

FILED
2ND JUDICIAL DISTRICT COURT
Bernalillo County
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CLERK OF THE COURT
Andrea I Gutierrez

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

MARGARET VEGA individually and on behalf of
other similarly situated individuals,

Plaintiff,

v.

METROPOLITAN DIRECT PROPERTY AND CASUALTY
INSURANCE COMPANY,

Defendant.

No. D-202-CV-2021-01096

FIRST AMENDED CLASS ACTION COMPLAINT

1. Plaintiff Margaret Vega, for herself and on behalf of the Class and Subclass defined herein, brings this First Amended Class Action Complaint under Rule 1-023 NMRA to recover damages from Metropolitan Direct Property and Casualty Insurance Company (“MetLife”), and states as follows:

JURISDICTION AND VENUE

2. This Court has jurisdiction under Article VI, Section 13 of the New Mexico Constitution.

3. Venue is proper under NMSA 1978, § 38-3-1(B).

PARTIES

4. Plaintiff Margaret Vega is, and was at all material times, a resident of Bernalillo County, New Mexico.

5. Defendant MetLife is a foreign for-profit corporation conducting business, including the sales and solicitations for the sales of insurance policies, throughout the State of

New Mexico. Process is properly served on it via its registered agent, the Office of Superintendent of Insurance.

FACTUAL ALLEGATIONS

Vega purchased an underinsured motorist policy from MetLife.

6. On March 27, 2018 MetLife issued Vega a motor vehicle insurance policy, which she had applied for and purchased. *See Exhibit 1*, Vega UM/UIM selection/rejection form.

7. MetLife issued the insurance policy and provided her with a declarations page. *See Exhibit 2*, Vega Declaration pages.

8. The policy that MetLife issued and which was in effect at the time of Vega's loss was Policy No. 1352605930, effective from February 7, 2018 to February 7, 2019 ("Vega Policy"). *Id.*

9. The Vega Policy provided liability coverage on one vehicle in the amount of \$25,000 per person/\$50,000 per occurrence. *Id.*

10. The Vega Policy also purportedly provided uninsured and underinsured motorist coverage in the amount of up to \$25,000.00 per person/\$50,000.00 per occurrence. *Id.*

11. MetLife collected a premium of \$136 for the uninsured and underinsured motorist coverage that MetLife purportedly offered for the twelve months from February 7, 2018 to February 7, 2019. *Id.*

12. MetLife collected from Vega premiums for uninsured and underinsured motorist coverage that it purportedly sold her since 2018.

MetLife’s systematic application process, declarations, UM/UIM information and selection forms, and policy are ambiguous and misrepresented the true value of underinsured motorist coverage and failed to properly and adequately disclose to Vega that the underinsured motorist coverage for which Defendant collected a premium was illusory and misleading.

13. Defendants’ boilerplate forms which should allow insureds to select or reject Uninsured and Underinsured Motorists Coverage do not adequately disclose “Underinsured Motorist”. See **Exhibit 1 and 2**.

14. Defendants’ boilerplate forms which allow insureds to select or reject Uninsured and Underinsured Motorists Coverage are ambiguous and do not in any manner refer to the New Mexico statute, NMSA § 66-5-301(B). *Id.*

15. Defendant’s application, pursuant to NMSA § 66-5-301(C), should provide adequate disclosures so that a meaningful offer is made and an insured is able to make a knowing and intelligent choice of UM/UIM coverage. Defendants have not provided the application that was used.

16. Defendant’s boilerplate forms and ambiguous policy definitions failed to properly inform Ms. Vega about the offset described in *Schmick v. State Farm Mutual Automobile Insurance Company*, 704 P.2d 1092 (1985) (“the *Schmick* offset”) and did not meet his reasonable expectations of being properly insured in the event he sustained significant injuries. See *Crutcher v. Liberty Mut. Ins. Co.*, 2022-NMSC-001, ¶ 2, 501 P.3d 433, 434. “We conclude that this type of policy is illusory in that it may mislead minimum UM/UIM policyholders to believe that they will receive underinsured motorist benefits, when in reality they may never receive such a benefit.” See **Exhibit 3**, Auto Insurance Policy.

17. Nothing in Defendant’s boilerplate forms advise an insured that they will never

receive the full amount of underinsured motorist coverage for which they have contracted. *Id.*

18. When Ms. Vega purchased automobile coverage, Defendant did not properly inform her of how underinsured motorist coverage is illusory in the event of a covered occurrence involving an underinsured driver.

19. Defendant failed to properly inform Ms. Vega that she and her insured beneficiaries would most likely not be afforded the full UIM benefits from paying a premium for underinsured motorist coverage because, pursuant to the *Schmick* offset, Ms. Vega's and insured beneficiaries' recovery of underinsured motorist benefits would be offset by the amount of the tortfeasor's liability coverage. See *Id.*, ¶ 26. "We refuse to impose on the insured the obligation to be aware of and understand the consequences of New Mexico's UM/UIM statutory provisions, much less the offset rule derived by its technical language."

20. When Ms. Vega purchased automobile coverage, Defendant did not properly inform her of how underinsured motorist coverage is illusory and/or misleading in the event of a covered occurrence involving an underinsured driver.

21. Defendant's forms did not contain clear, unambiguous language regarding the effects of the *Schmick* offset.

22. Defendant's systematic processes forms did not alert Ms. Vega, nor make clear to ordinarily and similarly situated insureds, the fact that the *Schmick* offset drastically and materially diminished payment of benefits arising from a covered occurrence under the policy for crashes involving underinsured motorists. See *Id.*

23. Defendant's systematic processes and forms misrepresented the true value of the illusory underinsured motorist coverage that it advertised and sold to Ms. Vega and for which Defendants collected premiums. See *Id.*, ¶ 26. "First, we find no merit in Defendant's argument

that the language of the statute provides immunity from claims that it misrepresented the coverage available to consumers like Mr. Crutcher. Certainly, while the Legislature authorized the selling of premiums together, its intent was not to sanction the deception of those consumers in their selection of policies and coverage levels. The Court in *Weed Warrior* concluded that it was the obligation of the insurance company to clearly provide its policyholders the opportunity to match their UM/UIM policy with their liability coverage. *Id.* ¶ 15. In this case [*Crutcher*], we are simply identifying the same consequence previously illuminated in *Weed Warrior. Id.* ¶ 10.) and *Id.*, ¶ 27. If a person pays for something called “underinsured motorist” insurance, we think it reasonable for the person to be under the impression that he or he is, in fact, eligible to receive UIM coverage if involved in an accident with someone who does not have enough insurance to cover the costs of the insured's injuries.” *Id.*

Vega was injured in a collision with an underinsured motorist.

24. On August 25, 2019, Vega sustained serious bodily injuries and other damages arising from an automobile crash that occurred on San Mateo Boulevard, SE in Albuquerque, New Mexico, at the intersection with Zuni Road when an underinsured motorist ran a red light entering San Mateo and Zuni and caused a heavy impact with Vega’s vehicle.

25. Vega was not at fault for the crash and was wearing her seatbelt at the time.

26. As a result of the collision, Vega suffered serious bodily injuries and other damages.

27. Vega suffered total damages well in excess of \$50,000.00.

28. At the time of the collision, Vega was insured by the Vega Policy, which provided her with uninsured and underinsured motorist insurance coverage in the amount of up to \$25,000.00 per person/\$50,000.00 per accident.

29. After the collision, Vega made a claim with the tortfeasor's insurer and received \$25,000, the full extent of liability coverage from the tortfeasor's insurer.

30. Like Vega, the tortfeasor also carried the minimum required liability insurance with limits of \$25,000.00 per person, \$50,000.00 per accident.

Vega makes a claim that MetLife denies.

31. Before the collision at issue, MetLife collected a premium for automobile coverage pursuant to the Vega Policy, under which Vega had a reasonable expectation that she carried underinsured motorist coverage of \$25,000.00 per person, \$50,000.00 per occurrence.

32. At the time of the collision, Vega was under the belief and had a reasonable expectation that she was entitled to underinsured motorist benefits pursuant to the application she had made and the insurance policy that MetLife had issued her.

33. After the collision, Vega reported the collision to MetLife and, through counsel, made a claim on the underinsured motorist coverage for which she had paid a premium.

34. MetLife, under a standardized business practice, opened a claim, assigned claim number 058014483 0101 023, and randomly assigned the adjustment of the matter to one of its adjusters. See **Exhibit 4**, MetLife's Denial of Vega's Claim.

35. Vega, through counsel, requested that MetLife provide her with the underinsured motorist benefits that MetLife contracted with Vega to provide and for which she had paid a premium.

36. MetLife denied Vegas's underinsured motorist coverage claim in its entirety.

37. MetLife denied Vega's claim because (i) MetLife deducted from the coverage it owed Vega any sums paid by the tortfeasor's insurer and (ii) the tortfeasor's liability

coverage limits equaled Vega's underinsured motorist coverage limits. *See id.*

38. Vega received nothing from MetLife, her underinsured motorist policy carrier.

39. Vega had a reasonable expectation that she would benefit from the insurance premiums MetLife collected from her. In fact, however, under her policy there were virtually no underinsured motorist benefits.

CLASS ACTION ALLEGATIONS

40. This action is properly maintainable as a class action pursuant to Rule 1-023 NMRA. The Class is defined as follows:

“All persons (and their heirs, executors, administrators, successors, and assigns) from whom MetLife collected a premium for an underinsured motorist coverage on a policy that was issued or renewed in New Mexico by MetLife and that purported to provide underinsured motorist coverage, but which effectively provides no underinsured motorists coverage and/or misleading underinsured motorist coverage, because of the statutory offset recognized in *Schmick v. State Farm Mutual Automobile Insurance Company*, 704 P.2d 1092 (1985).”

41. Excluded from the Class are all of Defendants' present and former officers and directors, “Referees” serving the Evaluation Appeal process proposed below, Class counsel and their resident relatives, and Defendant's counsel of record and their resident relatives.

42. Pursuant to Rule 1-023(C) (4)(b), the Class properly includes a Subclass:

“All Class Members (and their heirs, executors, administrators, successors, and assigns from whom MetLife collected a premium for an underinsured motorist coverage on a policy that was issued or renewed in New Mexico by MetLife and that purported to provide the underinsured motorist coverage on the face of its application and declaration pages, but which in fact provides no underinsured motorists coverage and/or misleading underinsured motorist coverage, because of the statutory offset recognized in *Schmick v. State Farm Mutual Automobile Insurance Company*, 704 P.2d 1092 (1985), and who sustained damages in excess of an insured tortfeasor's policy limits, received

the extent of all bodily injury liability limits available and would be denied those benefits by MetLife due to the *Schmick* offset.”

43. The proposed class and subclass definitions are precise, objective, and presently ascertainable, and it is administratively feasible for the Court to ascertain whether a particular individual is a member of the Class.

44. The members of the Class are so numerous that joinder of all members of the Class is impracticable.

45. Vega’s claims are typical of the claims of members of the Class and Subclass.

46. Certification of the Class and Subclass is desirable and proper, because there are questions of law and fact in this case common to all members of the Class. Such common questions of law and fact include, but are not limited to:

- a. Whether MetLife breached contractual obligations owed to their New Mexico policyholders;
- b. Whether MetLife breached duties owed to New Mexican insureds under the implied covenant of good faith and fair dealing;
- c. Whether MetLife violated NMSA 1978, §§ 59A-16-1 to -30;
- d. Whether MetLife failed to disclose one or more material facts in connection with the marketing or sale of the insurance policies at issue;
- e. Whether MetLife misled or deceived their policyholders in connection with the marketing or sale of the policies at issue;
- f. How properly to construe MetLife’s standard application forms and other standard form documents relative to the *Schmick* offset;
- g. What remedies are available to Vega and Class Members in light of the answers to the foregoing questions; and

h. Whether and to what extent there may be merit in any affirmative defenses that MetLife might claim.

47. These common questions of law or fact common to members of the Class predominate over any questions affecting only individual members, and a class action is superior to all other available methods for the fair and efficient adjudication of the controversy.

In this action:

48. Common or generalized proof will predominate with respect to the essential elements of the nine claims at issue.

49. The common questions of law or fact that pertain to the Class predominate over any individual questions and any individual issues do not overwhelm the common ones.

50. If any member or members of the Class has an individually controlling interest to prosecute a separate action, they may exclude themselves from the Class upon receipt of notice under Rule 1-023(C)(2).

51. The determination of the claims of all members of the Class in a single forum and in a single proceeding would be a fair, efficient and superior means of resolving the issues raised in this litigation.

52. Any difficulty encountered in the management of the proposed Class is reasonably manageable, especially when weighed against the impossibility of affording adequate relief to the members of the Class through numerous independent actions.

53. The need for proof of Vega's and Class members' damages will not cause individual issues to predominate over common questions. The amounts of losses can be efficiently demonstrated either at trial or as part of routine claims administration through accepted and court-approved methodologies with the assistance of court-appointed personnel,

including Special Masters. Certain types or elements of damage are subject to proof using aggregate damage methodologies or simply rote calculation and summation.

54. The particular common issues of liability and the quantum of punitive damages or ratio of punitive damages to actual harm, are common to Class Members no matter what type of harm or injury was suffered by each Class Member.

55. MetLife has acted or refused to act on grounds generally applicable to Class Members, thereby making appropriate injunctive relief and corresponding declaratory relief with respect to Class Members. Vega seeks to establish the rights and obligations of the parties with respect to the claims at issue in this case and to enjoin MetLife from continuing to engage in those practices that violate the duties, contractual, and legal obligations owed to Vega and Class Members under New Mexico statutory and common law.

56. A class action is superior to maintenance of these claims on a claim-by-claim basis when all actions arise out of the same circumstances and course of conduct. A class action allows the Court to process all rightful claims in one proceeding. Class litigation is manageable considering the opportunity to afford reasonable notice of significant phases of the litigation to Class Members and permit distribution of any recovery. The prosecution of separate actions by individual Class Members, or the individual joinder of all Class Members in this action, is impracticable and would create a massive and unnecessary burden on the resources of the courts and could result in inconsistent adjudications, while a single class action can determine, with judicial economy, the rights of each Class Members, should that be determined to be appropriate.

57. The conduct of this action as a class action conserves the resources of the parties and the court system, protects the rights of each member of the class, and meets all due

process requirements.

58. Certification of the Class with respect to particular common factual and legal issues concerning liability, as well as the necessary and appropriate quantum of punitive damages, or ratio of punitive damages to actual harm, is appropriate under Rule 1-023.

59. Certification of the Class is desirable and proper, because Vega will fairly and adequately protect the interests of the Class that they seek to represent. There are no conflicts of interest between Vega's claims and those other members of the Class. Vega is cognizant of their duties and responsibilities to the Class. Vega's attorneys are qualified, experienced, and able to conduct the proposed class action.

CLAIM 1
VIOLATIONS OF THE NEW MEXICO UNFAIR TRADE PRACTICES ACT

60. Vega and Class Members incorporate by reference the preceding paragraphs as if they were fully stated herein.

61. There was in effect, at all times material, a New Mexico statute commonly known as the New Mexico Unfair Trade Practices Act, N.M.S.A.1978, § 57-12-2 to 58-12-10 ("UPA"), including but not limited to Sections 57-12-2(D)(7), (D)(14), (D)(15), (D)(17) and Section 57-12- 2(E), which prohibits a person selling insurance from engaging in unfair or deceptive trade practices:

D. "unfair or deceptive trade practice" means an act specifically declared unlawful pursuant to the Unfair Trade Practices Act [Chapter 57, Article 12 NMSA 1978], a false or misleading oral or written statement, visual description or other representation of any kind knowingly made in connection with the sale, lease, rental or loan of goods or services or in the extension of credit or in the collection of debts by a person in the regular course of his trade or commerce, which may, tends to or does deceive or mislead and includes but is not limited to:

(7) representing that the goods or services are of a particular standard, quality or grade or that goods are of a particular style or model if they are of another;

(14) using exaggeration, innuendo or ambiguity as to a material fact or failing to state a material fact if doing so deceives or tends to deceive;

(15) stating that a transaction involves rights, remedies or obligations that it does not involve;

(17) failure to deliver the quality or quantity of goods or services contracted for;

E. “unconscionable trade practice” means an act or practice in connection with the sale, lease, rental or loan, or in connection with the offering for sale, lease, rental or loan, of any goods or services, including services provided by licensed professionals, or in the extension of credit or in the collection of debts which to a person’s detriment: takes advantage of the lack of knowledge, ability, experience or capacity of a person to a grossly unfair degree; or results in a gross disparity between the value received by a person and the price paid.

62. MetLife failed to deliver the quality or quantity of services applied for and purchased and paid for by Vega and other insureds by failing to provide insurance applications and policies containing sufficient information to properly inform a reasonably prudent person purchasing underinsured insurance, for which Vega and others similarly situated were under the reasonable belief that such coverage existed, and to pay claims for insurance benefits sold and solicited by MetLife.

63. In the regular course of its business, MetLife or its agents knowingly made oral and written statements that were false and misleading in connection with the sale of underinsured motorist insurance in New Mexico.

64. These false and misleading representations may, tend to, and do deceive or mislead persons into believing that minimal-limits underinsured motorist coverage has a value that it does not have and into contracting for and paying premiums for underinsured motorist policies that are illusory and/or misleading and do not provide the underinsured motorist coverage and benefits that MetLife’s customers reasonably expected to receive.

65. In the regular course of its business, MetLife or its agents took advantage of its customers' lack of knowledge, ability, experience or capacity to a grossly unfair degree by marketing, advertising, selling, and receiving premium payments for illusory and/or misleading underinsured motorist coverage.

66. Since the New Mexico Supreme Court's opinion in *Progressive Northwest Insurance Co. v. Weed Warrior Services*, 2010-NMSC-050, 149 N.M. 157, 245 P.3d 1209, MetLife has been on notice that underinsured motorist policies provide essentially no coverage at minimal limits and misleading coverage at higher limits, yet MetLife markets, advertises, sells, and received premiums for minimal limits and above-minimal limits underinsured motorist policies to and from customers, such as Vega and Class Members, who do not know and do not understand that, if they purchase minimal limits underinsured motorist coverage, they are vanishingly unlikely to receive any underinsured motorist coverage or that if they purchase above-minimal limits and suffer damages in excess of the tortfeasor's liability coverage, they would only be able to receive limited underinsured motorist coverage in excess of the amounts received from the tortfeasor, losing the full benefit of their above-minimal limits coverage because of the Schmick offset.

67. MetLife's actions resulted in a gross disparity between the value of the illusory underinsured motorist coverage received by Vega and Class Members and the price of the premiums that Vega and Class Members paid for illusory and/or misleading underinsured motorist coverage.

68. MetLife, acting through its agents, adjusters, and employees, as set forth above, knowingly and willfully engaged in unfair trade practices in violation of Section 57-12-3, including but not limited to Sections 57-12-2(D)(7), (D)(14), (D)(15), (D)(17) and Section 57-

12- 2(E).

CLAIM 2
VIOLATIONS OF THE NEW MEXICO UNFAIR INSURANCE PRACTICES ACT

69. Vega and Class Members incorporate by reference the preceding paragraphs as if they were fully stated herein.

70. There was in effect at all times material a New Mexico statute commonly known as the Insurance Code New Mexico Unfair Insurance Practices Act, NMSA 1978, §§ 59A-16-1 to 59A-16-30 (“UIPA”).

71. The UIPA provides a private right of action to any person covered by the UIPA who has suffered damages as a result of a violation of that statute by an insurer or agent is granted a right to bring an action in district court to recover actual damages.

72. Vega and Class Members were insured under the policy issued and adjusted by the MetLife.

73. MetLife owed Vega and Class Members the duties of good faith, fair dealing, and the accompanying fiduciary obligations.

74. In the sale and provision of insurance, and in the handling of the underinsured motorist claim, MetLife failed to exercise good faith, unreasonably delayed payment, and failed to give the interests of Vega and of Class Members the same consideration it gave their own interests.

75. MetLife’s failure to pay anything on Vega’s and Class Members’ first \$25,000.00 level of underinsured motorist claims was unfounded, unreasonable, and in bad faith.

76. MetLife misrepresented the terms of the policy sold and provided to Vega and Class Members, and/or failed to disclose material facts reasonably necessary to prevent other

statements from being misleading and failed to implement and follow reasonable standards in the sale and provision of insurance.

77. MetLife's acts and failures to act were in reckless disregard of Vega's and Class Members' rights as an insured under the subject policy.

78. MetLife's acts and practices took advantage of the lack of knowledge and experience of Vega and Class Members to a grossly unfair degree.

79. MetLife's failed to abide by its statutory duties under the UIPA, and such violations constitute negligence per se.

80. MetLife misrepresented to Vega and Class Members pertinent facts or policy provisions relating to coverages at issue, in violation of NMSA 1978, § 59A-16-20(A).

81. MetLife compelled Vega and Class Members to institute litigation to recover amounts due under the policies by offering substantially less (i.e., nothing on the first level of \$25,000.00 of UIM coverage withheld based on the *Schmick* offset) than the amounts claimed by Vega and Class Members that will ultimately be recovered in actions brought by Vega, in violation of NMSA 1978, § 59A-16-20(G).

82. MetLife's failure to act in good faith and MetLife's violations of the Insurance Code and Unfair Practices Act are proximate causes of damages sustained by Vega and Class Members.

83. MetLife's conduct was in bad faith, malicious, willful, wanton, fraudulent and/or in reckless disregard of Vega's and Class Members' rights.

84. Vega and Class Members are entitled to attorneys' fees and costs pursuant to NMSA 1978, §§ 59A-16-30 and 39-2-1. As a direct and proximate result of Defendants' acts, omissions policies, and conduct in violating UIPA, as set forth above, Vega and Class

Members have sustained damages, in addition to the damages common to all counts of this complaint, including but not limited to the actual damages incurred, the cost of prosecution of this lawsuit, attorneys' fees, and interest on the sums owed under the policy. These injuries and damages are ongoing, permanent, and are expected to continue in the future.

CLAIM 3
REFORMATION OF INSURANCE POLICY

85. Vega and Class Members incorporate by reference the preceding paragraphs as though they were stated fully herein.

86. Vega and similarly situated Class Members mistakenly believed that, by paying a premium for underinsured motorist coverage, they would receive underinsured motorist coverage at those same specific dollar amounts and limits.

87. MetLife and its agents knew that, because of the operation of the offset described in *Schmick*, Vega and similarly-situated Class Members were vanishingly unlikely to receive the underinsured motorist benefits that they contracted for and for which MetLife collected premiums.

88. At the time of contract formation, MetLife and its agents inequitably misrepresented the value of underinsured motorist coverage and failed to inform Vega and similarly-situated Class Members that, because of the operation of the offset described in *Schmick*, they were vanishingly unlikely to receive the underinsured motorist benefits that they contracted for and for which MetLife collected premiums.

89. The inequitable failure of MetLife and its agents to inform Vega and similarly-situated Class Members that they were vanishingly unlikely to receive the underinsured motorist coverage caused Vega and similarly-situated Class Members to believe that, by paying a premium for underinsured motorist coverage, they would receive underinsured

motorist coverage reflected on their declaration pages.

90. The insurance contracts respectively entered between MetLife and its agents, on the one hand, and Vega and Class Members, on the other hand, do not express the intentions and reasonable beliefs of Vega and Class Members that they would receive the underinsured motorist coverage that they contracted for and for which MetLife collected premiums.

91. The court should reform the insurance contracts respectively entered between MetLife and its agents, on the one hand, and Vega and Class Members, on the other hand, to conform to the intentions and reasonable beliefs of Vega and Class Members that they would receive the underinsured motorist coverage that they contracted for and for which MetLife collected premiums.

CLAIM 4
BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING

92. Vega and Class Members incorporate by reference the preceding paragraphs as though they were stated fully herein.

93. A special relationship exists between MetLife, on the one hand, and Vega and Class Members, respectively, on the other hand, sufficient to impose a duty of good faith and fair dealing on MetLife owed to Vega and Class Members.

94. Implicit in the contract of insurance between Vega and Class Members, on the one hand, and MetLife on the other was the covenant that Defendants would, at all times, act in good faith and deal honestly and fairly with Vega and Class Members.

95. MetLife breached the implied covenant of good faith and fair dealing, in one or more of the following ways, including but not limited to:

- a. Failing to properly inform Vega and Class Members of the illusory and/or misleading coverage it solicited and sold;

- b. Charging a premium for coverage that was not provided;
- c. Failing and refusing to disclose, admit and acknowledge some amount of underinsured motorist coverage;
- d. Failing and refusing to fairly investigate, process, determine and decide Vega's and Class Members' claims under the policies referenced above; and
- e. Failing and refusing to mediate, resolve, and settle Vega's and Class Members' underinsured motorist claims.

96. As a direct and proximate result of MetLife's acts and omissions alleged herein, Vega and Class Members have suffered damages in an amount to be proven at trial.

97. MetLife's acts and omissions alleged herein and breach of the implied covenant of good faith and fair dealing were done intentionally, willfully, wantonly, grossly and/or with reckless disregard for the rights of Vega and Class Members.

98. Accordingly, Vega and Class Members are entitled to recover punitive damages in an amount to be determined by the jury and sufficient to punish MetLife for its misconduct and to deter others from similar conduct in the future.

CLAIM 5 NEGLIGENCE

99. Vega and Class Members incorporate by reference the preceding paragraphs as if they were fully stated herein.

100. MetLife had a duty to ensure Vega and Class Members would be offered and obtain the maximum benefit of underinsured coverage and would not be sold illusory and/or misleading underinsured coverage.

101. MetLife had a duty to provide Vega and Class Members coverage for which a premium was charged and collected.

102. It was reasonably foreseeable that the minimal limits underinsured coverage sold to Vega and Class Members was, in large part, illusory and/or misleading and that MetLife materially misrepresented the terms of underinsured coverage, and charged a premium for such illusory coverage.

103. A reasonably prudent insurance company exercising ordinary care would offer and sell underinsured coverage that was not illusory and/or misleading and would not materially misrepresent the terms of underinsured coverage by properly informing its insured of the coverage they were purchasing and obtaining a written waiver acknowledging its insured consent to the purchase of illusory and/or misleading underinsured motorist coverage.

104. A reasonably prudent insurer would not charge a premium for coverage it intended to deny or did not provide.

105. MetLife's actions and inactions, through its agents, employees, or others on its behalf, were negligent in that they breached the standard of care required of an insurance company issuing auto policies in New Mexico.

106. As a result of MetLife's negligence, Vega and Class Members sustained actual damages for which MetLife is liable. Vega and Class Members are entitled to punitive damages for actions of MetLife that were willful, reckless and wanton, and in bad faith and based on dishonest business judgment.

**CLAIM 6
UNJUST ENRICHMENT**

107. Vega and Class Members incorporate by reference the preceding paragraphs as though they were stated fully herein.

108. MetLife has applied the *Schmick* offset to its insureds' claims and denied the first level of underinsured motorist coverage in New Mexico since 1985. MetLife misled,

deceived, and acted in an unfair manner for decades and retained benefits (*i.e.*, the payment of proper claims, and retained premium charges which were unearned) from thousands of New Mexico insureds for years, including Vega and Class Members. The benefits MetLife denied their insureds allowed them to invest and enjoy the benefits of their deceptive and intentional conduct.

109. Vega and Class Members are entitled to the value of the underinsured motorist benefits and out-of-pocket expenses under the equitable theory of unjust enrichment.

110. MetLife should be ordered to disgorge of the value of the underinsured motorist benefits it retained, the UIM premiums it received, and the unjust profit that it derived therefrom.

CLAIM 7 NEGLIGENT MISREPRESENTATION

111. Vega and Class Members incorporate by reference the preceding paragraphs as though they were stated fully herein.

112. A special relationship exists between MetLife, on the one hand, and Vega and Class Members, respectively, on the other hand, sufficient to impose a duty on MetLife to disclose accurate information to Vega and Class Members.

113. As early as 1985, when the New Mexico Supreme Court published its decision in *Schmick v. State Farm*, MetLife knew that underinsured motorist coverage would be illusory and/or misleading under circumstances similar to those experienced by Vega and Class Members.

114. MetLife, however, withheld this information from Vega and Class Members and hid from them the fact that the underinsured motorist coverage as impacted by the *Schmick* offset is illusory and/or misleading.

115. From 1985 through the present, MetLife failed to disclose material facts and made material misrepresentations to Vega and Class Members regarding illusory and/or misleading underinsured motorist coverage.

116. MetLife, by their failures and omissions, misrepresented underinsured motorist coverages through their standard and uniform applications and policies used by Vega and Class Members, which MetLife knew or should have known, were misleading and contained material misrepresentations.

117. MetLife's material omissions and misrepresentations were made to induce Vega and Class Members to purchase underinsured motorist coverage that MetLife knew was illusory and/or misleading.

118. Vega and Class Members relied on MetLife's material omissions and misrepresentations when deciding to purchase underinsured motorist coverage at the level of coverage they respectively purchased.

119. As a result of MetLife's misrepresentations and omissions, MetLife is liable to Vega and Class Members for their damages flowing from those misrepresentations and omissions.

120. As a direct and proximate result of MetLife's negligent misrepresentations, Vega and Class Members suffered economic loss, including the lost benefits of underinsured motorist coverage and out-of-pocket expenses. Vega and Class Members seek the full measure of damages allowed under applicable law.

**CLAIM 8
DECLARATORY JUDGMENT**

121. Vega and Class members incorporate by reference the preceding paragraphs as though they were stated fully herein.

122. An actual controversy exists between the parties thereby rendering declaratory relief proper under the New Mexico Declaratory Judgment Act, NMSA 1978, Sections 44-6-1 through 44-6-15.

123. The Court should reform the insurance contracts respectively entered between Defendant and their agents, and Ms. Vega and Class Members to conform to the intentions and reasonable beliefs of Ms. Vega and Class Members that they would receive the underinsured motorist coverage that they contracted for and for which Defendant collected premiums

124. Vega and Class Members are entitled to a declaratory judgment establishing their respective rights and obligations of the parties with respect to the claims set forth herein.

INJUNCTIVE RELIEF

125. Vega and Class Members incorporate by reference the preceding paragraphs as though they were stated fully herein.

126. Vega and Class Members are entitled to injunctive relief under the claims they have pled because Vega and Class Members would suffer an irreparable injury that monetary damages at a later time would not adequately compensate them for the injury of paying a premium for illusory and/or misleading coverage.

127. MetLife should be enjoined from continuing practices that violate the duties, and contractual legal obligations owed to Vega and Class Members.

128. MetLife must be compelled to stop their practice of collecting premiums for the sale of illusory and/or misleading underinsured motorist coverage and failing to provide underinsured motorist coverage benefits equal to the limits of liability coverage where they failed to properly inform Vega and Class Members throughout the application and policy underwriting process.

REQUEST FOR RELIEF

Vega and Class Members request a jury trial and the following relief:

- i. An order certifying this action to proceed as a class action, authorizing Vega to represent the interests of the Class Members as appropriated and appointing undersigned counsel to represent the class.
- ii. Awarding compensatory damages to Vega and Class Members for the damages done to them by MetLife in an amount to be proven at trial;
- iii. Awarding Vega and Class Members damages from MetLife as a result of its violations of the UIPA, in an amount to be determined at trial for attorneys' fees and costs;
- iv. Awarding disgorgement of the value of the underinsured motorist benefits retained by MetLife, the UIM premiums received by MetLife, the unjust profit that MetLife derived therefrom, and any other amounts to which Vega and Class Members are equitably entitled under the theory of unjust enrichment;
- v. Awarding treble damages in accordance with NMSA 1978, Sections 57-12-10(B) and any and all damages pursuant to NMSA 1978, Sections 57-12-1 through -26, which will deter MetLife and others from such unfair trade practices and wrongful conduct in the future and will punish them for the conduct set forth herein;
- vi. Granting declaratory relief that establishes the rights and obligations of the parties with respect the claims set forth herein;
- vii. Granting injunctive relief requiring MetLife to properly inform Vega and Class Members throughout the application and policy underwriting process

of the true value of the underinsured motorist benefits that are being advertised and sold;

- viii. Awarding Vega and Class Members their costs and expenses incurred in these actions, including reasonable attorney's fees, experts' fees, and costs; and
- ix. Granting such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Kedar Bhasker

Kedar Bhasker
BHASKER LAW
2741 Indian School Rd. NE
Albuquerque, NM 87106
505-407-2088
Kedar@bhaskerlaw.com

and

Corbin Hildebrandt
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Phone: 505 998-6626
corbin@hildebrandtlawnm.com

and

Geoffrey Romero
LAW OFFICES OF GEOFFREY R. ROMERO
4801 All Saints Rd. NW Ste. A
Albuquerque, NM 87120
(505) 247-3338
geoff@geoffromerolaw.com

Counsel for the Plaintiff

Exhibit 1

PLEASE SIGN AND RETURN TO US

Margaret Christine
Named/Insured (print)

A 135260593 0

Policy Number



NEW MEXICO UNINSURED / UNDERINSURED MOTORISTS COVERAGE ELECTION / REJECTION FORM

000320200300080000101352605930000000000

This form is used to select the limits for the Uninsured / Underinsured Motorists Bodily Injury and Property Damage coverages that are best suited to your needs. Please read it carefully. The form must be completed, signed, and mailed to the address below when you are selecting, rejecting, or changing your Uninsured / Underinsured Motorists Bodily Injury (UMBI/UIMBI) coverage limits or your Uninsured Motorists Property Damage (UMPD) coverage limits. If you have any questions, please see the "How To Reach Us" section in the front of your policy package for your choice of contact options.

Uninsured Motorists Bodily Injury (UMBI) coverage will pay for loss resulting from bodily injury or death which you, or any other person occupying your covered automobile, are legally entitled to collect from the owner or driver of any uninsured motor vehicle or a hit-and-run motor vehicle.

Underinsured Motorists Bodily Injury (UIMBI) coverage will pay for loss resulting from bodily injury or death which you are legally entitled to collect from the owner or driver of a motor vehicle insured for amounts insufficient to pay for your loss.

Uninsured Motorists Property Damage (UMPD) coverage provides coverage for property damage you sustain as a result of an accident with an uninsured motor vehicle. UMPD coverage is subject to a \$250 deductible.

You may select UMBI / UIMBI and UMPD coverage at the minimum limits required by law, or, for relatively modest increases in premium, in any amount up to the Bodily Injury and Property Damage Liability limits of your policy. You may also reject these coverages. Please indicate your selection below by checking the option you desire:

Your Bodily Injury limit on the policy: \$ 25,000 / \$ 50,000

I understand that if I select a coverage limit for Uninsured / Underinsured Motorists coverage that is lower than the limit on my policy for Bodily Injury Liability coverage, that I am rejecting Uninsured / Underinsured Motorists coverage limits equal to my Bodily Injury Liability coverage.

I SELECT THE UNINSURED / UNDERINSURED MOTORISTS BODILY INJURY LIMITS INDICATED BELOW:

- \$25,000 per person / \$50,000 per accident \$ 122
- \$30,000 per person / \$60,000 per accident \$ 156
- \$50,000 per person / \$100,000 per accident \$ 160
- \$60,000 per person / \$120,000 per accident \$ 188
- \$100,000 per person / \$300,000 per accident \$ 206
- \$150,000 per person / \$350,000 per accident \$ 222
- \$250,000 per person / \$500,000 per accident \$ 238
- \$300,000 per person / \$600,000 per accident \$ 244

MetLife Auto & Home is a brand of Metropolitan Property and Casualty Insurance Company and its affiliates. Warwick, RI

I SELECT THE UNINSURED MOTORISTS PROPERTY DAMAGE LIMITS INDICATED BELOW:

- \$10,000 per accident \$ 58
- \$15,000 per accident \$ 72
- \$20,000 per accident \$ 82
- \$25,000 per accident \$ 100
- \$50,000 per accident \$ 114
- \$100,000 per accident \$ 140

I reject the Uninsured / Underinsured Motorists coverage, as well as Uninsured Motorists Property Damage in their entirety. I understand that I may add these coverages at any future date.

NEW MEXICO STACKING OF UNINSURED MOTORISTS COVERAGE

If you have elected to purchase Uninsured Motorists coverage, you have the option to reject intra-policy Stacked Uninsured Motorists coverage and, instead, purchase Non-Stacked Uninsured Motorists coverage. Subject to the provisions of the policy, intra-policy stacking refers to aggregating the Uninsured Motorists coverage limits, for you and members of your household, for each vehicle specifically insured under the policy.

Please indicate your choice of stacking Uninsured Motorists coverage below.

- I SELECT the Stacking of Uninsured Motorists coverage \$ 166
- I REJECT the Stacking of Uninsured Motorists coverage \$ 122

Margaret Christine
Signature

3/27/18
Date

Mail to:
Attention: Services
MetLife Auto & Home
P.O. Box 6060
Scranton, PA 18505-6060

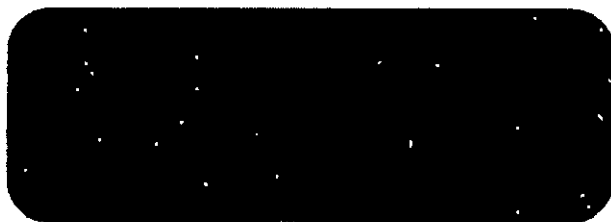
MetLife Auto & Home is a brand of Metropolitan Property and Casualty Insurance Company and its affiliates, Warwick, RI

BEFORE SEALING, PLEASE BE SURE THE MAILING ADDRESS APPEARS IN THE WINDOW.

VOID HERE

www.eservice.metlife.com

MPL 0395 000 Printed in USA 0312



E1601801621

180330301910221

US POSTAGE \$0.50
87110
Date of sale 03/05/18
2500
808336963
207660305 833 2
S&K



From: Margaret Christine
1033 Adams St NE Unit C
HBD, WA 87110

MetLife Auto & Home®
Dayton Customer Service Center
9797 Springboro Pike, Dayton, Ohio 45448

Exhibit 2

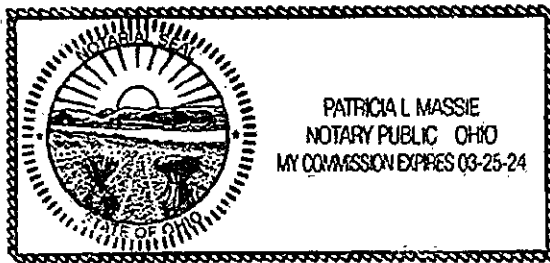
This is to certify that the attached declarations page is a true and accurate representation of the declarations page for the insurance policy described below:

Named Insured(s): MARGARET CHRISTINE
Policy Type: Auto
Policy Number: 1352605930
Issuing Insurance Company: Metropolitan Direct Property and Casualty Insurance Company
As of Date: 02/07/2018

Signed by: *Dave Walter*

Notary: *Patricia L. Massie*

Date: 2/10/2021



Policy Number: 1352605930 Policy Effective Date: 02/07/2018 Policy Expiration Date: 02/07/2019 At: 12:01 A.M. Standard Time	Page 1 of 2 New Policy Effective Date: 02/07/2018
Named Insured: MARGARET CHRISTINE 633 ADAMS ST NE UNIT C ALBUQUERQUE NM 87110	You have selected our Payroll Deduction Plan. Your premium includes the Payroll Deduction Discount.

Veh	Year	Make	Model	Insured Vehicle(s) Body Type	Vehicle ID Number	Com/Col Sym	Terr
1	2006	CHEVROLET	MALIBU	SEDAN	1G1ZU53806F209036	21/25	15

Coverage Description	Applicable Limits	Annual Premiums
		2006 CHEVR
Liability		
Bodily Injury	\$ 25,000 Each Person/ \$ 50,000 Each Accident	346
Property Damage	\$ 25,000 Each Accident	248
Physical Damage		
	2006 CHEVR	
Actual Cash Value (ACV) or Limit	ACV	
Collision Less Deductible	\$ 300	498
Comprehensive Less Deductible	\$ 250	232
Towing and Labor Limit	\$ 50	Incl
Optional Coverages		
Substitute Transportation	\$ 25 Day/\$ 750 Accident	70
Glass Deductible Buyback		Incl
	Vehicle Totals:	1394
	Total For All Vehicles:	1,394
Uninsured/Underinsured Motorists		
Bodily Injury	\$ 25,000 Each Person/ \$ 50,000 Each Accident	80
Property Damage	\$ 20,000 Each Accident	56
	Total Annual Premium:	1,530

Forms and Endorsements: AP6000 0513 AP6100 0513 AE70NM 0914 AE9110 0513
 AE9200 0513 AE40NM 0914 AE5300 0513

Policy Number: 1352605930 Policy Effective Date: 02/07/2018 Policy Expiration Date: 02/07/2019 At: 12:01 A.M. Standard Time	Page 2 of 2 New Policy Effective Date: 02/07/2018
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Discounts

The following have been included in the total annual premium:

- MetRewards Discount
- Anti-lock Brake Discount applies to 2006 CHEVR
- Payroll Discount
- Auto Policy Plus, including
 - Homeowners
 - Individual Life / Annuity
- A Special Group Rate applies
- Welcome Discount

Rating Information

Household Drivers:

12/08/1973 MARGARET CHRISTINE Divorced
Licensed 27 Years

IF YOU HAVE A DRIVER IN YOUR HOUSEHOLD WHO IS NOT LISTED ABOVE, PLEASE NOTIFY US IMMEDIATELY.

Interested Parties

2006 CHEVROLET Lien/Loss Payee: JD BYRIDER ALBUQUERQUE NM87108
6008 CENTRAL AVE SE

For service or claims, see the Customer Service and Claim Directory located on the back of your cover page.

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MetLife Auto & Home®
Dayton Customer Service Center
9797 Springboro Pike, Dayton, Ohio 45448

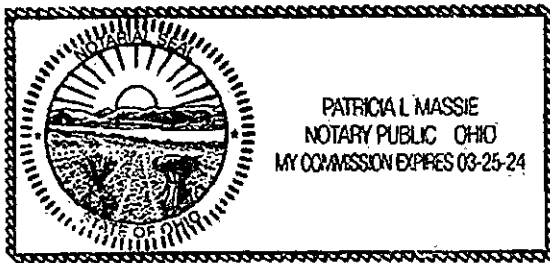
This is to certify that the attached declarations page is a true and accurate representation of the declarations page for the insurance policy described below:

Named Insured(s): MARGARET CHRISTINE
Policy Type: Auto
Policy Number: 1352605930
Issuing Insurance Company: Metropolitan Direct Property and Casualty Insurance Company
As of Date: 02/07/2019

Signed by: *Dave Walker*

Notary: *Patricia L Massie*

Date: 2/10/2021



Policy Number: 1352605930 Policy Effective Date: 02/07/2019 Policy Expiration Date: 02/07/2020 At: 12:01 A.M. Standard Time	Page 1 of 2 Renewal Effective Date: 02/07/2019
Named Insured: MARGARET CHRISTINE 633 ADAMS ST NE UNIT C ALBUQUERQUE NM 87110	You Have Selected ExpressIT. Your premium payments will be reflected in the monthly statement from your bank.

Veh	Year	Make	Model	Insured Vehicle(s) Body Type	Vehicle ID Number	Com/Col Sym	Terr
1	2018	HYUNDAI	ELANTRA	SEDAN	5NPD84LF1JH311216	25/15	15

Coverage Description	Applicable Limits	Annual Premiums
		2018 HYUND
Liability		
Bodily Injury	\$ 25,000 Each Person/ \$ 50,000 Each Accident	402
Property Damage	\$ 25,000 Each Accident	330
Physical Damage		2018 HYUND
Actual Cash Value (ACV) or Limit	ACV	
Collision Less Deductible	\$ 300	848
Comprehensive Less Deductible	\$ 250	554
Towing and Labor Limit	\$ 50	Incl
Optional Coverages		
Substitute Transportation	\$ 25 Day/\$ 750 Accident	70
Glass Deductible Buyback		Incl
Vehicle Totals:		2204
Total For All Vehicles:		2,204
Uninsured/Underinsured Motorists		
Bodily Injury	\$ 25,000 Each Person/ \$ 50,000 Each Accident	104
Property Damage	\$ 15,000 Each Accident	64
Total Annual Premium:		2,372

Deductible Savings Benefit (DSB) \$ 0

Deductible Savings reduces Collision or Comprehensive deductibles, excluding towing and glass claims, effective 02/07/2019 for claims occurring after this date. Your next anniversary date is 02/07/2020.

Forms and Endorsements: AP6000 0513 AP6100 0513 AE70NM 0914 AE9110 0513
 AE9200 0513 AE40NM 0914 AE5300 0513

Policy Number: 1352605930 Policy Effective Date: 02/07/2019 Policy Expiration Date: 02/07/2020 At: 12:01 A.M. Standard Time	Page 2 of 2 Renewal Effective Date: 02/07/2019
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Discounts

The following have been included in the total annual premium:

- MetRewards Discount
- Anti-lock Brake Discount applies to 2018 HYUND
- ExpressIT Discount
- Auto Policy Plus, including
 - Homeowners
 - Individual Life / Annuity
- A Special Group Rate applies
- Welcome Discount

Rating Information

Household Drivers:

12/08/1973 MARGARET CHRISTINE Divorced
Licensed 28 Years

IF YOU HAVE A DRIVER IN YOUR HOUSEHOLD WHO IS NOT LISTED ABOVE, PLEASE NOTIFY US IMMEDIATELY.

For service or claims, see the Customer Service and Claim Directory located on the back of your cover page.

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Policy Number: 1352605930
Policy Effective Date: 02/07/2019
Policy Expiration Date: 02/07/2020
At: 12:01 A.M. Standard Time

Page 2 of 2
Change 03

Policy Change Effective Date: 04/29/2019

Discounts

The following have been included in the total annual premium:

- MetRewards Discount
- Anti-lock Brake Discount applies to 2018 HYUND
- ExpressIT Discount
- Auto Policy Plus, including
 - Homeowners
 - Individual Life / Annuity
- A Special Group Rate applies
- Welcome Discount

Rating Information

Household Drivers:

12/08/1973 MARGARET VEGA Married
Licensed 28 Years

IF YOU HAVE A DRIVER IN YOUR HOUSEHOLD WHO IS NOT LISTED ABOVE, PLEASE NOTIFY US IMMEDIATELY.

Updated Policy Information

ExpressIt Discount Added Billing Payment Plan Changed

For service or claims, see the Customer Service and Claim Directory located on the back of your cover page.

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MetLife Auto & Home®
Dayton Customer Service Center
9797 Springboro Pike, Dayton, Ohio 45448

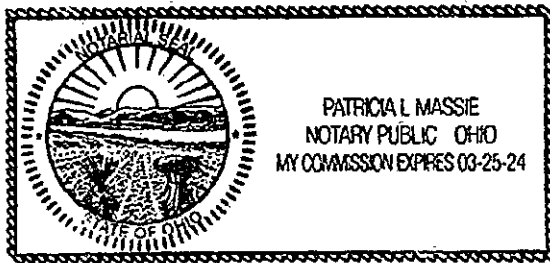
This is to certify that the attached declarations page is a true and accurate representation of the declarations page for the insurance policy described below:

Named Insured(s): MARGARET VEGA
Policy Type: Auto
Policy Number: 1352605930
Issuing Insurance Company: Metropolitan Direct Property and Casualty Insurance Company
As of Date: 02/07/2020

Signed by: *Dave Walker*

Notary: *Patricia L Massie*

Date: 2/10/2021



Policy Number: 1352605930 Policy Effective Date: 02/07/2020 Policy Expiration Date: 02/07/2021 At: 12:01 A.M. Standard Time	Page 1 of 2 Change 01 Policy Change Effective Date: 02/07/2020
Named Insured: MARGARET VEGA 633 ADAMS ST NE UNIT C ALBUQUERQUE NM 87110	You Have Selected ExpressIT. Your premium payments will be reflected in the monthly statement from your bank.

Veh	Year	Make	Model	Insured Vehicle(s) Body Type	Vehicle ID Number	Com/Col Sym	Terr
1	2018	FORD	ECOSPOR	SUV	MAJ3P1VE5JC203376	14/14	15

Coverage Description	Applicable Limits	Annual Premiums
		2018 FORD
Liability		
Bodily Injury	\$ 25,000 Each Person/ \$ 50,000 Each Accident	262
Property Damage	\$ 25,000 Each Accident	270
Physical Damage		2018 FORD
Actual Cash Value (ACV) or Limit	ACV	
Collision Less Deductible	\$ 300	636
Comprehensive Less Deductible	\$ 250	280
Towing and Labor Limit	\$ 50	Incl
Optional Coverages		
Substitute Transportation	\$ 25 Day/\$ 750 Accident	70
Glass Deductible Buyback		Incl
	Vehicle Totals:	1518
	Total For All Vehicles:	1,518
Uninsured/Underinsured Motorists		
Bodily Injury	\$ 25,000 Each Person/ \$ 50,000 Each Accident	86
Property Damage	\$ 15,000 Each Accident	54
	Total Annual Premium:	1,658
Prior Annual Premium:	\$ 2,074.00	
Change in premium from 02/07/2020 through 02/07/2021:	\$ 416-	
This change to your policy is effective back to 01/02/2020		
Change in premium from 01/02/2020 through 02/07/2020:	\$ 40-	

This Declaration does not supersede any cancellation notices.

Deductible Savings Benefit (DSB) \$ 0

Deductible Savings reduces Collision or Comprehensive deductibles, excluding towing and glass claims, effective 01/09/2020 for claims occurring after this date. Your next anniversary date is 02/07/2021.

Policy Number: 1352605930 Policy Effective Date: 02/07/2020 Policy Expiration Date: 02/07/2021 At: 12:01 A.M. Standard Time	Page 2 of 2 Change 01 Policy Change Effective Date: 02/07/2020
--	---

Forms and Endorsements: AP6000 0513 AP6100 0513 AE70NM 1119 AE9110 0513
AE9200 0513 AE40NM 0914 AE5300 0513

Discounts

The following have been included in the total annual premium:

- MetRewards Discount
- Anti-lock Brake Discount applies to 2018 FORD
- ExpressIT Discount
- Auto Policy Plus, including
 - Homeowners
 - Individual Life / Annuity
- A Special Group Rate applies

Rating Information

Household Drivers:

12/08/1973 MARGARET VEGA Married
Licensed 29 Years

IF YOU HAVE A DRIVER IN YOUR HOUSEHOLD WHO IS NOT LISTED ABOVE, PLEASE NOTIFY US IMMEDIATELY.

Interested Parties

2018 FORD Lien/Loss Payee: WESTLAKE FINANCIAL SE SACRAMENTO CA 95899
PO BOX 997952

Updated Policy Information

Driver Removed From Policy

For service or claims, see the Customer Service and Claim Directory located on the back of your cover page.

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Exhibit 3

MetLife Auto & Home[®]

Auto Insurance Policy

MetLife Auto & Home is a brand of Metropolitan Property and Casualty Insurance Company and its affiliates, Warwick, RI.

THE COMPANY NAMED IN THE DECLARATIONS
 Administrative Offices:
 700 Quaker Lane, Warwick, Rhode Island 02886

AUTO INSURANCE POLICY

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PERSONAL INJURY PROTECTION COVERAGE

If shown in the Declarations, see Personal Injury Protection Coverage Endorsement

UNINSURED AND UNDERINSURED MOTORISTS COVERAGE

If shown in the Declarations, see Uninsured/Underinsured Coverage Endorsement(s)

AUTO INSURANCE POLICY

INSURANCE AGREEMENT AND DECLARATIONS

In return for the payment of premium, we agree to insure **you** for the coverages and applicable limits of insurance shown in the Declarations. The coverages provided are subject to all the terms, conditions, and limitations of this policy. The policy consists of the policy contract, the Declarations, and all endorsements that apply.

When **you** accept this policy, **you** agree that the representations made by **you** or on **your** behalf for this insurance are true. We provide this insurance based upon those truths. This policy contains all agreements between **you** and **us**.

GENERAL DEFINITIONS

Certain words and phrases are defined for use in this policy. These words and phrases have the same meaning whether in singular, plural, or any other form. Each coverage may define words and phrases that are used only with that coverage. Defined words and phrases appear in boldface type.

- A. ACTUAL CASH VALUE** means the amount that it would cost to repair or replace the damaged property, minus the amount for any physical deterioration and depreciation.
- B. AUTO** means a land motor vehicle of the private passenger, pick-up truck, low speed vehicle, or van type which is designed and intended for use mainly on public roads. Golf carts which are registered for use on public roads are autos.
- C. AUTO BUSINESS** means the business or occupation of:
1. selling;
 2. leasing;
 3. repairing;
 4. servicing;
 5. storing;
 6. parking;
 7. delivering; or
 8. testing;
- motor vehicles or trailers.
- D. BODILY INJURY** (referred to as "BI") means any physical injury to a person and any resulting sickness, disease or death.
- E. COLLISION** means the contact of an auto with another object, vehicle, or the road bed. This includes the overturning of an auto.
- F. COVERED AUTO** means:
1. any auto or trailer which is shown in the Declarations and is owned by, registered to, or leased by **you** or a relative;
 2. any auto or trailer which is shown in the Declarations and which is furnished to **you** or a relative for your regular use, but is not owned by or leased to **you** or a relative;
 3. a camper that is designed to be mounted on a pickup truck. The camper must be shown in the Declarations;
 4. a substitute auto;
 5. an auto which is newly acquired by **you**. **You** must ask **us** to add it to your policy within 30 days of acquisition and pay any additional premium due.
If the newly acquired auto:
 - a. replaces an auto shown in the Declarations then the coverages and limits applicable to the replaced auto shall apply to the newly acquired auto.

- b. does not replace an **auto** shown in the Declarations, then the broadest coverages and limits applicable to any **auto** shall apply to the newly acquired **auto**. If Comprehensive or Collision Coverage does not apply to any **auto** shown in the Declarations, we will provide Comprehensive and Collision Coverages subject to a \$500 deductible for the newly acquired **auto**.

An **auto**, trailer or camper is no longer a **covered auto** on the date it is no longer owned by, leased to, or available for regular use by **you** or a **relative**.

- G. **DEDUCTIBLE** means the amount of loss to be paid by **you**.
- H. **FUNGUS AND MOLD** means inhalation, ingestion, the existence of or exposure to any fungi mold, mushrooms, bacteria, mildew, wet rot or dry rot and any mycotoxins, spores, scents, or by-products produced by any of these.
- I. **INSURED** means:
 - 1. with respect to a **covered auto**:
 - a. **you**;
 - b. any **relative**; or
 - c. any other person using it with **your** or a **relative's** permission. The use must be within the scope of the permission given by **you** or a **relative**.
 - 2. with respect to a **non-owned auto**, **you** or any **relative**. The use must be within the scope of the permission given to **you** or a **relative**.
 - 3. any other person or organization if liable due to the acts or omissions of any person described in 1. or 2. above. This provision does not apply:
 - a. if the vehicle is a **non-owned auto** owned or hired by the person or organization.
 - b. to the United States of America or any of its agencies.
- J. **LOSS** means direct, sudden and accidental damage or total or partial theft. **Loss** does not include any actual or perceived reduction in market or resale value.
- K. **MEDICAL SERVICES** means necessary medical treatments, procedures, products, services, and supplies which:
 - 1. are provided by licensed hospitals, physicians, clinics or other medical or healthcare providers, if the provider is required to be licensed by law; and
 - a. is within the legally authorized scope of the provider's practice or service;
 - b. are commonly and customarily recognized as the standard of care and treatment throughout the medical and dental professions and within the United States of America as appropriate for the BI;
 - c. serve a medical purpose or are for a medical reason;
 - d. are not experimental in nature; and
 - e. are not for research or testing purposes;
 - 2. includes ambulance or medical transportation services;
 - 3. includes professional nursing services;
 - 4. includes the costs of pharmaceuticals prescribed by a licensed medical provider, eyeglasses, hearing aids, orthopedics and prosthetic devices; or
 - 5. are due to common funeral or burial services or practices.
- L. **MEDICAL EXPENSE** means the reasonable expenses incurred for any **medical services**.
- M. **MOTORCYCLE** means a two-wheeled or three-wheeled motorized vehicle of the motorcycle, motorbike, moped or registered motor scooter type, including, if attached, a sidecar or trailer.
- N. **MOTOR VEHICLE** means a land motor vehicle designed for use mainly on public roads other than:
 - 1. a farm type tractor or farm equipment designed for use mainly off public roads, while not upon public roads;
 - 2. a vehicle operated on rails or crawler-treads;

3. a self-propelled steam or traction engine;
4. a compactor type engineering vehicle used for the construction of roads or foundations;
or
5. a vehicle used primarily as a residence, dwelling, premises, or place of business.

O. NON-OWNED AUTO means:

1. an auto being used by **you** or a **relative** with the owner's permission. The auto must not be owned by, furnished to, or made available for regular use by **you**, or any **relative**. However, an auto owned by, furnished to, or made available for regular use by a **relative** shall be a **non-owned auto** when it is used by:
 - a. **you**; or
 - b. any other **relative**.
2. a commercially rented auto, or truck which has a Gross Vehicle Weight Rating of under 26,000 lbs., used by **you** or a **relative** on a temporary basis.

P. NUCLEAR ACTION means nuclear reaction, nuclear discharge, radiation or radioactive-contamination including any cleanup, decontamination or containment activities regardless of how the reaction, discharge or contamination occurred.

Q. OCCUPYING means in, on, entering, or exiting.

R. PROPERTY DAMAGE (referred to as "PD") means physical damage to, destruction of, or loss of use of tangible property.

S. RACING means preparing, practicing, competing or driving in any organized or prearranged:

1. race;
2. speed contest;
3. high speed driving;
4. stunting;
5. demolition; or
6. other similar organized exhibition or demonstration,
on a closed course.

T. REASONABLE EXPENSES means the least of:

1. the reasonable, usual and customary fees charged by a majority of healthcare providers who provide similar **medical services** in the geographical area in which the fees were incurred. The fee may be established by a database, survey or any other means which identifies the amounts charged by healthcare providers within the same or a similar geographical area in which the fees were incurred;
2. the fee specified in any fee schedule which is authorized or prescribed by law to apply to medical payments coverage, no-fault coverage, or personal injury protection coverage included in an auto liability policy issued in the state where the **medical services** were provided;
3. the fees agreed to by both the healthcare provider and **us**; or
4. the fees agreed to by the healthcare provider and a third party or a network.

U. RELATIVE means a person, other than **you**, who is a resident of **your** household, and is related to **you** by blood, marriage, civil union, registered domestic partnership, or adoption. This includes a ward, stepchild, foster-child, and **your** children that are residents of **your** household who are living elsewhere. **We** may require reasonable proof of residency in **your** household.

V. SUBSTITUTE AUTO means an auto or trailer which is not owned by **you** or any **relative**, and which is used with the owner's permission to replace a **covered auto** for a short time. The **covered auto** has to be out of normal use due to:

1. breakdown;
2. destruction;
3. loss;

4. repair; or
5. servicing.

W. TOTAL LOSS means a loss in which the cost to repair the vehicle to its pre-loss condition plus the salvage value, equals or exceeds the actual cash value.

X. TRAILER means a trailer designed to be towed by an auto and which is not used as an office, store, display, or passenger trailer. A farm wagon or farm implement is a trailer while being towed by an auto.

Y. War means a state of conflict including:

1. war, declared or undeclared;
2. civil war;
3. insurrection;
4. rebellion;
5. revolution; or
6. warlike actions by a military force or personnel.

Z. WE, US, OUR and **COMPANY** mean the company named in the Declarations.

AA. YOU and **YOUR** mean the named insured or named insureds shown in the Declarations. If a named insured shown in the Declarations is a person, then **you** and **your** includes that person's:

1. spouse; or
2. partner in a civil union, registered domestic partnership or other similar union.

The spouse or partner must be a resident of the same household as the named insured. The marriage, civil union or domestic partnership must have been validly entered into under the laws of a state, municipality, or territory of the United States or any other country.

LIABILITY COVERAGE

Coverage is provided when the coverage is shown as applying in the Declarations.

INSURING AGREEMENT

We will pay damages for **BI** and **PD** to others for which the law holds an insured responsible because of a loss resulting from owning, maintaining, or using a covered auto or non-owned auto, including a trailer, mounted camper unit, attached cap, topper, or canopy which is being used with either. Damages include prejudgment interest awarded against an insured. The most we will pay for all damages shall not be more than the amount determined by the **LIMIT OF LIABILITY**.

We will defend an insured, at our expense against any suit or claim seeking these damages. We may use attorneys of our choice in any suit or claim. We may investigate, negotiate or settle any such suit or claim. Our duty to defend ends when we deposit in court or pay any amount due under this coverage. We have no duty to defend an insured for any suit or settle any claim not covered under this policy.

SUPPLEMENTAL PAYMENTS

In addition to the limits of liability, we will pay the following expenses incurred by an insured due to a claim or suit covered under this policy:

A. Premiums on the following bonds:

1. Appeal bonds in any suit we defend.
2. Bonds to release attachments in any suit we defend. The total amount of the bonds must not exceed our limit of liability.
3. Up to \$250 for any bail bond needed because of an accident or traffic violation(s) from owning, maintaining or using a covered auto.

We have no duty to furnish or apply for any bonds.

- B. Court costs charged to an insured.
- C. Costs paid by an insured to give first aid to others at the time of a loss involving a covered auto or non-owned auto.
- D. Wages an insured loses while attending a hearing or trial at our request. The most we will pay to any insured is up to \$250 per day. We will not pay for loss of other income.
- E. Other reasonable expenses incurred at our request

EXCLUSIONS

- A. We do not cover BI to any employee of an insured from his or her employment except domestic employees who are not covered or not required to be covered under any workers' compensation law.
- B. We do not cover BI to a fellow employee of an insured while on the job and in the business of his employers. This exclusion does not apply to you or any relatives.
- C. We do not cover BI or PD arising out of an auto business. This exclusion does not apply when a covered auto is used by you, a relative, or by any other person in any auto business in which you have an interest as owner or partner.
- D. We do not cover any BI or PD which is covered under an atomic or nuclear energy liability insurance policy, or that would have been covered had that policy not been terminated upon exhaustion of its limit of liability.
- E. We do not cover any BI or PD due to a nuclear action.
- F. We do not cover BI or PD caused by or resulting from an auto while it is:
 - 1. rented to any person or organization in any fashion; or
 - 2. leased to any person or organization in any fashion.This exclusion does not apply:
 - 1. while the auto is rented or leased to or for your or a relative's use;
 - 2. while the auto is used in a shared expense car pool; or
 - 3. while the auto is being used for volunteer or charitable purposes for which reimbursement for normal operating expenses may be paid to you or a relative.
- G. We do not cover BI or PD caused by or resulting from an auto while it is being used to carry persons for a charge. This exclusion does not apply while the auto:
 - 1. is used in a shared expense car pool; or
 - 2. is being used for volunteer or charitable purposes for which reimbursement for normal operating expenses may be paid to you or a relative.
- H. We do not cover PD caused by any Insured to:
 - 1. an auto that is owned by, rented to, operated by, or in the care of that insured; or
 - 2. any other property that is owned by, rented to, or in the care of any insured. This exclusion does not apply to a rented dwelling or private garage.
- I. We do not cover any awards or judgments designated as punitive, exemplary, statutory multiple, or delay damages or awards.
- J. We do not cover BI or PD from an intentional act caused by or at the direction of an insured. This exclusion applies even if the actual injury or damage is different than that which was intended or expected.
- K. We do not cover BI or PD caused by or resulting from any auto while racing.
- L. We do not cover BI or PD from the use of an auto for which the provisions of the Federal Tort Claims Act apply.
- M. We do not cover any BI or PD directly or indirectly caused by fungus and mold.
- N. We do not cover BI or PD from occupying or using an auto while:
 - 1. it is being used as an aircraft; or
 - 2. it is being used as a watercraft.
- O. We do not cover BI or PD caused by anyone occupying or using an auto without the owner's permission or a reasonable belief that the person is entitled to occupy or use the auto. This exclusion does not apply to you or a relative occupying or using a covered auto or non-owned auto.

LIMIT OF LIABILITY

The limit of liability shown for Bodily Injury in the Declarations for "each person" is the most we will pay for all damages, including prejudgment and post-judgment interest, due to BI to any one person as the result of any one accident. This includes all damages sustained by any other person as a result of that BI.

Subject to this limit for "each person", the Bodily Injury limit shown in the Declarations for "each accident" is the most we will pay for all damages, including prejudgment and post-judgment interest, arising out of BI sustained by two or more persons resulting from any one accident.

The limit of liability shown for Property Damage in the Declarations for "each accident" is the most we will pay for all damages, including prejudgment and post-judgment interest, to all property resulting from any one accident.

If a single limit of liability for Bodily Injury and Property Damage is shown in the Declarations, it is the most we will pay for all damages, including prejudgment and post-judgment interest, due to BI and PD as the result of any one accident.

The limit of liability includes damages for care, loss of consortium, emotional distress, and loss of services or death:

This is the most we will pay regardless of the number of:

- A. insureds;
- B. claims made;
- C. vehicles shown in the Declarations;
- D. premiums shown in the Declarations; or
- E. vehicles involved in the accident.

An auto and attached trailer are considered one vehicle.

DUPLICATION OF PAYMENTS

No person is entitled to receive duplicate payments for the same elements of loss under this section and any other coverage provided by this policy.

FINANCIAL RESPONSIBILITY

When this policy is certified as future proof of financial responsibility, this policy shall comply with the law to the extent required.

OUT OF STATE INSURANCE

If any Insured becomes subject to a financial responsibility law, motor vehicle compulsory insurance law, compulsory insurance for nonresidents, or similar law of:

- A. any state of the United States of America;
- B. a territory, possession, or Commonwealth of the United States of America;
- C. the District of Columbia; or
- D. any province or territory of Canada;

we will interpret this policy to provide the coverage required by those laws.

OTHER INSURANCE

If two or more auto insurance policies issued to you by us apply to any loss, the most we will pay is the highest dollar limit or benefit in any one such policy.

If there is other applicable insurance, we will pay our fair share. Our fair share is the portion that our limit bears to the total of all applicable limits. Any insurance we provide with respect to non-owned autos or substitute autos will be excess over any other collectible insurance. Any insurance we provide will be excess over any payments received from workers' compensation, disability, or similar law or benefits.

MEDICAL EXPENSE COVERAGE

Coverage is provided when the coverage is shown as applying in the Declarations.

INSURING AGREEMENT

We will pay medical expenses incurred because of BI to:

- A. you or any relative as a result of a loss involving a motor vehicle, or a trailer while being used with an auto.
- B. anyone, other than you or any relative, while occupying or using a covered auto with your consent.

Medical services must begin within one year and are rendered within three years from the date of loss.

EXCLUSIONS

- A. We do not cover that portion of any medical expense which is covered under or required to be covered under a workers' compensation, disability or similar law or benefits.
- B. We do not cover BI arising out of an auto business. This exclusion does not apply when a covered auto is used by you, a relative, or by any other person in any auto business in which you have an interest as owner or partner.
- C. We do not cover any BI which is covered under an atomic or nuclear energy liability insurance policy, or that would have been covered had that policy not been terminated upon exhaustion of its limit of liability.
- D. We do not cover any BI due to a nuclear action.
- E. We do not cover BI caused by, resulting from, or sustained while occupying a covered auto or non-owned auto while it is:
 - 1. rented to any person or organization in any fashion; or
 - 2. leased to any person or organization in any fashion.This exclusion does not apply:
 - 1. while the auto is rented or leased to or for your or a relative's use;
 - 2. while the auto is used in a shared expense car pool; or
 - 3. while the auto is being used for volunteer or charitable purposes for which reimbursement for normal operating expenses may be paid to you or a relative.
- F. We do not cover BI caused by, resulting from, or sustained while occupying a covered auto or non-owned auto while it is being used to carry persons for a charge. This exclusion does not apply while the auto:
 - 1. is used in a shared expense car pool; or
 - 2. is being used for volunteer or charitable purposes for which reimbursement for normal operating expenses may be paid to you or a relative.
- G. We do not cover BI from an intentional act caused by or at the direction of an insured. This exclusion applies even if the actual injury or damage is different than that which was intended or expected.
- H. We do not cover BI sustained while occupying any motor vehicle while racing.
- I. We do not cover any BI directly or indirectly caused by fungus and mold.
- J. We do not cover any BI caused directly or indirectly by war.
- K. We do not cover BI sustained while occupying a motor vehicle while:
 - 1. it is located for use as a residence or premises;
 - 2. it is being used as an aircraft; or
 - 3. it is being used as a watercraft.
- L. We do not cover BI sustained while occupying any motor vehicle or being struck as a pedestrian by any motor vehicle, which is owned by you or a relative or available for your or a relative's regular use. This exclusion does not apply to a covered auto or to a non-owned auto.
- M. We do not cover BI sustained while occupying a motorcycle.
- N. We do not cover BI sustained by anyone while occupying a motor vehicle without the owner's permission or a reasonable belief that the person is entitled to occupy the motor vehicle. This exclusion does not apply to you or a relative occupying a covered auto or non-owned auto.

LIMIT OF LIABILITY

The limit shown in the Declarations for "each person" is the most we will pay for any one person as a result of any one accident. This is the most we will pay regardless of the number of:

- A. insureds;
- B. claims made;

- C. vehicles shown in the Declarations;
- D. premiums shown in the Declarations; or
- E. vehicles involved in the accident.

The total amount we will pay includes funeral and burial expenses, not to exceed the lesser of \$3,000 or the limit of liability for each person.

DUPLICATE PAYMENTS

No one will be entitled to receive duplicate payments for the same **medical services** or funeral and burial expenses under this coverage and:

- A. any other coverage provided by this policy; or
- B. any amount paid by or on behalf of a party who is legally liable for the **BI**.

OTHER INSURANCE

If two or more auto insurance policies issued to **you** by **us** apply to any **loss**, the most we will pay is the highest dollar limit or benefit in any one such policy.

If there is other applicable insurance, we will pay **our** fair share. **Our** fair share is the portion that **our** limit bears to the total of all applicable limits. Any insurance we provide with respect to a vehicle **you** or a **relative** do not own will be excess over any other collectible insurance. Any coverage provided shall be excess over any personal injury protection benefits paid or payable, except for a deductible under this or any other motor vehicle insurance policy, for the **medical expenses** for **BI**.

PHYSICAL DAMAGE COVERAGE

Coverage is provided when the coverage is shown as applying in the Declarations.

INSURING AGREEMENTS

A. COMPREHENSIVE COVERAGE

We will pay for **loss** to **your covered auto**, or to a **non-owned auto**, including its equipment, not caused by **collision**, minus any applicable **deductible** shown in the Declarations. Coverage is included for a **loss** caused by, but not limited to, the following:

1. falling objects or contact with a bird or animal;
2. fire, explosion, or earthquake;
3. theft or larceny;
4. windstorm, hail, water or flood;
5. malicious mischief or vandalism;
6. riot or civil commotion; and
7. breakage of glass.

B. COLLISION COVERAGE

We will pay for **loss** to **your covered auto** or to a **non-owned auto**, including its equipment, caused by **collision**, minus any applicable **deductible** shown in the Declarations.

C. TOWING AND LABOR COVERAGE

We will pay up to the limit shown in the Declarations for the cost of labor performed at the place of disablement or breakdown and costs of towing a **covered auto** or a **non-owned auto** to be repaired. The disablement or breakdown labor and towing include:

1. labor to repair the vehicle at the place of disablement or breakdown;
2. towing to the nearest repair facility;
3. delivery of fuel, liquids, batteries or tires necessary to make the vehicle drivable, excluding the actual cost of the fuel, liquids, batteries or tires;
4. labor to replace a flat tire at the scene of disablement;
5. jump-starting or boosting a battery to start the vehicle due to a drained battery;

6. winching to bring the vehicle back onto a paved road or driveway; and
7. lockout or locksmith services needed to open a door if the key is lost, stolen or locked inside the vehicle.

No deductible applies to this coverage.

D. SUBSTITUTE TRANSPORTATION COVERAGE

We will pay up to the limit as shown in the Declarations for the cost of substitute transportation if the covered auto is disabled as a result of a loss covered under Comprehensive or Collision Coverage. For loss caused by theft of the covered auto, this coverage is provided in place of any transportation costs paid under item C. of SUPPLEMENTAL PAYMENTS.

Payment will begin the day the covered auto is:

1. out of use due to the loss; or
2. the day you leave it at the repair shop.

Payment will be made for the reasonable and necessary time required to repair the covered auto. Payment will end:

1. the day the covered auto has been repaired;
2. when we offer settlement; or
3. when you reach your limit.

whichever occurs first.

We will pay up to the amount for each day, as shown in the Declarations, for rental coverage from an auto rental agency, but not more than the maximum amount for each disablement for any one loss.

However, if you do not rent from an auto rental agency, we will pay you \$25 per day, but not more than the limit shown in the Declarations for each disablement for any one loss.

No deductible applies to this coverage.

SUPPLEMENTAL PAYMENTS

- A. If the covered auto is disabled as a result of loss, we will pay up to \$50 for transportation to reach the intended destination or return home.
- B. If the covered auto is in a loss, we will pay up to \$300 for loss to clothes and luggage belonging to you or a relative which are in the covered auto.
- C. If an auto is stolen, we will pay up to \$25 for each day for transportation. Payment will end when we offer settlement for the theft. If you do not rent from an auto rental agency, we will pay you \$25 for each day. However, the total amount we will pay will not be more than \$750.
- D. We will pay general average and salvage charges for which you become legally liable when the covered auto is being transported.
- E. We will pay to replace a child restraint seat or car seat damaged in a loss covered under Comprehensive or Collision Coverage.
- F. We will pay expenses for loss of use, diminished value, and reasonable fees and charges which you become legally obligated to pay as a result of direct and accidental damage to a non-owned auto commercially rented by you or a relative on a temporary basis.

No deductible applies to these payments.

EXCLUSIONS

- A. We do not cover loss to non-owned auto arising out of an auto business.
- B. We do not cover any loss to an auto due to a nuclear action.
- C. We do not cover loss to an auto while it is:
 1. rented to any person or organization in any fashion; or

2. leased to any person or organization in any fashion.

This exclusion does not apply:

1. while the **auto** is rented or leased to or for **your** or a **relative's** use;
2. while the **auto** is used in a shared expense car pool;
3. while the **auto** is being used for volunteer or charitable purposes for which reimbursement for normal operating expenses may be paid to **you** or a **relative**.

D. We do not cover loss to an auto while it is being used to carry persons for a charge. This exclusion does not apply while the auto:

1. is used in a shared expense car pool; or
2. is being used for volunteer or charitable purposes for which reimbursement for normal operating expenses may be paid to **you** or a **relative**.

E. We do not cover loss to an auto arising out of an intentional act or theft caused by or at the direction of an insured. This exclusion applies even if the actual injury or damage is different than that which was intended or expected.

F. We do not cover loss to any auto while racing.

G. We do not cover any loss caused by fungus and mold.

H. We do not cover any loss caused directly or indirectly by war.

I. We do not cover any loss due to and confined to:

1. wear and tear;
2. freezing; or
3. mechanical or electrical breakdown or failure.

This exclusion does not apply if the **loss** results from the total theft of an **auto**.

J. We do not cover loss or road damage to tires used with an auto. This exclusion does not apply if the loss is caused by:

1. falling objects or contact with a bird or animal;
2. fire, explosion or earthquake;
3. theft or larceny;
4. windstorm, hail, water or flood;
5. malicious mischief or vandalism;
6. riot or civil commotion; or
7. a **collision** involving another part of the **auto** which causes a **loss** to the tires.

K. We do not cover loss to any device used to defect or interfere with speed measuring devices which are used with or located in an auto.

L. We do not cover loss to an auto or trailer due to destruction or confiscation by governmental or civil authorities.

M. We do not cover loss to any electronic equipment that is installed or located in an auto and is designed to reproduce, receive or transmit audio, visual or data signals. This includes, but is not limited to:

1. radios and stereos;
2. tape decks;
3. compact disc and digital video disc systems, players and burners;
4. navigation systems;
5. internet access systems;
6. personal computers, including laptops, desktops, and personal digital assistants (PDA), electronic tablet, or any other handheld or portable device;
7. video entertainment systems;
8. telephones;
9. televisions;
10. two-way mobile radios;
11. scanners; or
12. citizens band radios.

This exclusion applies to all accessories used with the equipment or similar equipment.

This exclusion does not apply if the equipment is operated solely from the electrical system of the vehicle and is:

1. permanently installed in a housing unit or location used by the **auto** manufacturer for such equipment; or

2. a component that is removable from a housing unit permanently installed in the location used by the **auto** manufacturer for such equipment; or
 3. equipment which was provided by or through **us** for use in the **auto**.
- N. We do not cover loss** to removable products used for the storage of audio, video or other data. This includes, but is not limited to, tapes, records, discs, memory cards, MP3 data, electronic books, and other media or other devices.
This exclusion applies to the removable products used for storage and all data contained on them, including any time or cost to recreate the data.
- O. We do not cover loss** to a camper, including its parts and its equipment, that is:
1. designed to be mounted on an **auto**;
 2. owned by **you** or a **relative**; and
 3. not a **covered auto**.
- P. We do not cover any actual or perceived decrease in market value, diminished value, or resale value** resulting from a **loss** to an **auto**.
- Q. We do not cover any undamaged parts or accessories of an auto, except to the extent necessary to repair or replace damaged parts or accessories.**
- R. We do not cover a loss to an auto while:**
1. it is being used as an aircraft; or
 2. it is being used as a watercraft.

LIMIT OF LIABILITY

- A. Replacement Cost Settlement.** If the **covered auto** is owned by **you** and sustains a **loss** within:
1. one year after purchase; or
 2. the vehicle's first 15,000 miles,
- whichever occurs first, **we** will pay, at **our** option, the full cost of repair or replace the vehicle, less the applicable **deductible**.

We will not pay more than the cost to replace the damaged property with:

1. a previously untitled vehicle of the year, make, model and equipment of the damaged **auto** or, if unavailable,
2. a vehicle that is most similar in class and body type to the year, make, model and equipment of the damaged **auto**.

This applies only to a **covered auto** that has not been previously titled and was not more than one model year old when purchased by **you**. This does not apply to a **substitute auto**, a **non-owned auto** or a leased vehicle. **We** will not pay more than the **actual cash value** of the damaged part or property until the actual repair or replacement is complete. If **we** agree that the **auto** is a **total loss**, **you** may make claim for additional payments for the cost to replace the damaged property by submitting proof of purchasing a replacement **auto** within 91 days of the date of **loss**.

- B. Actual Cash Value Settlement.** If the **covered auto** is not covered under **A.** above, **our** payments will not exceed the lesser of:
1. the limit shown in the Declarations for Physical Damage for the **auto**;
 2. the **actual cash value** of the property at the time of **loss**; or
 3. the cost to repair or replace the property with other of like kind and quality.

If the repair or replacement results in the betterment of the property or part, **you** must pay the amount of the betterment.

- C. Replacement Cost For Special Parts.** **We** will not take a deduction for depreciation for **loss** to, steering and suspension components, brake parts, electrical wiring and components, batteries, and tires if repair or replacement results in a better part than was damaged. This does not apply

to the theft of tires or batteries. This does not apply when an **auto** sustains a **total loss**.

If the **loss** is only to a part of the property, **our** responsibility extends to that part only.

The most **we** will pay for **loss** to a **trailer** **you** do not own or did not commercially rent is \$1,500.

The cost necessary to repair or replace damaged property with other of like kind, quality, make, model, year or equipment will be the fair and reasonable prices to make the repairs or replacement locally. To the extent there is a range of fair and reasonable prices to make such repairs locally, **we** will pay a competitive price within that range determined at **our** sole discretion. Property of like kind and quality may include new, used, recycled, and reconditioned parts. Any of these parts may be produced by or for the **auto's** manufacturer or may be from non-original equipment manufacturers.

DEDUCTIBLE

The Comprehensive Coverage and Collision Coverage deductible applicable to each **covered auto** is shown in the Declarations. **We** will waive the deductible if the **loss** is the result of collision with another vehicle insured by **us**. If the **loss** is to a **non-owned auto**, the Comprehensive Coverage or Collision Coverage deductible applicable to the **loss** shall be the lowest deductible displayed in the Declarations for the applicable coverage for a **covered auto** which is not a **trailer**.

If a Deductible Savings Benefit (DSB) is shown in the Declarations, the amount shown is available to reduce the Comprehensive or Collision deductible applicable to a **loss**. The Deductible Savings Benefit is not applicable to **losses** involving only the repair or replacement of glass.

NO BENEFIT TO BAILEE

This coverage shall not directly or indirectly benefit any carrier or bailee for hire for **loss** to the **covered auto**.

APPRAISAL

If within 60 days after proof of **loss** is filed there is a disagreement as to the amount of **loss**, **you** or **we** may demand an appraisal. Each party will select a competent appraiser. Each appraiser will state separately the **actual cash value** and the amount of **loss**. If they fail to agree, they must select and submit their differences to a competent and disinterested umpire. Agreement by any two will determine the amount of **loss**. Each party will pay his chosen appraiser and will equally share the expenses of the appraisal process and umpire. Disagreements over any coverage provided by this policy are not subject to appraisal.

PAYMENT OF LOSS

If property is stolen, **we** may, at any time before the **loss** is paid or the property replaced, return at **our** own expense any stolen property. **We** will return the property to **you** or, at **our** option, to the address shown in the Declarations. If **we** return stolen property **we** will pay for any damage resulting from the theft. **We** may take all or part of the damaged property at the agreed or appraised value, but **you** cannot abandon the property to **us**.

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

- A. **You**.
- B. The owner of the **auto**.
- C. The repairer.
- D. Any other party who has an interest, title, or lien on the property.

OTHER INSURANCE

If two or more auto insurance policies issued to **you** by **us** apply to any **loss**, the most **we** will pay is the highest dollar limit or benefit in any one such policy.

If there is other applicable insurance, **we** will pay **our** fair share. **Our** fair share is the portion that **our** limit bears to the total of all applicable limits. Any insurance **we** provide with respect to **non-owned autos** or **substitute autos** will be excess over any other collectible insurance.

GENERAL POLICY CONDITIONS

A. TERRITORY AND POLICY PERIOD

This policy applies to accidents and losses which happen during the policy period shown by the effective date and expiration date in the Declarations, and within:

1. the United States, its territories, its possessions, and its Commonwealths;
2. the District of Columbia;
3. Canada; and
4. while the **covered auto or non-owned auto** is being shipped between the ports of the United States, its territories, its possessions, its Commonwealths, and Canada.

B. CHANGES

1. This policy contains all the agreements between **you** and **us**. Its terms may not be changed or waived except by endorsement issued by **us**.
2. The premiums for this policy are computed using the rules, rates, rating plans, premiums and minimum premiums for the coverages provided. The premiums **we** charge are based on information **we** received from **you** and from other sources. **You** agree to assist **us** in determining that this information is complete and correct. **You** must inform **us** if any of the information is incorrect or incomplete, or changes during the policy period. If any of the information used to determine the premium is incorrect, incomplete, changes or if **you** do not provide it to **us** when **we** ask, **we** may increase or decrease the premium during the policy period.

Changes during the policy period that may result in a premium increase or decrease include, but are not limited to, changes in:

- a. the number, type, or use of the **covered autos**.
- b. drivers using the **covered autos**, including **you**, relatives and all licensed drivers in **your** household.
- c. the principal garaging location of the **covered autos**.
- d. coverage, deductible or limits of the policy.

If a change requires a premium increase or decrease, **we** will increase or decrease the premium following **our** rules and rates. If the premium is increased, **you** must pay the amount of increase on the date set by **us**.

3. **We** will automatically give **you** the benefits of any extension or broadening of coverage if a policy change does not require additional premiums. The change will automatically apply to **your** policy as of the date **we** implement the change in **your** state. This will not apply to changes implemented with a general program revision that includes both broadenings and restrictions in coverage, whether that general program revision is implemented through introduction of:
 - a. a future edition of **your** policy; or
 - b. an endorsement changing the policy.
4. If **we** offer to renew this policy, the renewal premium will be based upon the rates in effect at the time of the renewal.

C. FRAUD AND MISREPRESENTATION

You will have no coverage, and **your** policy will be void, if before or after a loss, **you** or any person:

1. conceals or misrepresents any material fact or circumstance;
 2. makes a fraudulent statement; or
 3. takes part in or attempts any fraudulent conduct;
- relating to this policy or any loss for which coverage is sought.

D. DUTIES AFTER A LOSS

We have no duty to provide coverage under this policy if the failure to comply with any of the following duties is prejudicial to **us** or results in additional loss or damage.

1. **You** or someone on **your** behalf must notify **us** as soon as possible of any loss. **We** may

require notification in writing. The notification should include as many details as possible, including:

- a. the names and addresses of drivers, injured persons and witnesses;
 - b. the time and place of the loss; and
 - c. all details and circumstances of the loss.
2. You must protect the auto from further loss. We will pay you for reasonable expenses incurred for this protection. We will not cover any loss which results from your failure to protect the auto from further loss.
 3. In the event of a theft, you must promptly report the loss to the police.
 4. You or a relative seeking coverage under Physical Damage Coverage must file with us a proof of loss within 91 days, or within the number of days required by law, of the loss.
 5. You, a relative, and anyone seeking any coverage must:
 - a. cooperate with us in the investigation, settlement or defense of any claim or suit;
 - b. assist in securing and making evidence available to us. This includes, but is not limited to, allowing us to inspect damage to a covered auto or a non-owned auto before it is repaired;
 - c. promptly send us copies of any notices, complaints, summons or legal papers received in connection with the loss;
 - d. attend hearings and trials at our request;
 - e. assist in finding and having witnesses participate in the investigation and settlement of claims;
 - f. submit to:
 - i. physical or mental exams by physicians of our choice as often as we require;
 - ii. examinations under oath as often as we require; and
 - iii. interviews and recorded statements without the need for us to conduct an examination under oath.
 - g. authorize us to obtain any:
 - i. medical, laboratory, or treatment reports, results, or tests related to BI which may have resulted from the accident or loss; and
 - ii. other pertinent records, including, but not limited to, police or traffic reports, vehicle usage, information contained in or transmitted by any device located in or on the covered auto or trailer.
 6. You, a relative, and anyone seeking any coverage will not voluntarily make any payment, assume any obligation, or incur any expense at the time of the loss, except at your expense. This does not apply to any first aid you or any relative provides to others.

E. MEDICAL REPORTS; PROOF AND PAYMENT OF CLAIM

Any person making a claim must do the following as soon as possible:

1. Give us details about the death, injury, treatment, and other information we need to determine the amount payable. We have the right to make or obtain a review of medical expenses and medical services to determine if they are reasonable and necessary for the BI sustained. Forms for providing this information may be provided by us.
2. Consent to be examined by physicians chosen and paid by us when, and as often as, we reasonably may require.
3. Sign authorizations to permit us to obtain medical reports and records. If the person is dead or unable to act, such authorizations must be signed by his or her legal representative.
4. Submit to and provide all details concerning loss information through written or recorded statements or examinations under oath as often as we reasonably may require.

In addition, any person making a claim as a result of BI, which may result in payment from Personal Injury Protection or Medical Expense Coverage, must notify us in writing. This notification should be sent to us as soon as reasonably possible after the person's first examination or treatment resulting from the BI. Another person may give us the required notice on behalf of the person making a claim.

Under Personal Injury Protection and Medical Expense Coverage, we may pay the injured person or

any person or organization rendering the services. Any such payment will reduce the total amount we will pay for the injury. Any payment made by us will not constitute admission of liability or fault.

If a loss is covered under Personal Injury Protection or Medical Expense Coverage, we will defend you or any person if a lawsuit is brought for the balance of a bill that we did not pay in full based on the charge being in excess of a usual, customary and reasonable charge. Any defense we provide will be at our expense and with attorneys of our choice.

Under Personal Injury Protection, Uninsured Motorists, and Underinsured Motorists Coverage, we may pay any amount due to one or more of the following:

1. the injured person;
2. a parent or guardian, if the injured person is a minor;
3. the surviving spouse;
4. the person authorized by law to receive such payment; or
5. the person entitled by law to recover the damages, which the payment represents.

To receive payment for any BI, we may require, where applicable by law, all medical billing, electronic or not, by the provider to be submitted to us in a standard format that meets the Federal Health Insurance Portability and Accountability Act electronic transaction regulation requirements and coded according to Current Procedural Terminology (CPT) guidelines and appropriate International Classification of Diseases diagnosis codes.

F. LEGAL ACTION AGAINST US

Legal action may not be brought against us unless there is full compliance with all of the terms of this policy. In addition, legal action may not be brought against us regarding:

1. Liability Coverage until the amount of damages an insured is legally liable to pay has been finally determined by:
 - a. judgment after an actual trial; or
 - b. the written agreement of you, the claimant, and us.No one has the right to make us a party in a suit to determine legal liability.
2. Physical Damage Coverage:
 - a. until 30 days after a proof of loss is filed with us;
 - b. until the amount of loss is determined as provided in this policy; and
 - c. except during the first twelve months after the loss.

Your bankruptcy or insolvency will not change or relieve us of any of our obligations under this policy.

G. OUR RECOVERY RIGHT

In the event of any payment under this policy, we are entitled to all of the rights of recovery of the person to whom, or on whose behalf, payment was made. That person must:

1. hold in trust for us all rights of recovery;
2. sign and deliver to us any legal papers relating to the recovery;
3. help us exercise our rights; and
4. do nothing after the loss to prejudice our rights.

In the event of recovery, we must be repaid for all of the amounts paid out by us plus any related collection expenses. We will enforce this provision only in the manner and to the extent permitted under all the applicable state laws.

H. ASSIGNMENT

Your rights and duties under this policy cannot be transferred or assigned without our consent.

If you die, this policy will continue until the end of the policy period for:

1. the surviving spouse if a resident of the same household at the time of death;

2. your legal representative, but only with respect to the representative's legal responsibility to maintain or use a covered auto; or
3. any person having proper temporary custody of a covered auto.

I. CONFORMITY TO LAW

The terms of this policy that conflict with the laws of the state for which this policy has been issued are amended to conform to those laws.

J. LOSS PAYABLE CLAUSE

If a loss payee is shown in the Declarations, we may, at our option, pay any Comprehensive or Collision loss to one or more of the following:

1. You.
2. The owner of the auto.
3. The repairer.
4. Any other party who has an interest, title, or lien on the property.

Coverage for the loss payee's interest is only provided for a loss that is payable to you.

If we pay the loss payee for a loss, we are entitled to the loss payee's right of recovery to the extent of our payment. Our right of recovery shall not impair the loss payee's right to recover the full amount of its claim.

If this policy is terminated, we will provide coverage for the loss payee's interest until we notify the loss payee. Any coverage provided for the loss payee's interest will only be provided for a loss that would have been covered except for the termination.

K. ADDITIONAL INSURED

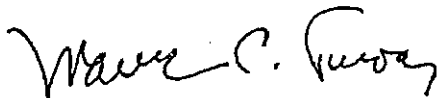
If an additional insured is shown in the Declarations:

1. Liability Coverage will be provided for the additional insured to the extent that the additional insured is an insured under the definitions of this policy;
2. the additional insured shall have the same rights of recovery under Liability Coverage as if they were not an additional insured; and
3. we will notify the additional insured if the policy coverages change or are terminated.

L. TERMINATION

See State Provisions, Endorsement. ■

IN WITNESS WHEREOF, we have caused this policy to be signed by its President and Its Secretary at Warwick, Rhode Island. In the event that the President or Secretary who signed this contract cease to be our officers either before or after the contract is issued, the contract may be issued with the same effect as if they were still our officers.



Secretary



President

**NEW MEXICO
STATE PROVISIONS ENDORSEMENT**

A. Under **GENERAL POLICY CONDITIONS**, item L. **TERMINATION** is replaced by:

L. TERMINATION

1. CANCELLATION

- a. **How You May Cancel.** You may cancel this policy by telling us on what future date you wish to stop coverage.
- b. **How We May Cancel.** We can cancel this policy by mailing notice to you at your last known address as shown on our records. The notice will state the date cancellation is effective. This notice will be mailed to you:
 - i. at least 10 days prior to the effective date of cancellation if:
 - 1) the premium is not paid when due; or
 - 2) this policy:
 - a) has been in effect less than 60 days at the time notice of cancellation is mailed; and
 - b) is not a renewal or continuation policy.
 - ii. at least 30 days prior to the effective date of cancellation in all other cases.
If this policy has been in force for 60 days, or if this is a renewal policy, we may cancel only:
 - 1) if premium is not paid when due;
 - 2) for fraud or material misrepresentation in obtaining or continuing the policy;
 - 3) if your driver's license or that of:
 - a) any driver who lives with you; or
 - b) any driver who customarily uses the covered auto; has been suspended or revoked during the 12 months before the cancellation effective date. However, we will not cancel this policy if it is agreed to exclude coverage for the person who has had his or her license suspended or revoked.
 - 4) for any other reason permitted by law.
- c. **Cancellation Refund.** If you or we cancel this policy, any premium refund will be computed on a pro rata basis. Any premium refund will be rounded to the nearest dollar. If you are entitled to a refund it will be sent to you. However, our making or offering a refund is not a condition of cancellation.

2. NONRENEWAL

If we decide not to renew your policy as permitted by law, we will mail a notice to you at the last known address as shown on our records. The notice will be mailed at least 30 days before the end of the policy period.

If we offer to renew this policy and you do not accept, this policy will automatically terminate at the end of the current policy period. Your failure to pay the required renewal premium when it is due will mean that you have not accepted our offer.

3. OTHER TERMINATION PROVISIONS

- a. If you obtain other insurance on your covered auto, any similar insurance provided by this policy will automatically terminate as to that covered auto on the effective date of the other insurance.
- b. If the law in effect in your state at the time this policy is issued, renewed or continued:
 - i. requires a longer notice period;
 - ii. requires a special form of or procedure for giving notice; or
 - iii. modifies any of the stated termination reasons,we will comply with the requirement.

- c. We may deliver any notice instead of mailing it. Proof of mailing of any notice shall be sufficient proof of notice.
- d. The effective date of cancellation or termination as stated in the notice shall become the end of the policy period. The notice will provide the date cancellation is effective.

All other policy terms and conditions apply.

IDENTITY THEFT RESOLUTION

The following is added:

MISCELLANEOUS

IDENTITY THEFT RESOLUTION

We will provide, at our expense, a representative of our choice to assist you, and any relatives in resolving issues of unauthorized use of personal identity or credit information. The unauthorized use must be reported to us during the policy period. Our obligation under this provision is limited to paying for the services of a representative of our choice. No other limit of liability or deductible applies.

Our obligation terminates when the policy terminates for any reason.

All other policy terms and conditions apply.

MEXICO COVERAGE - LIMITED

**WARNING
READ THIS ENDORSEMENT CAREFULLY**

Auto accidents in Mexico are subject to the laws of Mexico only – NOT the laws of the United States of America. Under Mexican law an auto accident may be considered a CRIMINAL OFFENSE as well as a civil matter.

In some cases, the coverage under this endorsement may NOT be recognized by Mexican authorities and we may not be allowed to implement this coverage at all in Mexico. You should consider purchasing auto coverage from a licensed Mexican Insurance Company before driving into Mexico.

This endorsement does not apply to trips into Mexico that exceed 25 miles from the boundary of the United States of America.

This insurance does not cover legal liability for bodily injury or property damage caused in Mexico.

Under PHYSICAL DAMAGE COVERAGE, the following are added:

A. Coverage extends to cover losses occurring in Mexico within 25 miles of the United States border. This extension applies only for infrequent trips into Mexico not exceeding 10 days at any one time.

B. Under EXCLUSIONS, the following are added:

We will not pay for loss to a covered auto which is not principally garaged and used in the United States.

C. SPECIAL CONDITIONS

1. Other Insurance

The insurance provided by this endorsement is excess over any other collectible insurance.

2. Losses Payable Under Physical Damage Coverage

We will pay losses under this coverage in the United States but not in Mexico. If the covered auto must be repaired in Mexico in order to be driven, we will not pay more than the actual cash value of the loss at the nearest United States point where the repairs can be made.

All other policy terms and conditions apply.

**NEW MEXICO
UNINSURED MOTORISTS COVERAGE ENDORSEMENT
SCHEDULE**

Name of Company: Refer to the Policy Declarations Page

Uninsured Motorists Coverage

Limit of Liability: Bodily Injury Refer to the Policy Declarations Page
Property Damage Refer to the Policy Declarations Page

Vehicle Description and Premium Refer to the Policy Declarations Page

The following is added:

UNINSURED MOTORISTS COVERAGE

ADDITIONAL DEFINITIONS FOR THIS COVERAGE

A. The following **GENERAL DEFINITIONS** are changed for this coverage only:

INSURED means:

1. **you** or any relative.
2. any other person **occupying your covered auto**.
3. any person for damages that person is entitled to recover because of **BI** to which this coverage applies sustained by a person in 1. or 2. above.

B. The following definitions are added for this coverage only:

PROPERTY DAMAGE (referred to as "**PD**") means physical damage to destruction of or loss of use of an insured's tangible property:

C. The following definition is added for this coverage only:

UNINSURED MOTOR VEHICLE means:

1. a **motor vehicle** for which:
 - a. no liability insurance policy or bond applies at the time of the accident.
 - b. a liability insurance policy or bond is in effect at the time of the accident, but:
 - i. the amount of coverage or the amount of the bond is less than the minimum financial security requirements specified by the state of New Mexico;
 - ii. the company writing such policy or the company or individual writing such bond denies coverage, or which is, or becomes, insolvent.
2. a hit and run **motor vehicle** which causes an accident resulting in **BI** or **PD** arising out of physical contact or attempted physical contact of the **motor vehicle** with:
 - a. **you** or a relative;
 - b. a **motor vehicle** which **you** or a relative are **occupying** at the time of the accident; or
 - c. property of the **insured**, including a **covered auto**, if:
 - i. the identity of the driver and the owner of the hit and run **motor vehicle** is unknown;
 - ii. the accident is reported within 24 hours to a state or local police officer, peace or judicial officer, or the Director of Motor Vehicles;
 - iii. the injured person or someone on the injured person's behalf files with **us** within 30 days of the accident a statement under oath that the injured person or his or her legal representative has a cause of action due to the accident for damages against someone whose identity is unknown; and
 - iv. the injured person or the injured person's legal representative makes available for inspection by **us**, when requested, the **motor vehicle occupied** by that person at the time of the accident.

The term **uninsured motor vehicle** does not include a **motor vehicle**:

1. owned by, leased to, regularly furnished or available for the use of **you** or any **relative**;
However, this exception does not apply for damages sustained by **you** or any **relative** if liability coverage is excluded for such damages under this policy or any other policy.
2. owned or operated by a self-insurer as defined in the applicable **motor vehicle** law, financial responsibility law, motor carrier law or similar law; or
3. owned by a governmental unit or agency.
4. owned by a person who has purchased a surety bond as payment for loss on account of his or her legal liability for injury to or the death of people and damage to property arising out of the ownership, operation, or use of a **motor vehicle**.
5. any vehicle or equipment:
 - a. operated on rails or crawler treads;
 - b. while located for use as a residence or premises; or
 - c. which is a farm type tractor or equipment designed for use principally off public roads, except when actually upon public roads.

D. The following definition is added for this coverage only:

UNDERINSURED MOTOR VEHICLE means a **motor vehicle** for which the sum of the limits of all bodily injury liability bonds or insurance policies applicable at the time of the accident is less than the sum of the limits of liability applicable to the injured person for Uninsured Motorists Coverage under this policy and any other policy(ies).

The term **underinsured motor vehicle** does not include a **motor vehicle**:

1. owned by, leased to, regularly furnished or available for the use of **you** or any **relative**;
However, this exception does not apply for damages sustained by **you** or any **relative** if the sum of the limits of liability under all bodily injury liability bonds or policies applicable at the time of the accident is less than the sum of the limits of liability for Uninsured Motorists Coverage under this policy and any other policy(ies).
2. owned or operated by a self-insurer as defined in the applicable **motor vehicle** law, or
3. owned by a governmental unit or agency; or
4. any vehicle or equipment:
 - a. operated on rails or crawler treads;
 - b. while located for use as a residence or premises; or
 - c. which is a farm type tractor or equipment designed for use principally off public roads, except when actually upon public roads.
5. which has a liability bond or insurance policy in effect at the time of the accident, but the company writing such bond or policy:
 - a. denies coverage; or
 - b. is or becomes insolvent.

INSURING AGREEMENT

In consideration of the payment of the premium for this endorsement and subject to all of the terms of this endorsement, the company agrees with the named insured as to the insuring agreement in 13.12.3.13 through 13.12.3.17 NMAC.

This coverage is provided only if it is indicated in the Declarations.

We will pay compensatory damages which an **insured** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle** for **BI** or **PD**:

- A. sustained by an **insured**; and
- B. caused by an accident arising out of owning, maintaining, or the use of an **uninsured motor vehicle**.

EXCLUSIONS

- A. We do not cover any person or property **occupying** or struck by a **motor vehicle** owned by

- you or a relative, other than a covered auto.**
- B. We do not cover any person who settles a BI or PD claim with any liable party and the settlement is without our consent.**
 - C. We do not cover any claim which would benefit directly or indirectly any insurer or self-insurer under any workers' compensation, disability benefits, or similar law.**
 - D. We do not cover BI or PD sustained while a covered auto is:**
 - 1. rented to any person or organization in any fashion; or
 - 2. leased to any person or organization in any fashion.This exclusion does not apply:
 - 1. while the auto is rented or leased to or for your or a relative's use;
 - 2. while the auto is used in a shared expense car pool; or
 - 3. while the auto is being used for volunteer or charitable purposes for which reimbursement for normal operating expenses may be paid to you or a relative.
 - E. We do not cover BI or PD sustained while a covered auto is being used to carry persons for a charge. This exclusion does not apply while the auto:**
 - 1. is used in a shared expense car pool; or
 - 2. is being used for volunteer or charitable purposes for which reimbursement for normal operating expenses may be paid to you or a relative.
 - F. We do not cover BI or PD awards or judgments designated as punitive, exemplary, statutory multiple, or delay damages or awards when the tortfeasor is deceased.**
 - G. We do not cover a relative who owns, leases or has available for his or her regular use, an auto which is insured for uninsured motorists coverage on a primary basis under any other policy.**
 - H. We do not cover any person using a motor vehicle without a reasonable belief he or she is entitled to do so. This exclusion does not apply to you or a relative using a covered auto.**
 - I. We do not cover any claim which would benefit any insurer of any property.**
 - J. We do not cover any actual or perceived decrease in market value, diminished value, or resale value resulting from PD.**
 - K. We do not cover PD for which the person making a claim has been or is entitled to be compensated by other property or physical damage insurance.**
 - L. We do not cover the first \$250 of the amount of PD to the property of each insured as the result of any one accident.**
 - M. any claim for BI or PD due to or resulting from an accident which occurred before the effective date of this coverage or outside the United States of America, its territories or possessions, or Canada.**

LIMIT OF LIABILITY

- A. If BI is sustained by you or any relative:**

The maximum amount we will pay for all damages, including damages for care, loss of consortium, emotional distress, loss of services, death, or prejudgment interest arising out of BI sustained by any one person as the result of any one accident is the limit of liability shown in the Schedule or in the Declarations for "each person" for Uninsured Motorists Bodily Injury Coverage multiplied by the number of covered auto shown in the Schedule or in the Declarations. Subject to this limit for "each person", the maximum amount we will pay to all people for all damages, including damages for care, loss of consortium, emotional distress, loss of services, death, or prejudgment interest arising out of BI sustained by two or more people resulting from any one accident is the limit of liability shown in the Schedule or in the Declarations for "each accident" for Uninsured Motorists Bodily Injury Coverage multiplied by the number of covered autos shown in the Schedule or in the Declarations.

However, if the Schedule or the Declarations indicates Non-Stacked Uninsured Motorists Coverage limits, then the maximum amount we will pay for all damages, including damages for care, loss of consortium, emotional distress, loss of services, death, or prejudgment interest arising out of BI sustained by any one person as the result of any one accident is the limit of liability shown in the Schedule or in the Declarations for "each person" for Uninsured Motorists Bodily Injury Coverage. Subject to this limit for "each person", the maximum amount we will pay to all people for all damages, including damages for care, loss of consortium, emotional distress, loss of services, death, or prejudgment interest arising out of BI sustained by two or more people

resulting from any one accident is the limit of liability shown in the Schedule or in the Declarations for "each accident" for Uninsured Motorists Bodily Injury Coverage.

This is the most we will pay regardless of the number of:

1. insureds;
2. claims made;
3. vehicles shown in the Declarations;
4. premiums shown in the Declarations; or
5. vehicles involved in the accident.

B. If BI is sustained by any person other than you or any relative:

The maximum amount we will pay for all damages, including damages for care, loss of consortium, emotional distress, loss of services, death, or prejudgment or post judgment interest arising out of bodily injury sustained by any one person as the result of any one accident is the limit of liability shown in the Schedule or in the Declarations for each person for Uninsured Motorists Bodily Injury Coverage. Subject to this limit for each person, the maximum amount we will pay to all people for all damages, including damages for care, loss of consortium, emotional distress, loss of services, death, or prejudgment interest arising out of bodily injury sustained by two or more people resulting from any one accident is the limit of liability shown in the Schedule or in the Declarations for each accident for Uninsured Motorists Bodily Injury Coverage.

This is the most we will pay regardless of the number of:

1. insureds;
2. claims made;
3. vehicles shown in the Declarations;
4. premiums shown in the Declarations; or
5. vehicles involved in the accident.

C. The maximum amount we will pay for all damages, including prejudgment and post judgment interest, arising out of PD as a result of any one accident is the limit of liability shown in the Declarations for Uninsured Motorists Property Damage.

This is the most we will pay regardless of the number of:

1. insureds;
2. claims made;
3. vehicles shown in the Declarations;
4. premiums shown in the Declarations; or
5. vehicles involved in the accident.

D. With respect to damages caused by an accident with an underinsured motor vehicle, the limit of liability shall be reduced by all sums paid because of BI by or on behalf of people or organizations who may be legally responsible. This includes all sums paid under the LIABILITY COVERAGE section of this policy or any other insurance policy.

E. No person is entitled to receive duplicate payments for the same elements of loss under this endorsement and any amount paid by or on behalf of any liable parties.

SETTLEMENT

Whether any person is legally entitled to collect damages under this section, and the amount to which such person is entitled, will be determined by agreement between that person and us.

If a person seeking coverage files a suit against the owner or operator of the uninsured motor vehicle, copies of suit papers must be forwarded to us. We have the right to defend on the issues of the:

- A. legal liability of; and
 - B. the damages owed by,
- the owner or operator.

We are not bound by any judgment, settlement or agreement against any person or organization obtained without our consent.

We may pay any amount due to one or more of the following:

- A. the insured;
- B. a parent or guardian, if the insured is a minor;
- C. the surviving spouse, civil union partner or other similar union;
- D. the person authorized by law to receive such payment; or
- E. the person entitled by law to recover the damages, which the payment represents.

OTHER INSURANCE

If there is other similar insurance, we will pay only our fair share. The total amount of recovery under all policies will be limited to the highest of the applicable limits of liability of this insurance and such other insurance.

Our fair share is the proportion that our limit bears to the total of all applicable limits. However, any insurance we provide with respect to a vehicle:

- A. not owned by you or any relative, including any vehicle while used as a substitute automobile; or
- B. owned by you or any relative which is not insured for this coverage under this policy;

shall be excess over any other collectible similar insurance. With respect to PD, this insurance will be excess over any other similar insurance available for PD. No payments will be made until the limits of all other liability insurance and bonds that apply have been exhausted by payments.

ADDITIONAL DUTIES AFTER A LOSS

All insureds must cooperate with us in investigating an accident.

We may require the insured to take appropriate action to preserve the insured's right to recover damages from any other person responsible for the accident, BI or PD. In any lawsuit against us, we may require the insured to join the responsible person as a defendant.

An insured must report an accident involving an uninsured motor vehicle within 24 hours to law enforcement authorities.

CONFORMITY OF STATE STATUTES

If any provisions of this coverage are in conflict with the statutes of the State of New Mexico, those provisions are amended to conform to the minimum requirements of the statutes.

All other policy terms and conditions apply.

SAFETY GLASS DEDUCTIBLE BUYBACK ENDORSEMENT

A. Under **GENERAL DEFINITIONS**, the following is added:

SAFETY GLASS means the glass, plastic or other material used in the windshield and windows of an auto.

B. Under **PHYSICAL DAMAGE COVERAGE, DEDUCTIBLE**, the following is added:

"Glass Deductible Buyback" applies to a covered auto when shown in the Declarations. No deductible will apply for loss to that covered auto when the only payment is for the repair or replacement of damaged safety glass.

All other policy terms and conditions apply.

MetLife Auto & Home®
Casualty Claims Team
P.O. Box 6040
Scranton, PA 18505

Exhibit 4



November 30, 2020

Law Office Of Adam Oakley
P.O. Box 70483
Albuquerque, NM 87197

Our Customer: Margaret Vega
Our Claim Number: SLN12024 D2
Policy Number: 0593
Date of Loss: August 25, 2019
Your Client: Margaret Vega

Dear Maier:

We received your emailed dated 11/30/2020 and based upon our investigation and information that has been provided to us at this time, there appears to be no evidence to support an uninsured or underinsured motorist claim due to offsetting limits of \$25,000. ~~Per your email, GEICO their liability limits of \$25,000 and our insured's UM/UIM limits are \$25,000; therefore, after the reduction/offset of the tort carrier's limits there isn't any UIM potential.~~

If you have additional evidence or other supporting documentation to suggest otherwise please send to our office immediately and we will be happy to review.

~~At this time, we are closing our claim and will take no further action.~~ Please do not hesitate to contact us with any additional supports or information for further consideration.

Sincerely,

Jacob Martinez
Metropolitan Direct Property and Casualty Insurance Company
Senior Claim Adjuster
(800) 854-6011 Ext. 5520
Fax: (866) 947-0184
Email: Metlifeimaging@metlife.com

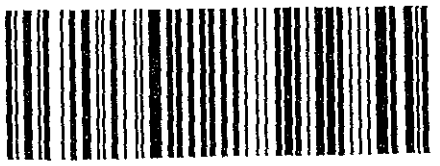
MetLife Auto & Home is a brand of Metropolitan Property and Casualty Insurance Company and its Affiliates, Warwick, RI



Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to civil fines and criminal penalties.

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Office of Superintendent of Insurance
Attn: Service of Process
P. O Box 1689
Santa Fe, NM 87504-1689



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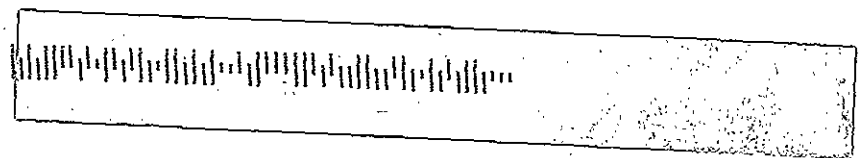
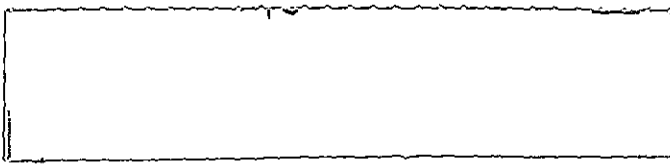
National Document

AUG 03 2022

Center

Metropolitan Direct Property and
Casualty Insurance Company C/O
Farmers Direct Property and
Casualty Insurance Company
6301 Owensmouth Ave
Woodland, CA 91367

#2732





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