

Case: 45CO1:16-cv-00848 Document #: 31-5 Filed: 07/25/2018 Page 1 of 2

Dear Ms. Duncan,

Thank you for your letter of 2/18/16 regarding the above claim made under the Uninsured Motorist provisions of our policy. To insure that there is no miscommunication between us please allow me to set out fully the facts and circumstances of this claim and my understanding of the applicable law and policy provisions.

On or about 2/8/16 an unknown motorist, defined under the law and in the policy as an "uninsured motorist", struck and damaged property belonging to the insured. The damaged property is a flagpole erected on our property and adjacent to our parking lot.

Mississippi Code Section 83-11-101(2) provides as follows:

"No automobile liability insurance policy or contract shall be issued or delivered after January 1, 1980, unless it contains an endorsement or provisions undertaking to pay the insured all sums which he shall be legally entitled to recover as damages for property damage from the owner or operator of an uninsured motor vehicle ... " (emphasis added)

I am aware that Travelers' policy language attempts to limit this legally mandated coverage by narrowly defining the term "property damage" and excluding all forms of property other than an insured's auto and its contents. However, Section MCA 83-11-101(2) contains no such limitation and requires coverage for "all sums" for which the uninsured driver is liable as to "property damage". There is abundant legal precedent for the proposition that this coverage may not be limited or denied by policy provisions that are inconsistent with the statutory requirements.

As you may also be aware, the purpose of UM coverage – and the purpose of the law mandating its inclusion in all policies -- is to provide to the insured (100 Renaissance) the same protection that would have been afforded the insured if the negligent driver had possessed legally required minimum auto liability coverage. I'm sure that Travelers would not claim that if this motorist had been an insured under a Travelers auto liability policy, and had run into a person's house, that liability coverage would not apply to the resulting "property damage". The result under UM coverage should be the same.

If Travelers is aware of a legal or factual basis for its position that the damaged flagpole is not "property" within the meaning of MCA 83-11-101(2) please advise me of it as soon as possible, and in writing.

Thank you for your attention to this and I look forward to hearing from you soon.

Richard (Rick) Wise | V.P. and Legal Counsel  
H.C. Bailey Companies

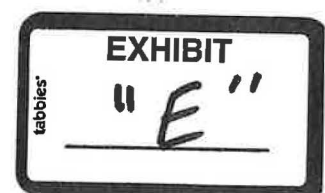
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**From:** CDUNCAN3@travelers.com [mailto:CDUNCAN3@travelers.com]  
**Sent:** Thursday, February 18, 2016 10:15 AM

mhtml:file:///C:/Users/tjulian/AppData/Local/Temp/TempBkp/((0))\}



**To:** Rick Wise

**Subject:** File Cabinet Document Attach - Claim Number E3S8349

**Title:** letter **Attach:** 72E0DFC4-BE96-4558-865B-83C2BB64DA74.doc

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