liability, uninsured motorist) in particular amounts and the insurer responds by sending out a policy which purports to grant such coverage. (R. at 79, Depo. of Calvin Coleman, pp. 10-13). To the extent that the policy issued, by its terms, unreasonably excludes the very coverage requested its terms should not be literally applied. As one scholar has indicated:

The objectively reasonable expectations of applicant and intended beneficiaries regarding the terms of insurance contracts will be honored even though painstaking study of the policy provisions would have negated those expectations.

Keeton, Insurance Law Rights at Variance with Policy Provisions, 83 Harv.L.Rev. 961, 967 (1970).

In the instant case, Mr. Wagner would have only realized that he had no underinsurance coverage for the situation presented at the time of his death if he had read the entirety of his policy and been able to determine that the "Other Insurance" clause in his liability policy limited the liability coverage of a permissive user to \$20,000.00 (in accordance with the "Financial Responsibility Law," which he would have had to understood to mean the "Safety Responsibility

Act" in Utah) and that the uninsured motorist coverage would not apply because even though one definition in the policy would make the vehicle "uninsured" (paragraph 3b), a second definition purports to exclude the vehicle (paragraph 4). Furthermore, he would have had to disregard the implication contained in the first exclusion to uninsured motorist coverage, which provides that coverage isn't available for injuries occurring while occupying owned vehicles "for which insurance is not afforded under this policy," which clearly implies that injuries occurring while occupying an owned vehicle which is insured under the policy are covered.

The massive ambiguity created by the interplay of these disparate and self-contradictory policy provisions does not satisfy the demand of public policy, which "requires that persons purchasing [automobile insurance] policies are entitled to be informed, in writing, of the essential terms of insurance contracts, especially exclusionary terms." Farmers Ins. Exchange v. Call, supra, at 236. If this "information" is provided by a writing which can only be understood by a lawyer, it is unreasonable to assume that the policy purchaser has been placed on notice regarding the way in which the policy issued deviates from the coverage requested. Therefore, to apply the policy's literal terms would be to allow the insurer to accept the applicant's "offer" by issuing a policy which is, in reality, a counteroffer, though the applicant doesn't

understand it to be such.

Much has been written in recent years concerning the emergence of the "new" theory of honoring the reasonable expectations of insureds when construing insurance contracts. See, e.g., Abraham, Judge-Made Law and Judge-Made Insurance: Honoring the Reasonable Expectations of the Insured, 67 Va.L.Rev. 1151 (1981); Keeton, Insurance Law Rights at Variance with Policy Provisions, 83 Harv.L.Rev. 961 (1970). Proper analysis of the reasonable expectations theory, however, demonstrates that it is neither a new nor radical approach to contract law. As the Supreme Court of Arizona noted in Darner Motor Sales, Inc. v. Universal Underwriters Ins. Co., 140 Ariz. 383, 682 P.2d 388 (1984):

"Emergence" is probably an inaccurate description of the use of the reasonable expectations test since, if correctly understood, that doctrine has long been a basic principle in the law of contracts.

682 P.2d at 394.

The essence of the reasonable expectations approach to insurance policies is simply that certain standardized boiler-plate provisions of insurance contracts, which are almost invariably contracts of adhesion, don't in fact correctly state the real "agreement" made between an insured and an insurer's selling agent. Though courts have, on occasion, blurred the distinction, it is important to remember that while a written standardized policy "may be coextensive

with the agreement, it is not the agreement but only evidence thereof." Murray, The Parole Evidence Process and Standardized Agreements under the Restatement (Second) of Contracts, 123 U.Pa.L.Rev. 1342, 1389 (1975). Indeed, as another commentator has acknowledged:

Any contract with boiler-plate results in two several contracts: the dickered deal and the collateral one of supplementary boiler-plate.

Llewellyn, The Common Law Tradition, 371 (1960).

As noted by the Court in Darner,

we must remember that the usual insurance policy is a special kind of contract. It is largely adhesive; some terms are bargained, but most consist of boilerplate, not bargained for, neither read nor understood by the buyer, and often not even fully understood by the selling agent. In contract, as in other fields, the common law has evolved to accommodate the practices of the marketplace. Thus, in insurance law, as in other areas of contract law, the parole evidence rule has not been strictly applied to enforce an illusory "bargain" set forth in a standardized contract when that "bargain" was never really made and would, if applied, defeat the true agreement which was supposedly contained in the policy.

682 P.2d at 396.

The principle of construing adhesion contracts in a manner which would honor the reasonable expectations of the insured was adopted by the California Supreme Court in the leading case of Gray v. Zurich Ins. Co., 65 Cal.2d 263, 419 P.2d 168 (1966).

Although courts have long followed the basic percept that they would look to the words of

the contract to find the meaning which the parties expected from them, they have also applied the doctrine of adhesion contract to insurance policies, holding that in view of the disparate bargaining status of the parties we must ascertain that meaning of the contract which the insured would reasonably expect.

419 P.2d at 171-172.

The "reasonableness" of the insured's expectations of coverage must be determined from the circumstances surrounding the issuance of the policy in question, not simply the hope of coverage. However, what may make the expectation of coverage reasonable is the basic promise of coverage offered by the insurer's selling agent. As stated by the Court in Darner,

if not put in proper perspective, the reasonable expectations concept is quite troublesome, since most insureds develop a "reasonable" expectation that every loss will be covered by their policy. Therefore, the reasonable expectation concept must be limited by something more than the fervent hope usually engendered by loss. Such a limitation is easily found in the postulate contained in Corbin's work -- that the expectations to be realized are those that "have been induced by the making of a promise."

682 P.2d at 394.

If a promise of coverage is made, it is of no significance that an unbargained for boiler-plate limitation is inserted in the policy which purports to unreasonably restrict the original promise. The doctrine of a reasonable expectation

in adhesion contracts will not

give effect to boiler-plate terms which are contrary to either the expressed agreement or the purpose of the transaction as known to the contracting parties.

682 P.2d at 399 (emphasized). This is true even if the boiler-plate provision is, standing by itself, clear and unequivocal. As noted by Justice Durham in State Farm Mutual Auto. Ins. Co. v. Mastbaum, 748 P.2d 1042, (Utah 1987):

[j]udicial determination of the insured's reasonable expectations does not necessarily depend on the presence of an ambiguity in the policy.

748 P.2d 1047 (Durham, J., dissenting).

Turning to the facts in this case, the obvious question is: what promise did Farmers make to Mr. Wagner regarding uninsured motorist coverage? The policy itself sets forth the basic promise as follows:

Uninsured Motorist Coverage

We will pay all sums which an insured person is legally entitled to recover as damages from the owner or operator of an uninsured motor vehicle because of bodily injury sustained by the insured person. The bodily injury must be caused by accident and arise out of the ownership, maintenance or use of the uninsured motor vehicle.

This promise was given in response to Mr. Wagner's request for uninsured motorist coverage. Furthermore, Mr. Wagner requested, and received, an additional promise: that he would have \$100,000 coverage for bodily injury caused by an insured negligent driver, even though that driver wasn't insured for

that amount. This promise is given effect by a portion of the policy which defines an uninsured motor vehicle to include any vehicle insured for less than \$100,000. (See paragraph 3b, page 3 of the policy).

This was exactly the coverage Mr. Wagner requested and Mr. Coleman, as agent for Farmers, said the company would provide. This was the "deal" bargained for by Mr. Wagner. However, the policy issued contained a boiler-plate "definition" which purported to define Mr. Wagner's own insured vehicle in such a way as to deprive him of the benefits previously promised if he was injured by a negligent uninsured motorist driving Mr. Wagner's own car. This provision wasn't discussed with the agent, wasn't negotiated for, could not have been excluded, and would operate to frustrate the very purpose of the purchased insurance if it was given effect.

In this case there is no question that Mr. Wagner contracted to receive \$100,000 protection against the risk of being injured by the negligence of a driver who carried less than that amount of liability insurance. However, his purpose in doing so is entirely frustrated by a literal application of the policy issued because the Farmers policy he received defines one class of driver who is, in fact, underinsured, a permissive user of Mr. Wagner's own automobile, not to be underinsured. If a policy's terms are such as to exclude liability for the very risk for which insurance was purchased,

then the policy cannot be interpreted in conformity with its express terms. As noted by the Idaho Supreme Court,

an insurance contract is to be construed most favorably to the insured and in such a manner as to provide full coverage for the indicated risks rather than to narrow protection. This Court will not sanction a construction of the insurer's language that will defeat the very purpose or object of the insurance.

Erickson v. Nationwide Mutual Ins. Co., 97 Idaho 288, 293, 543 P.2d 841, 845 (1975). See also, Banner County v. Panhandle Rodeo Ass'n, Inc., 101 Idaho 772, 620 P.2d 1102 (1980).

Viewed differently, it can be seen that the Farmers policy issued to Mr. Wagner contains an inherent ambiguity. While one portion of the policy defines any vehicle with less than \$100,000 liability coverage to be "uninsured," a second portion of the policy says that the insured vehicle itself can never be "uninsured," even if it is. This isn't too surprising, because supposedly the vehicle has a \$100,000 of liability coverage. However, by operation of a third provision of the policy, the \$100,000 liability coverage isn't available to a certain class of drivers. It is logical to assume, therefore, that such an exclusion should place the insured vehicle back within the definition of "uninsured" vehicles contained in paragraph 3b.

In an analogous case, the Arizona Court of Appeals held that the ambiguity presented by application of different policy terms to a specific fact situation required a finding of

coverage. In State Farm Mut. Auto. Ins. Co. v. Gibbs, 678 P.2d 459 (Ariz.App. 1983), Michael Gibbs died while riding as a passenger in his own insured vehicle. His policy contained a liability exclusion for damages suffered by the named insured, which exclusion the Court upheld against a public policy challenge. His heirs then claimed that if the exclusion was applicable, no insurance was available for the vehicle and, therefore, he was entitled to uninsured motorist coverage. The insurer pointed out that the policy defined an "uninsured motor vehicle" in such a way as to exclude any vehicle "insured under the liability coverage of this policy." The Court, however, rejected the literal application of the exclusion by noting that uninsured motorist provisions are intended to apply to situations where insurance isn't available to injured parties. If, therefore, the vehicle is in reality "uninsured" as relates to the injured party in light of a specific set of facts, then it can't be considered to be "insured" within the meaning of the policy definition. See also, State Farm Mut. Auto. Ins. Co. v. Herron, 123 Ariz. 315, 599 P.2d 768 (1979).

The insurer also contended, however, that the deceased had elected not to insure himself for bodily injury protection and, therefore, he was excluded from uninsured motorist protection under the following uninsured motorist exclusion:

There is no coverage:

2. For bodily injury to an insured:
 - a. While occupying, . . .

.

a motor vehicle owned by you . . . if it is not insured for this coverage under the policy.

The Court held that a named insured could exclude himself from uninsured motorist coverage without violating the provision of the Uninsured Motorist Act. However, the Court finally concluded that the policy was ambiguous because the phrase "if it is not insured for this coverage" could be understood to refer to uninsured motorist coverage for anyone other than the named insured as well as bodily injury coverage for the named insured.

In Gibbs, therefore, the court employed the well known rule of construction dictating that "ambiguities in contracts should be resolved against the insurer" to reach a result which, in fact, honored the reasonable expectation of the insured. While the right result was reached, the means of arriving at that result were criticized by the Arizona Supreme Court in Darner, supra, as typical of

[a]rtificial results derived from application of ordinary rules of contract construction to insurance policies [which] have made courts struggle to find some method of reaching a sensible resolution within the conceptual bounds of treating standardized, formal contracts as if they were traditional "agreements," reached by bargaining between the parties.

682 P.2d at 394.

In expressing the need to abandon the view that an insurance policy is simply another "contract" negotiated by the

parties, the Darner court said that to view insurance policies as though the parties dickered over the terms, with varying premium rates pending the outcome of their final negotiation, one must incorporate assumptions that

are contrary to common knowledge of the manner in which the great bulk of insurance business is transacted. We believe the time has come to remove insurance law from the land of make-believe.

682 P.2d at 393 nb.

In this case, it is undisputed that Mr. Wagner had no ability to vary the terms of the standard policy Farmers issued. There is also no suggestion that he was told in simple terms that the \$100,000 liability and underinsured coverage he was purchasing from Farmers wouldn't cover him for injuries received while riding as a passenger in his own vehicle if those injuries were caused by the negligence of a nonfamily member who was driving his car. Plaintiff submits that it is also manifest that he couldn't have gleaned this information by reviewing his policy without the assistance of a professional in the field.

If an insurance company intends not to provide underinsurance coverage for all underinsured vehicles, it should simply explain this to the prospective insured in simple and plain language. As the California Supreme Court stated in

Reserve Ins. Co. v. Pisciotto, 30 Cal.3d 800, 640 P.2d 764

(1982):

When confronted with standardized provisions in a form insurance contract, the primary focus of our inquiry is on the reasonable expectations of the insured at the time he purchased coverage. The ordinary expectations of one who purchases liability insurance is that he will be covered for any liabilities incurred as a result of the activity to which the policy relates. The insurance company's obligation to provide coverage can be limited only by exclusions phrased in language which clearly and unmistakably communicates to the insured the specific circumstances under which coverage will not be provided.

640 P.2d at 769.

To hold otherwise is to induce the purchaser to buy a product which does not provide what was promised and what the purchaser reasonably expected to receive.

CONCLUSION

It is time that insurance policies be interpreted in a manner which recognizes the reality of how they are sold to the public. If a company promises a purchaser underinsurance coverage as a supplement to the liability coverage of a driver who negligently causes the insured bodily injury, then that is what its policy must be held to provide. An insurance company should not be permitted to "define" an underinsured motorist as not being underinsured. If it is free to do so, then it can frustrate the very purpose for which underinsured coverage is purchased and defeat the reasonable expectations of

the purchaser.

This case should be remanded to the District Court with instructions to enter judgment to the Plaintiff.

DATED this 3rd day of October, 1988.

PRINCE, YEATES & GELDZAHLER

By M. David Eckersley
M. David Eckersley
Attorneys for Plaintiff

MAILING CERTIFICATE

I hereby certify that, on the 3rd day of October, 1988, I caused to be mailed, postage prepaid, four true and correct copies of the foregoing BRIEF OF APPELLANT to the following:

Don J. Hanson
Bayle, Hanson, Nelson & Chipman
1300 Continental Bank Building
Salt Lake City, UT 84111
Attorney for Defendant/Respondent

M. David Eckersley

0070d
100388
7874-2.1

ADDENDUM

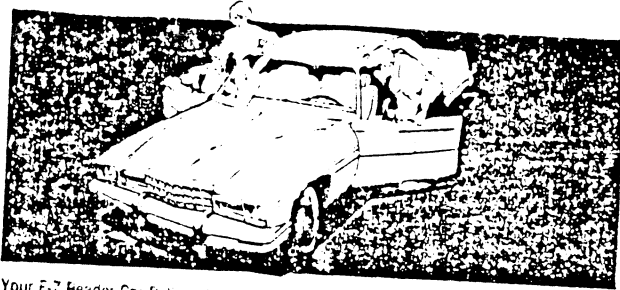
Exhibit "1" - Farmers Auto Policy

Exhibit "2" - Stipulation

Your E-Z-Reader Car Policy

UTAH

Exhibit "1"



Your E-Z Reader Car Policy offers protection tailored to your needs. It is written in non-technical easy-to-read style. Please read this policy to make sure you understand the coverage it provides. Your Farmers Agent will help you with any questions you might have.



Farmers Insurance Group of Companies

4680 Wilshire Boulevard, Los Angeles, California 90010

The contractual obligations of this policy are assumed only by the issuing Company named in the Declarations.

1st Edition

INDEX OF POLICY PROVISIONS

	PAGE		PAGE
Your Personal Coverage Page is attached inside		Coverage F — Comprehensive	4
		Medical Reports, Proof of Claim, Rehabilitation Notice	4
	1	Our Right to Recover Payment	4
	1	Arbitration	4
	1	Payment of Benefits	4
Use of Accident	1	Constitutionality Clause	4
LIABILITY		PART IV — DAMAGE TO YOUR CAR	
Bodily Injury	1	Coverage F — Comprehensive	4
Property Damage	1	Coverage G — Collision	5
Uninsured Motorists	1	Coverage H — Towing	5
Payments	1	Additional Definitions	5
What we do not Cover	2	Supplementary Payments	5
Exclusions	2	Exclusions — What we do not Cover	5
Liability Law	2	Limits of Liability	5
	2	Payment of Loss	5
	2	Appraisal	5
	2	No Benefit to Bailee	5
	2	Other Insurance	5
UNINSURED MOTORIST		PART V — CONDITIONS	
Uninsured Motorist	2	1. Policy Period and Territory	5
Exclusions	2	2. Changes	5
What we do not Cover	3	3. Legal Action Against Us	6
	3	4. Transfer of Your Interests	6
	3	5. Our Right to Recover Payment	6
	3	6. Two or More Cars Insured	6
NO-FAULT		7. Bankruptcy	6
Personal Injury Protection	3	8. Termination or Reduction of Coverage	6
Exclusions	4		
What we do not Cover	4	Reciprocal Provisions	6
	4	Special Provisions	7

ANY ADDITIONAL PROVISIONS AFFECTING YOUR POLICY ARE ATTACHED AS ENDORSEMENTS

This is a legal contract between you (the policyholder) and us (the Company). READ YOUR POLICY CAREFULLY.

ree with you, in return for your premium payment, to you subject to all the terms of this policy. We will insure the coverages and the limits of liability shown in the ations of this policy.

DEFINITIONS

Throughout this policy, "you" and "your" mean the "named insured" shown in the Declarations and spouse if a resident of the household. "We," "us" and "our" mean the Company named in the Declarations which provides this insurance. In certain words appear in bold type. They are defined as follows:

Accident or occurrence means a sudden event, including continuous or repeated exposure to the same conditions, resulting in bodily injury or property damage neither expected nor intended by the insured person.

Bodily injury means bodily injury to or sickness, disease or death of any person.

Damages are the cost of compensating those who suffer bodily injury or property damage from an accident.

Family member means a person related to you by blood, marriage or adoption who is a resident of your household.

Leasing means in, on, getting into or out of.

Private passenger car means a four wheel, land motor vehicle of a type passenger or station wagon type actually licensed for use on public highways. It includes any motor home with no more than six wheels and not used for business purposes.

Property damage means physical injury to or destruction of real property, including loss of its use.

United States means the District of Columbia and any state, territory or possession of the United States, or any province of Canada.

Vehicle means a land motor vehicle having at least four wheels actually licensed for use upon public highways, with a load capacity of not more than 2,000 pounds, of the sedan, panel or van type. This does not mean a vehicle used in business or occupation other than farming or ranching. However, it does include a newly acquired or replacement vehicle of the same type if its usage is the same as the vehicle described in the Declarations.

Utility trailer means a vehicle designed to be towed by a private passenger car and includes a farm wagon or farm implement towed by a private passenger car or utility car. It does not include a trailer used as an office, store, display or passenger vehicle.

Insured car means:

the vehicle described in the Declarations of this policy or any private passenger car or utility car with which you replace it. You must advise us within 30 days of any change of private passenger car or utility car. If your policy term ends more than 60 days after the change, you can advise us anytime before the next term.

Additional private passenger car or utility car of which you are the owner during the policy period. Provided that: you notify us within 30 days of its acquisition, and as of the date of acquisition, all private passenger and utility cars you own are insured with a member company of the Farmers Insurance Group of Companies.

Leasing shall include the written leasing of a private passenger utility car for a continuous period of at least six months.

Utility trailer:

that you own, or

while attached to your insured car.

Private passenger car, utility car or utility trailer not owned by you or a family member while being temporarily used to replace for any other vehicle described in this definition of its withdrawal from normal use due to breakdown, servicing, loss or destruction.

WHAT TO DO IN CASE OF ACCIDENT

Event of an accident, or loss, notice must be given to us as soon as possible. The notice must give the time, place and circumstances of the accident, or loss, including the names and addresses of injured persons and witnesses.

Duties

If claiming any coverage of this policy must also: cooperate with us and assist us in any matter concerning a claim or suit.

claim or suit.

3. Submit to physical examinations at our expense by doctors we select as often as we may reasonably require.

4. Authorize us to obtain medical and other records.

5. Provide any written proofs of loss we require.

6. Notify police within 24 hours and us within 30 days if a hit and run motorist is involved and an uninsured motorist claim is to be filed.

7. If claiming car damage coverage:

a. Take reasonable steps after loss to protect the vehicle and its equipment from further loss. We will pay reasonable expenses incurred in providing that protection.

b. Promptly report the theft of the vehicle to the police.

c. Allow us to inspect and appraise the damaged vehicle before its repair or disposal.

8. Submit to examination under oath upon our request.

PART I — LIABILITY

Coverage A — Bodily Injury

Coverage B — Property Damage

We will pay damages for which any insured person is legally liable because of bodily injury to any person and property damage arising out of the ownership, maintenance or use of a private passenger car, a utility car, or a utility trailer.

We will defend any claim or suit asking for these damages. We may settle when we consider it appropriate.

We will not defend any suit or make additional payments after we have paid the limit of liability for the coverage.

Additional Definitions Used In This Part Only

Insured person as used in this part means:

1. You or any family member.

2. Any person using your insured car.

3. Any other person or organization with respect only to legal liability for acts or omissions of:

a. Any person covered under this part while using your insured car.

b. You or any family member covered under this part while using any private passenger car, utility car, or utility trailer other than your insured car if not owned or hired by that person or organization.

Insured person does not mean:

1. The United States of America or any of its agencies.

2. Any person for bodily injury or property damage arising from the operation of a vehicle by that person as an employee of the United States Government when the provisions of the Federal Tort Claims Act apply.

3. Any person who uses a vehicle without having sufficient reason to believe that the use is with permission of the owner.

Your insured car as used in this part shall also include any other private passenger car, utility car, or utility trailer not owned by or furnished or available for the regular use of you or a family member, but no vehicle shall be considered as your insured car unless there is sufficient reason to believe that the use is with permission of the owner, and unless it is used by you or a family member.

Supplementary Payments

In addition to our limit of liability, we will pay these benefits as respects an insured person:

1. All costs we incur in the settlement of any claim or defense of any suit.

2. Interest after entry of judgment on any amount that does not exceed our limit of liability.

3. a. Premiums on appeal bonds on any suit we defend.

b. Premiums on bonds to release attachments in any such suit for an amount not in excess of the applicable limit of liability of this policy.

c. Up to \$300 for the cost of bail bonds required because of accident or traffic law violation arising out of use of your insured car.

We are not obligated to apply for or furnish any of the above bonds.

4. Actual loss of wages or salary up to \$50 a day, but not other income, when we ask you to attend a trial or hearing.

5. Expenses you incur for immediate medical and surgical treatment for others necessary at the time of the accident resulting in bodily injury covered by this part.

one

ge does not apply to:

injury or property damage arising out of the ownership or use of a vehicle while used to carry persons or for a charge. This exclusion does not apply to these car pools.

injury or property damage:

ed intentionally by or at the direction of an insured person, or
ing from any occurrence caused by an intentional act of an insured person where the results are reasonably foreseeable.

injury or property damage with respect to which any insured under nuclear energy insurance. This exclusion even if the limits of that insurance are exhausted
injury to an employee of an insured person arising in the course of employment. This exclusion does not apply to injury to a domestic employee unless workers' or work-pensation benefits are required.

injury or property damage for any person, while em-ployed or otherwise engaged in the business or occupation of selling, repairing, servicing, storing or parking of signed for use mainly on public highways, including delivery.

ion does not apply to the ownership, maintenance or repair of an insured car by you, any family member, or any employee of you or any family member. This exclusion does not apply to any other person who does not have insurance available to him with limits equal to at least the minimum required by Utah Financial Responsibility Law. In such event, the insured person will be limited to the minimum required by Utah Financial Responsibility Law.

injury or property damage arising out of the ownership or use of any vehicle by any person employed or otherwise engaged in a business other than the business of the insured. This exclusion does not apply to the use or use of a

the passenger car.

ly car that you own, if rated as a private passenger car or
ly trailer used with a vehicle described in a. or b.

to property owned or being transported by an insured.

to property rented to, or in the charge of, an insured person at a residence or private garage not owned by that insured.

injury or property damage arising out of the ownership or use of any motorized vehicle with less than the minimum required by Utah Financial Responsibility Law.

injury or property damage arising out of the ownership or use of any vehicle other than your insured car which is owned by or furnished or available for regular use to a family member.

ability for bodily injury to an insured person.

ability to any person or organization because of bodily injury to you.

ion applies only after the limits of liability required by Utah Financial Responsibility Law have been satisfied.

y assumed under any contract or agreement except others you assume in a written contract relating to the use of a vehicle you do not own.

y arising from the sponsoring or taking part in any organized racing or speed contest or demonstration in which your insured car has active participation, or in preparation for any such contest.

injury or property damage arising out of the ownership or use by any person of a vehicle in which transferred full ownership interest but the transfer does not comply with the vehicle transfer of ownership provisions of Utah state law.

re or exemplary damages or the cost of defense relating to damages.

of Liability

of liability shown in the Declarations apply subject to the following:

odily injury liability limit for "each person" is the maximum combined amount for bodily injury sustained by one person in any one occurrence. Any claim for loss of consortium or injury to the insured arising from this injury shall be included in this limit.

sponsibility limits will be furnished.

2. Subject to the bodily injury liability limit for "each person," the bodily injury liability limit for "each occurrence" is the maximum combined amount for bodily injury sustained by two or more persons in any occurrence.

3. The property damage liability limit for "each occurrence" is the maximum for damages to all property in any one occurrence.

4. We will pay no more than the maximum limits provided by this policy regardless of the number of vehicles insured, insured persons, claims, claimants, policies, or vehicles involved in the occurrence.

5. Any amount payable by us to an insured person shall be reduced by any amount payable under any Workers' Compensation or any similar medical or disability law.

Out of State Coverage

An insured person may become subject to the financial responsibility law, compulsory insurance law or similar law of another state or in Canada. This can happen because of the ownership, maintenance or use of your insured car when you travel outside of Utah. We will interpret this policy to provide any broader coverage required by those laws, except to the extent that other liability insurance applies. No person may collect more than once for the same elements of loss.

Conformity with Financial Responsibility Laws

When we certify this policy as proof under any financial responsibility law, it will comply with the law to the extent of the coverage required by the law.

Other Insurance

If there is other applicable Auto Liability Insurance on any other policy that applies to a loss covered by this part, we will pay only our share. Our share is the proportion that our limits of liability bear to the total of all applicable limits.

We will provide insurance for an insured person, other than you or a family member, up to the limits of the Financial Responsibility Law only.

Any insurance we provide for a vehicle you do not own shall be excess over any other collectible insurance.

If any applicable insurance other than this policy is issued to you by us or any other member company of the Farmers Insurance Group of Companies, the total amount payable among all such policies shall not exceed the limits provided by the single policy with the highest limits of liability.

PART II — UNINSURED MOTORIST

Coverage C — Uninsured Motorist Coverage (Including Underinsured Motorist Coverage)

We will pay all sums which an insured person is legally entitled to recover as damages from the owner or operator of an uninsured motor vehicle because of bodily injury sustained by the insured person. The bodily injury must be caused by accident and arise out of the ownership, maintenance or use of the uninsured motor vehicle.

Determination as to whether an insured person is legally entitled to recover damages or the amount of damages shall be made by agreement between the insured person and us. If no agreement is reached, the decision will be made by arbitration.

Additional Definitions Used In This Part Only

As used in this part:

1. Insured person means:

- a. You or a family member.
- b. Any other person while occupying your insured car.
- c. Any person for damages that person is entitled to recover because of bodily injury to you, a family member, or another occupant of your insured car.

But, no person shall be considered an insured person if the person uses a vehicle without having sufficient reason to believe that the use is with permission of the owner.

2. Motor vehicle means a land motor vehicle or a trailer but does not mean a vehicle:

- a. Operated on rails or crawler-treads.
- b. Which is a farm type tractor, or any equipment designed or modified for use principally off public roads while not on public roads.
- c. Located for use as a residence or premises.

not insured by a bodily injury liability bond or policy at the time of the accident.

insured by a bodily injury liability bond or policy at the time of the accident which provides coverage in amounts less than the limits of Uninsured Motorist Coverage shown in the Declarations.

hit-and-run vehicle whose operator or owner has not been identified and which strikes:

- 1) You or any family member.
- 2) A vehicle which you or a family member are occupying.
- 3) Your insured car.

insured by a bodily injury liability bond or policy at the time of the accident but the Company denies coverage of or becomes insolvent.

insured motor vehicle, however, does not mean a vehicle owned by or furnished or available for the regular use of you or any family member.

owned or operated by a self-insured as contemplated by any financial responsibility law, motor carrier law, or similar law.

owned by a governmental unit or agency.

Exclusions

coverage shall not apply to the benefit of any insured or self-under any workers' or workmen's compensation law, or to the benefit of the United States, or any state or any subdivision.

coverage shall not apply to punitive or exemplary damages or cost of defense related to such damages.

coverage does not apply to bodily injury sustained by a

person occupying any vehicle owned by you or a family member which insurance is not afforded under this policy or being struck by that vehicle.

person or the legal representative of that person makes a claim without our written consent.

person occupying your insured car when used to carry property for a charge. This exclusion does not apply to expense car pools.

person insured person was occupying a vehicle you do not own or insured for this coverage under another policy.

Limits of Liability

limits of liability shown in the Declarations apply subject to the following:

limit for "each person" is the maximum for bodily injury caused by any person in any one occurrence. Any claim for consortium or injury to the relationship arising from this will be included in this limit.

financial responsibility law of the place of the accident or loss of consortium as a separate claim, financial responsibility limits will be furnished.

limit to the limit for "each person," the limit for "each occurrence" is the maximum combined amount for bodily injury sustained by two or more persons in any one occurrence.

limit to the law of the state of the occurrence, we will pay no more than these maximums regardless of the number of insured, insured persons, claims, claimants, policies, or events involved in the occurrence.

Insurance

we will pay under this coverage only after the limits of liability of any applicable bodily injury liability bonds or policies have been exhausted by payment of judgments or settlements.

amount of Uninsured Motorist Coverage we will pay. Additional Definitions 3b shall be reduced by the amount of any other bodily injury coverage available to any party held to be liable for the accident.

as provided in paragraph 2 above, if any other collection applies to a loss covered by this part, we will pay our share. Our share is the proportion that our limits of liability bear to the total of all applicable limits.

we will not provide insurance for a vehicle other than your car, unless the owner of that vehicle has no other insurance applicable to this part.

any applicable insurance other than this policy is issued to you or any other member company of the Farmers Insurance Group of Companies, the total amount payable among all policies shall not exceed the limits provided by the single highest limits of liability.

Arbitration

If an insured person and we do not agree (1) that the person is legally entitled to recover damages from the owner or operator of an uninsured motor vehicle, or (2) as to the amount of payment under this part, either that person or we may demand that the issue be determined by arbitration.

In that event, an arbitrator will be selected by the insured person and us. If agreement on an arbitrator cannot be reached within (30) days, the judge of a court having jurisdiction will appoint the arbitrator. The expense of the arbitrator and all other expenses of arbitration will be shared equally. Attorney's fees and fees paid for the witnesses are not expenses of arbitration and will be paid by the party incurring them.

The arbitrator shall determine (1) the existence of the operator of an uninsured motor vehicle, (2) that the insured person is legally entitled to recover damages from the owner or operator of an uninsured motor vehicle, and (3) the amount of payment under this part as determined by this policy or any other applicable policy.

Arbitration will take place in the county where the insured person lives. Local court rules governing procedures and evidence will apply. The decision in writing of the arbitrator will be binding subject to the terms of this insurance.

Formal demand for arbitration shall be filed in a court of competent jurisdiction. The court shall be located in the county and state of residence of the party making the demand. Demand may also be made by sending a certified letter to the party against whom arbitration is sought, with a return receipt as evidence.

PART III — NO-FAULT

Coverage D — Personal Injury Protection

We will provide the benefits described below for bodily injury to each injured person caused by a motor vehicle accident.

1. Medical and Hospital Benefits

We will pay for all reasonable and necessary medical and hospital expenses incurred within one year from the date of the accident which caused the injury. This includes drugs, artificial substitutes for parts of the body, and eyeglasses. It also includes necessary x-ray, dental, ambulance, nursing and funeral expenses.

We will also pay reasonable expenses for any non-medical remedial care. This includes treatment by a recognized religious method of healing.

We will not pay more than the amount stated in the Declarations for each insured person, including a limit of \$1,500 for funeral expenses.

2. Income Continuation Benefits

We will pay up to 85% of the insured person's loss of gross income from work and earning capacity, subject to the following:

- a. The insured person must have a regular income from an occupation at which he or she was usually working at the time of the accident.
- b. Coverage and payment periods begin 3 days after the date of the accident; however, if the insured person's inability to work continues for more than two consecutive weeks after the date of the injury, then coverage and payment periods begin on the day of the accident.
- c. Coverage ends when the earliest of the following events occurs:
 - (i) when the insured person is reasonably able to return to his or her usual work,
 - (ii) 52 weeks after coverage begins,
 - (iii) upon the death of the insured person.
- d. The most we will pay to any insured person is \$250 per week.
- e. The total combined amount any person can receive under sick leave, any other disability or loss of income benefit, and this coverage shall not be more than 85% of the insured person's weekly income.
- f. Except for you, your family members, your guest passengers, and persons using your insured car with your permission, we will not pay for any accident which occurs outside the state of Utah.

3. Loss of Service Benefits

We will pay up to \$20 per day for essential services for your household which you would normally perform without pay if you were not disabled by the accident. This Coverage applies only to you.

coverage and payment periods begin 30 days after the date of the accident, however if the insured person's inability to work continues for more than two consecutive weeks after the date of the injury then coverage and payment periods begin on the day of the accident.

Coverage ends on the date you are reasonably able to perform the service yourself or upon your death. Coverage is limited to a maximum of 52 weeks.

Survivor Loss Benefits

We will pay up to \$3,000 to natural persons who are heirs of an insured person upon the death of that person.

Additional Definitions Used In This Part Only

Family member means a person related to you by blood, marriage or adoption (including a ward or foster child) who is a resident of your household.

Funeral expenses means funeral, burial, or cremation expenses actually incurred.

Insured motor vehicle means a motor vehicle

- to which the bodily injury liability insurance of the policy applies,
- for which a specific premium is charged, and
- for which you are required to maintain security under the provisions of the Utah Automobile No-Fault Insurance Act.

Insured person means

- you or any family member who sustains bodily injury while occupying a motor vehicle or, while a pedestrian, caused by accident arising out of the operation or maintenance of any motor vehicle or motorcycle,
- any other person who sustains bodily injury while occupying your insured car with your consent or, while a pedestrian, caused by accident arising out of the ownership, operation or maintenance of your insured car,

Motor vehicle means a land motor vehicle, trailer or any vehicle which is required to be registered under Title 41, Utah Code Annotated 1953, excluding motorcycles.

Exclusions

- We will not pay you or any family member for injury received while occupying any motor vehicle you own, or which is furnished for your regular use, but is not an insured motor vehicle as described in the Declarations of this policy.
- We will not pay a family member for injury received while occupying a motor vehicle owned by or furnished for the regular use of that family member when security required by the Utah Automobile No-Fault Insurance Act is not in effect.
- We will not pay for injury to any person:
 - which is caused intentionally by that person or while committing a felony,
 - other than you or a family member, who uses the insured motor vehicle without having sufficient reason to believe that the use is with the permission of the owner,
 - caused by war (declared or undeclared), civil war, insurrection, rebellion or revolution, or any act contributing to such activity,
 - resulting from the radioactive, toxic, explosive or other hazardous properties of nuclear material,
 - arising out of the maintenance or use of a motor vehicle while used as a residence,
 - injured while occupying or, while a pedestrian, through 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.

Limit of Liability

Regardless of the number of vehicles insured, insured persons, claims, claimants, policies, or vehicles involved in the accident, we will pay no more than the limits of liability described in this coverage for each person injured in any one accident.

Any amount payable by us to an insured person shall be reduced by any amount payable

- under any worker's compensation plan or any similar statutory plan,
- by the United States or any of its agencies because of military enlistment, duty or service, or
- under any applicable deductible shown in the Declarations or elsewhere in this policy.

Other Insurance

If there is other applicable automobile medical payments or Personal Injury Protection for medical and hospital benefits insurance that applies to a loss covered by this part, we will pay only our share. Our share is the proportion that our limits of liability bear to the total of all applicable limits.

Any insurance coverage we provide to any insured person for a substitute of non-owned motor vehicle or trailer, shall be excess over any other collectible insurance.

We will reduce the amount payable under uninsured motorists coverage by the amount of any personal injury protection benefits paid or payable which would be paid or payable under this or any other motor vehicle insurance policy because of bodily injury sustained by an insured person.

If any applicable insurance other than this policy is issued to you by us or any other member company of the Farmers Insurance Group of Companies, the total amount payable among all such policies shall not exceed the limits provided by the single policy with the highest limits of liability.

Medical Reports — Proof of Claim

You shall give us written proof of claim as soon as possible. When required, proof shall be under oath. You shall include full details of the nature and extent of the injuries and treatment received and contemplated. Also you should submit such other information as may assist us to determine the amount due and payable. When benefits for loss of wages or salary are claimed you shall authorize us to obtain details of all wages, salary payments or their equivalent received since the time of the bodily injury or during the year prior to the date of the accident. The injured person shall submit to physical examination by physicians at our expense selected by us when and as often as we may reasonably require. In the event of incapacity or death your legal representative shall upon request by us, execute authorization to enable us to obtain medical reports and copies of records.

Our Right To Recover Payment

In the event of any payment under this coverage, we are entitled, subject to the applicable limitations stated in the Utah Automobile No-Fault Insurance Act, to all the rights of recovery of the person to whom payment was made against another. That person must sign and deliver to us any legal papers relating to that recovery, do whatever else is necessary to help us exercise those

rights and do nothing after loss to prejudice our rights. When a person has been paid damages by us under this policy and also recovers from another, the amount recovered from the other shall be held by that person in trust for us and reimbursed to us to the extent of our payment.

Arbitration

If any person making claim and we do not agree as to the amount of payment under this part, then by mutual written agreement the matter shall be decided by arbitration. If the parties agree in writing, the matter shall be decided by a single arbitrator selected by the person making claim and ourselves.

If a single arbitrator is not agreed upon, then the insured person shall select one arbitrator and we will select another. The two arbitrators will select and agree upon a third. The decision of any two arbitrators shall be binding on the person and on us.

Payment of Benefits

No payment shall be made under this coverage unless the insured person or his legal representative shall have agreed in writing that the amount of such payments shall be applied toward settlement of any claim or satisfaction of any award entered in his favor under underinsured motorists coverage in this or any other policy of the Farmers Insurance Group of Companies.

Constitutionality Clause

The premium for and the coverages of this part have been established in accordance with the provisions of the Utah Automobile No-Fault Insurance Act. If a court decision rules the provisions of such act partially or completely invalid or unenforceable, we shall have the right to recompute the premium payable for the policy, subject to review by the Commissioner of Insurance. The provisions of this coverage shall be voidable or subject to change at our option.

PART IV — DAMAGE TO YOUR CAR

Coverage F — Comprehensive

We will pay for loss to your insured car caused by any accidental means except collision, less any applicable deductibles. Any deductible amount will apply separately to each loss.

of vandalism, explosion, fire, theft, or other cause of loss, or of vandalism, riot or civil commotion, colliding with a vehicle, or breakage of glass is not deemed loss caused by collision. If breakage of glass results from a collision, you elect to have it treated as loss caused by collision.

Damage G — Collision

We pay for loss to your insured car caused by collision less applicable deductibles.

Deductible shall apply separately to each loss.

Damage H — Towing and Road Service

We pay for reasonable and necessary towing and labor costs because of disablement of your insured car. The labor is performed at the place of disablement.

Additional Definitions Used In This Part Only

as used in this part:

Collision means collision of your insured car with another car or upset of your insured car.

Direct means direct and accidental loss of or damage to your insured car, including its equipment.

Insured car shall also include any other private passenger, utility car, or utility trailer not owned by or furnished to you for the regular use of you or a family member. But no other car shall be considered as your insured car unless there is no other reason to believe that the use is with permission of the owner and unless it is used by you or a family member.

Comprehensive Payments

If you have comprehensive coverage, we will pay for transportation expenses incurred by you because of the total theft of your insured car. We will pay up to \$15 per day, but no more than \$50. This coverage begins 48 hours after the theft has been reported to us and to the police and ends when the car is returned to use or when we offer settlement for the loss.

We will pay up to, but not more than, \$200 for loss of baggage or luggage in your insured car and belonging to you or a family member if the loss is caused by:

Collision of your insured car while covered by this policy: Fire, lightning, flood, earthquake, explosion, falling aircraft, or theft of the entire insured car; and loss occurs to your insured car from the same cause while covered for comprehensive by this policy.

Exclusions

Coverage does not apply to loss:

to your insured car while used to carry persons or property for hire or for a business purpose. This exclusion does not apply to shared-expense taxis.

caused by war (declared or undeclared), civil war, insurrection, rebellion, revolution, nuclear reaction, radiation or radioactive contamination, or any consequence of any of these.

caused by theft to equipment designed for the reproduction of sound, or any radio receiving or radio receiving and transmitting equipment. This applies to such equipment as a tape player, record player, citizens band radio and two-way mobile radio, one, radar detectors, television or scanning monitor receiver. It also applies to any electronic device incorporating any of the above equipment, as well as accessories and antennas.

This exclusion does not apply to that equipment which is permanently installed in the opening of the dash or console of your insured car normally used by the motor vehicle manufacturer for installation of a radio or sound reproducing device.

caused by theft to tapes, records, reels, cassettes, cars, carrying cases or other devices for use with equipment used for the reproduction of sound.

to a camper body, canopy or utility trailer owned by you or a family member and not described in the Declarations. But, coverages apply to a camper body, canopy or utility trailer shipped or which you acquire during the policy period if you elect to insure it within 30 days after you acquire it.

to awnings, cabanas, or equipment designed to provide additional living facilities.

to a car and confined to wear and tear, freezing, mechanical or electrical breakdown or failure, or road damage to tires. But coverage does apply if the loss results from burning of wiring. Coverage does apply if the loss results from the total theft of your insured car.

to a vehicle not owned by you when used in auto business operations.

of commutation or other loss covered by this policy, participation, or in practice of preparation for any such contest.

10. To a van, pickup, or panel truck due to increased cost of repair or replacement of the following furnishings or equipment:

- special carpeting, insulation, wall paneling, furniture or bars
- facilities for cooking and sleeping including enclosures or bathroom facilities
- height-extending roofs
- murals, paintings or other decals or graphics

Limits of Liability

Our limits of liability for loss shall not exceed the lowest of:

- The actual cash value of the stolen or damaged property.
- The amount necessary to repair or replace the property or parts with other of like kind and quality, less depreciation.
- \$500 for a utility trailer not owned by you or a family member.

Payment of Loss

We may pay the loss in money or repair or replace damaged or stolen property. We may, at any time before the loss is paid or the property is replaced, return, at our expense, any stolen property either to you or to the address shown in the Declarations, with payment for the resulting damage. We may keep all or part of the property at the agreed or appraised value.

Appraisal

You or we may demand appraisal of the loss. Each will appoint and pay a competent and disinterested appraiser; and will equally share other appraisal expenses. The appraisers, or a judge of a court having jurisdiction, will select an umpire to decide any differences. Each appraiser will state separately the actual cash value and the amount of loss. An award in writing by any two appraisers will determine the amount payable, which shall be binding subject to the terms of this insurance.

No Benefit to Bailee

This coverage shall not directly or indirectly benefit any carrier or other bailee for hire liable for loss to your insured car.

Other Insurance

If there is other applicable similar insurance on any other policy that applies to a loss covered by this part, we will pay only our share. Our share is the proportion that our limit of liability bears to the total of all applicable limits. This coverage does not apply to any substitute or non-owned car if there is similar coverage on it.

Any insurance we provide for a vehicle you do not own shall be excess over any other collectible insurance.

If any applicable insurance other than this policy is issued to you by us or any other member company of the Farmers Insurance Group of Companies, the total amount payable among all such policies shall not exceed the limits provided by the single policy with the highest limits of liability.

PART V — CONDITIONS

1. Policy Period and Territory

This policy applies only to accidents, occurrences, and losses during the policy period shown in the Declarations which occur within the United States, its territories or possessions, or Canada, or while the car is being shipped between their ports.

2. Changes

This policy with the Declarations includes all agreements between you and us relating to this insurance. No other change or waiver may be made in this policy except by endorsement, new Declarations or new policy issued by us.

The premium for each term of this policy is determined by information in our possession at the inception of that term. Any changes in this information which would affect the rating of your policy will allow us to make an additional charge or refund on a pro rata basis. If a premium adjustment is necessary, we will make the adjustment as of the effective date of the change.

When we broaden coverage during the policy period without charge, the policy will automatically provide the broadened coverage when effective in your state. We may make other changes or replace this policy to conform to coverage currently in use at the next policy period. The change or new policy will be delivered to you, or mailed to you at your mailing address shown in the Declarations at least 30 days before the effective date of the new policy period.

Policy terms which conflict with laws of Utah are hereby amended to conform to such laws.

Legal Action Against Us

We may not be sued unless there is full compliance with all the terms of this policy. We may not be sued under the Liability Coverage until the obligation of a person we insure to pay is determined either by judgment against that person at the trial or by written agreement of that person. The claimant. No one shall have any right to make us a party to a suit to make the liability of a person we insure.

Transfer Of Your Interest

This policy may not be assigned without our written consent, but, if the insured named in the Declarations or the insured resident in the same household dies, the will cover.

The survivor.

The legal representative of the deceased person while acting within the scope of duties of a legal representative. Any person having proper custody of your insured car until a legal representative is appointed.

Your Right to Recover Payment

In event of any payment under this policy, we are entitled to rights of recovery of the person to whom payment was made against another. That person must sign and deliver to us all papers relating to that recovery, do whatever else is necessary to help us exercise those rights and do nothing after that might prejudice our rights.

If a person has been paid damages by us under this policy and then recovers from another, the amount recovered from the other shall be held by that person in trust for us and reimbursed to the extent of our payment.

This provision does not apply if prohibited by state law.

Two or More Cars Insured

With respect to any accident or occurrence to which this and any other auto policy issued to you by any member company of Farmers Insurance Group of Companies applies, the total liability under all the policies shall not exceed the highest available limit of liability under any one policy.

Bankruptcy

We are not relieved of any obligation under this policy because of the bankruptcy or insolvency of any insured person.

Termination or Reduction of Coverage

Termination or reduction of coverage:

- (1) You may cancel this policy by advising us in writing when a future date the cancellation is to be effective.
- (2) We may cancel, change the renewal date, or cancel or reduce all or any portion of any coverage by mailing notice to you at the address shown in the Declarations or by delivering the notice:

(a) Not less than 10 days prior to the effective date of such cancellation, reduction, or change of renewal date:

(i) For nonpayment of premium; or

(ii) If the policy has been in effect less than 60 days and is not a renewal.

(b) Not less than 20 days prior to the effective date of cancellation for any other circumstance.

If we cancel or reduce all or any portion of any coverage, the notice we send you will describe that portion we are cancelling or reducing.

3. (a) Our right to cancel is limited if this policy has been in effect for 60 days or is a renewal and insures either of the following:

(i) a private passenger type auto, or a station wagon, that does not carry passengers for hire and is not rented to others.

(ii) any other four wheel motor vehicle with a load capacity of fifteen hundred pounds or less which is not used in your occupation, profession or business.

(b) We can cancel in such case only if any of the following apply:

(i) you fail to pay the premium when due

(ii) any person who regularly and frequently operates your insured car has had a driver's license suspended or revoked during the policy period or within 180 days prior to any renewal.

(iii) You knowingly make a false statement on the insurance application.

(c) (ai) and (bi) above do not limit our right to add a \$100 deductible under Coverage F at any time if we so desire.

Notice of cancellation for nonpayment premium must be mailed delivered to you with the reason for cancellation. We will send the specific reasons for such cancellation with the notice or will send you a statement of your right to request the reasons.

Written request must be mailed or delivered to us not less than 15 days prior to the effective date of cancellation. Within 5 days of receipt of the request, we will furnish you with a statement giving the reasons or grounds for the notice of cancellation.

t. Nonrenewal

We will mail to you at the address shown in the Declarations or deliver to you notice of nonrenewal not less than 30 days before the end of the policy period, if we decide not to renew or continue this policy.

This provision shall not apply in any of the following cases:

1. you fail to pay the premium when due.

2. we show a willingness to renew.

If your policy is renewed, we still may cancel it at our option, if grounds for cancellation existed before the effective date of the renewal.

We will only non-renew at the annual anniversary of the effective date.

c. Automatic Termination

This policy will automatically terminate at the end of the policy period if you or your representative do not accept our offer to renew it. Your failure to pay the required renewal premium as we require means that you have declined our offer.

If other insurance is obtained on your insured car, any similar insurance afforded under this policy for that car will cease on the effective date of the other insurance.

d. Other Provisions

(1) If different requirements for cancellation and nonrenewal or termination of policies become applicable because of the laws of Utah, we will comply with those requirements.

(2) Mailing of a notice shall be sufficient proof of notice. We may deliver a notice instead of mailing it.

(3) The effective date and time stated on the notice for cancellation of the entire policy shall become the end of the policy period.

(4) The effective date and time stated on the notice for reductions of coverage or cancellation of a portion of the coverage, shall be the effective date of the change. The notice shall be part of the policy. It is an endorsement.

(5) Termination or change may result in a premium refund. If so, we will send it to you. Our making or offering of a refund is not a condition of cancellation.

If you cancel, the refund will be computed in accordance with the customary short rate table and procedure.

If we cancel or reduce coverage, the refund will be computed on a pro rata basis.

RECIPROCAL PROVISIONS

(Applicable Only If This Policy Is Issued by Farmers Insurance Exchange)

This policy is made and accepted in consideration of your premium payment to us. It is also in consideration of the power of attorney you signed as part of your application and the information you gave to us on your application. Some of your statements actually become a part of the policy which we call "The Declarations."

When you signed the power of attorney authority on your application, you authorized the Farmers Underwriters Association to execute interinsurance policies between you and other subscribers.

Nothing in this policy is intended, or shall be construed, to create either:

a. A partnership or mutual insurance association.

b. Any joint liability.

We may sue or be sued in our own name, as though we were an individual, if necessary to enforce any claims which arise under this policy. In any suit against us, service of process shall be upon the Farmers Underwriters Association, Attorney-in-Fact.

Membership fees which you pay are not part of the premium. They are fully earned when you are granted membership and coverage is effective. They are not returnable. However, if we cancel or non-renew your policy during the initial six (6) months period, membership fees will be refunded to you in full.

We hold the Annual Meeting of the members of the Exchange at our Home Office at Los Angeles, California, on the first Monday following the 15th day of March of each year at the hour of 2:00 p.m. The Board of Governors may elect to change the time and place of the meeting. If they do so, you will be mailed a written or printed notice at your last known address at least ten days before such a time. Otherwise, no notice will be sent to you.

The Board of Governors shall be chosen by subscribers from among yourselves. This will take place at the annual meeting or at any special meeting which is held for that purpose. The Board

LOSS OF USE ENDORSEMENT

E 116/
3rd Edition

This Company shall pay your extra expense arising from any of the options you have purchased. The chosen option applies when the loss exceeds the deductible amount applicable to peril causing the loss.

The options are:

1. COVERAGE K-1

This Company shall pay you \$10 per day while the insured automobile is in the custody of a garage for repairs resulting from a **Collision**. The maximum payable is \$100. If the automobile is a total loss (regardless of salvage value) we shall pay you \$100.

2. COVERAGE K-2

This Company shall pay you \$15 per day while the insured automobile is in the custody of a garage for repairs resulting from a **Collision** or a **Comprehensive** coverage peril. The maximum payable is \$300. If the automobile is a total loss (regardless of salvage value) we shall pay you \$300. This option does not cover total theft of the insured automobile.

3. COVERAGE K-3

Car Return Expenses. If Coverage K-1 or K-2 loss occurs more than 50 miles from the residence of the named insured, the Company will reimburse you for the reasonable and necessary extra expense for commercial transportation, gasoline, lodging and meals incurred to return the repaired automobile to your residence or destination. The maximum payable is \$200.

The insurance afforded by this endorsement does not apply to any Collision or Comprehensive loss occurring before the effective date of this endorsement.

This endorsement is also subject to the following provisions:

1. This insurance applies only to your **insured car**.
2. If you are paid under this endorsement, the Company shall have your rights to seek recovery. You shall do whatever is necessary to secure such rights. You shall do nothing to prejudice these rights.
3. The premium charged for this insurance is fully earned unless the entire policy is cancelled.

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



... THE INSURANCE EXCHANGE, HEREIN CALLED THE COMPANY.
Effective Date is from THE TIME APPLIED FOR. * * * The policy shall expire at
SOLLOCK noon STANDARD TIME on the expiration date shown. The policy may be renewed for an additional
term of six months each time the Company offers to renew by sending a bill for the required renewal premium and the insured pays
premium in advance of the respective renewal date. The policy is issued in reliance upon the statements in the Declarations

TOM WAGNER
7521 SC 2160 EAST
SLC UT 84121

Agent 15 341	Policy Number 76 11394 58 50
9/4/86 Effective Date	4/9/87 Expiration Date

GES — indicated by "COV" or the limit of Company's liability against each coverage "NC" means "Not Covered" "D" means
ble. "MAX" means "Maximum Deductible" — See Reverse Side For Coverage Designations. * Entries in thousands of dollars

P.D. 100 Each urrence	U M 100 : 300 Each : Each Person : Occ	Medical/ No-Fault 5,000	Compre- hensive 150 D	Collision 500 D	Tow NC	Non-Auto * NC : NC Liab. Medical	Vehicle Description & I D # 79 PORSCHE : 117 "T" means Truck — Last 3 digits shown
--------------------------------	---	-------------------------------	-----------------------------	--------------------	-----------	---	--

New Bus (0) or Reinst. (4)	Coverage Change	Car Change	Name / Address	Rate Class and/or Discount Change	Mtgee	Other
Previous Balance	Symbol	Endorsement Numbers - Coverage Parts E-1167 K2			Rating Points or Accident Code	
Premium	PSA	Terr. 04	Rate Class 7			00
Fees	Financial Resp	Filing Made <input type="checkbox"/>				
Payments or Other Credits						
TOTAL						

s of all premises covered under Personal Liability

s) over 25HP combined covered under Personal Liab.

01

Issuing Office P.O. BOX 4320 CATELL, ID 83201	76 11394 58 50 Date 2/2/88
---	-------------------------------

igned _____ INSURED-TOM WAGNER
Authorized Representative
ATTACH TO
YOUR POLICY

50 5004 10 00 11501 10000C PRINTED IN U.S.A.

COVERAGE DESIGNATIONS

ILY INJURY —Bodily Injury Liability	COMPREHENSIVE — Comprenensive Car Damage
—Property Damage Liability	COLLISION — Collision-Upset
—Benefits for Bodily Injury (including property damage coverage if policy issued in New Mexico) caused by Uninsured Motorists	TOW. — Towing and Road Service Insurance
ICAL —Medical Expense Insurance, Family Medical Expense, and Guest Medical Expense-See Policy Provision.	NON-AUTO — Comprehensive Personal Liability Each occurrence.
If policy contains the E-550 No-Fault Endorsement or No-Fault Coverage D, Auto Medical Expense Coverage does not apply.	Medical Payments to Others - Each Person
FAULT —See Endorsement E-550 (Illinois E-2250) or Coverage D, if applicable	Damage to Property of Others - See Policy for Limits per occurrence.

refund is due under this policy and the insured cannot be located, we may deduct a handling charge. (Not applicable in Kansas)

ect to the Loss Payable Provisions or any other loss payable endorsement attached to the policy, payment for loss thereunder is ble as interest may appear to the named insured and the Lienholder or Other Interest on the reverse side.

LOSS PAYABLE PROVISIONS

(Applicable only if lienholder is named, and no other Automobile loss payable endorsement is attached to the policy)

agreed that any payment for loss or damage to the vehicle described in this policy shall be made on the following basis:

At our option, loss or damage shall be paid as interest may appear to the policyholder and the lienholder shown in the Declarations, or by repair of the damaged vehicle.

Any act or neglect of the policyholder or a person acting on his behalf shall not void the coverage afforded to the lienholder. Change in title or ownership of the vehicle, or error in its description shall not void coverage afforded to the lienholder.

policy does not cover conversion, embezzlement or secretion of the vehicle by the policyholder or anyone acting in his behalf while in session under a contract with the lienholder.

ymment may be made to the lienholder which we would not have been obligated to make except for these terms. In such event, we are led to all the rights of the lienholder to the extent of such payment. The lienholder shall do whatever is necessary to secure such rights. subrogation shall impair the right of the lienholder to recover the full amount of its claim.

reserve the right to cancel this policy at any time as provided by its terms. In case of cancellation or lapse we will notify the lienholder at address shown on the Declarations. We will give the lienholder advance notice of not less than 10 days from the effective date of such ellation or lapse as respects his interest.

Declarations page, when signed by us, becomes part of the policy numbered on the reverse side. It supersedes and controls anything e contrary. It is subject to all the other terms of the policy.

payable to: FARMERS INSURANCE EXCHANGE LOS ANGELES, CALIFORNIA
ed check AN INTER-INSURAN EXCHANGE, HEREIN CALLED E COMPANY
ept.

INVOICE

PLEASE DETACH AND RETURN LOWER
PORTION WITH PAYMENT
PLEASE WRITE YOUR POLICY NUMBER ON CHECK

TOM WAGNER
7521 SO 2160 EAST
SLC UT 84121

Agent

15 341

Policy Number

76 11394 58 50

2.

9/4/86

Effective Date

4/9/87

Expiration Date

GES — indicated by "COV" or the limit of Company's liability against each coverage. "NC" means "Not Covered." "D" means "Deductible." "MAX" means "Maximum Deductible." * Entries in thousands of dollars

P.D.	U.M.	Medical/ No-Fault	Compre- hensive	Collision	Tow.	Non-Auto	Vehicle Description & I.D #
100	100	300	5,000	150 D	500 D	NC	79 PORSCHE
Each	Each	Each				NC	"T" means Truck
currency	Person	Occ				Liab	Medical

117 Last 3 digits shown

DETACH
HERE

multiple car discount change due to cancellation, lapse or reinstatement of a "second" policy with Farmers.

► ☐ NB (0) ☐ Cov.Chg. ☐ Car Chg. ☐ Name/Add ☐ Rate Class and/or Discount Change ☐ Mtgee. ☐ Other

Previous Balance

Premium

Fees

Payments or Other Credits

TOTAL

X - means rate class and/or multiple car discount change
Symbol

Endorsement Numbers - Coverage Parts

E-1167 K2

PSA . Terr. . 04

Financial Resp

Filing Made ☐

RETURN
THIS
PART WITH
PAYMENT
Rating
Points
or
Accident
Code

Rate Class ► 7

00

is of all premises covered under Personal Liability

(s) over 25HP combined covered under Personal Liab

01
Policy
Edition No.

Issuing Office

P.C. BOX 4320

PCCATELLO, ID 83201

76 11394 58 50

Date 2/2/88

INSURED-TOM WAGNER

"TOTAL" BALANCE OR CREDIT \$5.00 OR LESS WILL BE APPLIED TO YOUR NEXT BILLING.

Effective Date is from 1/1/85 to 4/9/87. The policy shall expire at 4/9/87 on the expiration date shown. The policy may be renewed for an additional term of six months each time the Company offers to renew by sending a bill for the required renewal premium, and the insured pays premium in advance of the respective renewal date. The policy is issued in reliance upon the statements in the Declarations

Agent
15 341
Policy Number
76 11394 58 50
Effective Date
9/4/85
Expiration Date
4/9/87

"REIN" here means policy automatically reinstated by payment of premium.
"MH" here means Mobilehome.

RANGES — indicated by "COV" or the limit of Company's liability against each coverage. "NC" means "Not Covered" "D" means "Deductible." "MAX" means "Maximum Deductible." — See Reverse Side For Coverage Designations. * Entries in thousands of dollars.

Injury	P.D.	U.M.	Medical/No-Fault	Comprehensive	Collision	Tow.	Non-Auto	Vehicle Description & I.D.#
100	100	300	5,000	150 D	500 D	NC	NC	79 PORSCHE
Each Occurrence	Each Person	Each Occ.					Liab. Medical	"T" means Truck

is multiple car discount change due to cancellation, lapse or reinstatement of a "second" policy with Farmers.

1) ☐ NB (0) ☐ Cov. Chg. ☐ Car Chg. ☐ Name/Addr ☐ Rate Class and/or Discount Change ☐ Mtgee. ☐ Other

\$ Previous Balance

\$ Premium

\$ Fees

\$ Payments or Other Credits

\$ TOTAL

PSA Terr. 04

Financial Resp.

Filing Made ☐

X - means rate class and/or multiple car discount change.

Symbol

Endorsement Numbers - Coverage Parts

3-1157 K2

Rating Points or Accident Code

Address of all premises covered under Personal Liability

Card(s) over 25HP combined covered under Personal Liab.

der

Policy Edition No.

Issuing Office

Master No.

76 11394 58 50

Date 2/2/86

AGENT'S COPY

CAUTION
"U" printed here means UNREPAIRED DAMAGE
"R" means RESTRICTION - check carefully

Continued on the Reverse Side

COVERAGE DESIGNATIONS

BODILY INJURY —Bodily Injury Liability —Property Damage Liability —Benefits for Bodily Injury (including property damage coverage if policy issued in New Mexico) caused by Uninsured Motorists	COMPREHENSIVE — Comprehensive Car Damage COLLISION — Collision-Upset TOW — Towing and Road Service Insurance NON-AUTO — Comprehensive Personal Liability - Each occurrence
MEDICAL —Medical Expense Insurance, Family Medical Expense, and Guest Medical Expense-See Policy Provision. If policy contains the E-550 No-Fault Endorsement or No-Fault Coverage D, Auto Medical Expense Coverage does not apply.	Medical Payments to Others - Each Person Damage to Property of Others - See Policy for Limits per occurrence
NO-FAULT —See Endorsement E-550 (Illinois E-2250) or Coverage D if applicable	

If refund is due under this policy and the insured cannot be located, we may deduct a handling charge. (Not applicable in Kansas)

As to the Loss Payable Provisions or any other loss payable endorsement attached to the policy, payment for loss thereunder is made as interest may appear to the named insured and the Lienholder or Other interest on the reverse side.

LOSS PAYABLE PROVISIONS

(Applicable only if lienholder is named, and no other Automobile loss payable endorsement is attached to the policy)

We agree that any payment for loss or damage to the vehicle described in this policy shall be made on the following basis:

At our option, loss or damage shall be paid as interest may appear to the policyholder and the lienholder shown in the Declarations, or by repair of the damaged vehicle.

Any act or neglect of the policyholder or a person acting on his behalf shall not void the coverage afforded to the lienholder. Change in title or ownership of the vehicle, or error in its description shall not void coverage afforded to the lienholder.

This policy does not cover conversion, embezzlement or secretion of the vehicle by the policyholder or anyone acting in his behalf while in session under a contract with the lienholder.

Payment may be made to the lienholder which we would not have been obligated to make except for these terms. In such event, we are released to all the rights of the lienholder to the extent of such payment. The lienholder shall do whatever is necessary to secure such rights. Subrogation shall impair the right of the lienholder to recover the full amount of its claim.

We reserve the right to cancel this policy at any time as provided by its terms. In case of cancellation or lapse we will notify the lienholder at address shown on the Declarations. We will give the lienholder advance notice of not less than 10 days from the effective date of such cancellation or lapse as respects his interest.

EXHIBIT "2"

DON J. HANSON, USB #1354
BAYLE, HANSON, NELSON & CHIPMAN
Attorneys for Defendant
1300 Continental Bank Building
Salt Lake City, Utah 84101
Telephone: (801) 364-3627

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

KELLY WAGNER,	:	
Plaintiff,	:	STIPULATION
vs.	:	Civil No. C87-6586
FARMERS INSURANCE EXCHANGE,	:	JUDGE SCOTT DANIELS
Defendant	:	

For the purpose of defining the issue to be decided by the Court in this case, the following facts are stipulated to by the parties to this action, through their respective counsel:

Tom Wagner died as a result of injuries received in an automobile accident which occurred at 5:56 a.m. on November 15, 1986. He is survived by the Plaintiff, his wife, and a six month old son, Tyler Thomas. At the time of the accident, Thomas Wagner was a passenger in his own insured vehicle, a 1979 Porsche 928. The automobile was driven at the time of the accident by Charles P. Lingle with the permission of Tom Wagner. The accident was caused by the negligence of Charles Lingle.

At the time of the accident, Thomas Wagner and the vehicle he was occupying was owned by him and was insured under a policy of insurance issued by Farmers Insurance Exchange. A copy of

that policy showing the provisions of the policy is attached to this stipulation. Charles P. Lingle had no insurance other than that provided under the Farmers policy at the time of the accident in question. Farmers Insurance Exchange did offer to pay the Plaintiff Twenty-thousand Dollars (\$20,000.00) under the liability portion of its policy and has paid the funeral benefits and death benefits under the no-fault provisions of its policy.

Farmers Insurance Exchange denies that it affords any uninsured motorist coverage under the provisions of its policy by reason of the fact that the automobile being driven by Charles P. Lingle in which Thomas Wagner was a passenger was a vehicle owned by Thomas Wagner, which does not qualify as an uninsured motor vehicle.

DATED this _____ day of February, 1988.

M. DAVID ECKERSLEY
Attorney for Plaintiff

DON J. HANSON
Attorney for Defendant