

4729

C. P. FORREST,	§	IN THE CIRCUIT COURT OF
Complainant	§	BALDWIN COUNTY, ALABAMA
-VS.-	§	IN EQUITY
STATE FARM MUTUAL AUTO-	§	
MOBILE INSURANCE COMPANY,	§	
a Corporation,	§	
Respondent	§	

BILL OF COMPLAINT

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY SITTING:

The Complainant, C. P. FORREST, respectfully shows unto this Honorable Court as follows:

1. That the Complainant is over twenty-one years of age and is a resident of Baldwin County, Alabama. That the Respondent is a corporation organized under the laws of some state other than the State of Alabama and its address is, to the best of your Complainant's knowledge and belief, Bloomington, Illinois, but qualified to do business in the State of Alabama as an insurance company.

2. That on, to-wit, October 23, 1956, said Respondent, for a valuable consideration, executed its Policy Number 758-177-D29-01, a copy of which is hereto attached and made Exhibit 1, as if set out fully herein.

3. That under the terms of said policy Respondent insured Complainant against financial loss as to all damages which the insured, your Complainant, shall become legally obligated to pay because of bodily injuries sustained by other persons caused by accident arising out of the ownership, maintenance or use of the automobile described in said policy; that under the terms of said policy Respondent agreed to defend any suit against the insured alleging such bodily injury, even if such suit is groundless, false or fraudulent.

4. That after the effective date of said policy and while said policy was in full force and effect, Complainant had such an accident as insured under the terms and conditions of said policy.

5. That on, to-wit, June 21, 1957, Complainant while driving the automobile covered by the terms of said policy injured one Grace Rawls Norris and which accident occurred in Mobile County, Alabama; that James Edward Norris, as administrator of the estate of Grace Rawls Norris, deceased, filed a suit against your Complainant in the Circuit Court of Mobile County, Alabama, at Law, No. 17,608-Ervin, and which suit was filed on January 14, 1958 and which Bill of Complaint was served on your Complainant on February 24, 1958.

6. That Respondent claims that they cannot assume any liability for any loss or losses or damages or injury inflicted as a result of said accident and that they will take no action to adjust or defend or handle any litigation growing out of said accident; that they denied coverage under said policy for the reason that written notice was not given by the Complainant to the company or any of its authorized agents. Complainant received from the Respondent by registered mail a notice reading as follows:

STATE FARM INSURANCE COMPANIES
Home Office ..Bloomington, Illinois

Southern Office 2100 S. 18th Street, Birmingham 1, Alabama

Mr. C. P. Forrest
Box 192
Fairhope, Alabama

January 9, 1958

CERTIFIED MAIL: RETURN RECEIPT REQUESTED
DELIVER TO ADDRESSEE ONLY

Dear Mr. Forrest:

Claim 01-105-771

We are writing you in reference to the accident of June 21, 1957, at which time you were involved in a collision with Mr. Grace R. Norris, who was riding a motor scooter, on the military post of Brookley Field, Mobile, Alabama.

Please refer to condition 1 of your policy which sets out in essence as follows:

"When an accident or loss occurs, written notice shall be given by or on behalf of the insured to the company or any of its authorized agents as soon as practicable, * * * *."

Your attention is also called to condition 6 in your policy.

Since our investigation reflects that you were involved in the above questioned accident June 21, 1957, and report was not rendered to State Farm Mutual or any of its representatives until on or about December 5, 1957, you are hereby notified that we cannot assume any liability for any loss or losses or damages or injuries inflicted as a result of said accident and we will take no action to adjust or defend or handle any litigation growing out of the above mentioned accident. For the above reason and policy violation and for any other

valid reason which might be brought to our attention, we are denying coverage to you under policy number 758-177-D29-01 issued on a 1955 Oldsmobile, motor number JAM293319.

We are returning original letter from Attorney Gallalee notifying you of their employment on behalf of the Estate of Grace R. Norris and recommend that you immediately contact your individual counsel and handle the matter.

We regret that it becomes necessary to deny coverage to you in this instance; however, the situation arose out of a condition beyond our control.

Very truly yours,

/S/ Leon E. Ward

Leon E. Ward
Claims Supt.

gj
cc: Stanley Kasuba 9518
cc: Carlton Parker

7. That within four weeks after said accident, Complainant did notify the Respondent, by and through its agent, Stanley Kasuba, Fairhope, Alabama, of such accident; that Complainant was notified of proposed litigation based on the injuries on or about December 5, 1957 and again advised the Respondent of such claim; that Complainant has met the conditions set forth in said policy.

8. That Respondent did investigate said accident and recommended that Complainant contact individual counsel; that Complainant did contact and obtain individual counsel to represent his interest and that of the Respondent and that Complainant has continued to advise Respondent of the matter; that Respondent's interest has in no way been prejudiced but continues to refuse to defend said suit as required by the terms and conditions of the said policy.

9. That an actual justiciable controversy exist between Complainant and Respondent.

10. That said policy No. 758-177-D29-01 was entered into by and between Complainant and Respondent at Fairhope, Baldwin County, Alabama.

11. Complainant submits himself to the jurisdiction of this Court and offers to do equity.

PRAYER FOR PROCESS:

Complainant prays that the Respondent be notified of the filing of this Bill of Complaint in the manner prescribed by law and that

it be required to plead, answer or demur hereto within the time and under the pains and penalties prescribed by law.

PRAYER FOR RELIEF:

Complainant prays for the following separate and several relief:

1. That upon a final hearing hereof the Court will make and enter a decree declaring the rights of Complainant and the obligations of Respondent under said policy of insurance No. 758-177-D29-01.

2. That it be decreed that under said policy of insurance, Respondent is obligated to defend Complainant against the suit filed by James Edward Norris, as administrator of the estate of Grace Rawls Norris, deceased, and which suit is pending in the Circuit Court of Mobile County, Alabama, at Law, No. 17,608-Ervin.

3. That it be decreed that under said policy of insurance, Respondent is obligated to pay Complainant such financial losses sustained by him by reason of the Respondent failing to defend said suit as required by the terms of said policy.

4. That it be decreed that Respondent under said policy of insurance has no right to escape liability for defending said suit which originated while the policy was in force.

5. Complainant further prays for such other, further and general relief as he may be equitably entitled to, the premises considered.

EXHIBIT 1 attached to original and duplicate.

C. P. Forrest
SOLICITOR FOR COMPLAINANT

STATE OF ALABAMA)
BALDWIN COUNTY)

Before me, the undersigned notary public in and for said State and County, personally appeared C. P. Forrest, who, being by me first duly sworn, deposes and says: That he has read over the facts contained in the foregoing Bill of Complaint and that the facts stated therein are true.

C. P. Forrest
C. P. FORREST

Sworn and subscribed to before me this the 9th day of October, 1959.

Alice J. Duck
NOTARY PUBLIC, BALDWIN COUNTY, ALA.

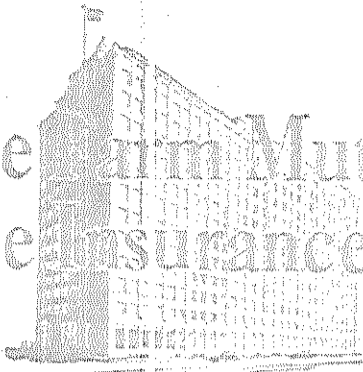
FILED

OCT 12 1959

ALICE J. DUCK, CLERK, REGISTER

STATE FARM AUTOMOBILE POLICY

State Farm Mutual Automobile Insurance Company



BLOOMINGTON, ILLINOIS

DECLARATIONS

POLICY NUMBER 758 177-029-01	POLICY PERIOD—12:01 A.M., Standard Time of Each Date OCT. 29, 1956 TO APR. 29, 1957	POLICY NUMBER AND PERIOD
MEMBERSHIP PREMIUM 7.00 \$ 10.71	COVERAGES as defined in contract, according to: A, B	NAME AND ADDRESS OF INSURED, PREMIUM AND COVERAGES
FORREST, C.P. BOX 192 FAIRHOPE, ALA. 10-29-56	FINANCED	EXCEPTIONS
236 474-029-54	Local Agent STANLEY	PREVIOUS POLICY NUMBER CLAIM AGENT
Make Year Body Code OLDSMOBILE 1955 2007 1003	DESCRIPTION OF AUTOMOBILE YEAR OF MAKE	

The policy period shall be as shown above under "Policy Period" and for such succeeding periods of six months each thereafter as the required renewal premium is paid by the insured on or before the expiration of the current policy period and accepted by the company. The "Policy Period" shall begin and end at 12:01 A.M., standard time at the address of the named insured as stated herein. The premium shown is for the policy period and coverages above indicated.

1. The automobile will be principally garaged in the above town and state.
2. (a) No insurer has canceled automobile insurance issued to the named insured or any member of his household within the past three years, unless stated in the exceptions above. (b) No license to drive or registration has been suspended, revoked or refused for the named insured or any member of his household within the past five years.
3. The named insured is the sole owner of the automobile except as stated in the exceptions above.
4. If a mortgage owner, conditional vendor, or assignee is named above, loss, if any, under coverages D, E, F and G shall be payable to the named insured and to such additional interest as such interest may appear, and this insurance as to such additional interest shall not be invalidated by any act or negligence of the mortgagor or owner, nor by any change in the title or ownership, nor by any error or inadvertence in the description of the automobile until after notice of termination of the policy shall be given to such mortgage owner, conditional vendor, mortgagee or assignee stating when not less than ten days thereafter such termination shall be effective; provided, the lien-holder shall notify the company within ten days of any change of interest or ownership which shall come to the knowledge of said lien-holder and failure to do so will render this policy null and void.
5. (a) The term "pleasure and business" is defined as personal, pleasure, family and business use. (b) The term "commercial" or "commercial-farm" is defined as use principally in the business occupation of the named insured as stated above, including occasional use for personal, pleasure, family and other business purposes.

Countersigned Oct. 23, 1956 at Fairhope, Alabama

by /s/ Stanley Kasuba
Authorized Representative

State Farm Mutual Automobile Insurance Company

BLOOMINGTON, ILLINOIS

A Mutual Insurance Company Herein Called The Company

In consideration of the premium paid and in reliance upon the declarations made a part hereof, agrees with the named insured, subject to the provisions of the policy:

INSURING AGREEMENTS

I. Coverages.

Coverages A and B—(A) Bodily Injury Liability and (B) Property Damage Liability.

(1) To pay all damages which the insured shall become legally obligated to pay because of

- (A) bodily injury sustained by other persons, and
- (B) injury to or destruction of property of others,

caused by accident arising out of the ownership, maintenance or use, including loading or unloading, of the automobile.

Limits of Liability—Unless specifically amended in the declarations, the company's limit of liability shall not exceed under:

coverage A, \$10,000 for all damages arising out of bodily injury sustained by one person in any one accident and subject to this provision, \$20,000 for two or more persons in any one occurrence;

coverage B, \$5,000 for all damages to property in any one occurrence.

The inclusion herein of more than one insured shall not increase the limits of liability.

(2) To defend any suit against the insured alleging such bodily injury or destruction and seeking damages on account thereof, even if such suit is groundless, false or fraudulent; but the company may make such investigation, negotiation and settlement of any claim or suit as it deems expedient.

(3) To pay, as respects the insurance afforded under coverages A and B and in addition to the applicable limits of liability:

(a) costs taxed against the insured in any such suit and all interest accruing after entry of judgment until the company has paid or tendered such part of such judgment as does not exceed the limit of the company's liability thereon;

(b) premiums on bonds to release attachments not in excess of the applicable limit of liability, premiums on required appeal bonds, and the cost of bail bonds required of the insured because of accident or traffic law violation, not to exceed \$100 per bail bond, but without any obligation to apply for or furnish any such bonds;

(c) expense incurred by the insured for immediate medical and surgical relief to others as shall be imperative at the time of accident;

(d) reasonable expense, except loss of earnings, incurred by the insured, at the company's expense.

(4) Financial Responsibility Laws.

When certified as proof of future financial responsibility under any motor vehicle financial responsibility law and while such proof is required during the policy period, this policy shall comply with such law if applicable, to the extent of the coverage and limits required thereby, but not in excess of the limits of liability stated in this policy. The insured agrees to reimburse the company for any payment made by the company which it would not have been obligated to make under the terms of this policy except for the agreement contained in this paragraph.

Coverage C—Medical Payments. To pay reasonable expenses incurred within one year from the date of accident for necessary medical, surgical, dental, ambulance, hospital, professional nursing and funeral services, and prosthetic devices, to or for each person who sustains bodily injury, caused by accident, while in or upon, entering into or alighting from, or through being struck by the automobile, provided the automobile is being used by the named insured or his spouse if a resident of the same household, or with the permission of either.

In addition, with respect to such bodily injury to the first person named in the declarations and while residents of his household, his spouse and the relatives of either, this coverage is extended to apply to any other land motor vehicle or trailer not operated on rails or crawler-treads, but not (1) a farm type tractor or equipment designed for use principally off public roads, except while actually upon public roads or (2) a land motor vehicle or trailer while located for use as premises and not as a vehicle or (3) a house trailer while used as permanent living quarters.

Limit of Liability—Unless specifically amended in the declarations, the company's limit of liability shall not exceed \$500 for all expenses incurred for each person who sustains bodily injury in any one accident.

Coverage D—Comprehensive (includes Coverage E—Fire, Windstorm, Theft, etc.) To pay for loss to the automobile except loss caused by collision with another object or upset of the automobile. Breakage of glass, loss included under coverage E and loss caused by missiles, falling objects, flood, malicious mischief or vandalism, riot or civil commotion shall not be deemed loss by collision or upset.

Coverage E—Fire, Windstorm, Theft, Rental Reimbursement, etc. To pay for loss to the automobile caused by (a) fire or lightning, (b) smoke or soot due to a sudden, unusual and faulty operation of any fixed heating equipment serving the premises in which the automobile is located, (c) the stranding, sinking, burning, collision or derailment of any conveyance in or upon which the automobile is being transported, including general average and salvage charges for which the named insured becomes legally liable, (d) windstorm, hail, earthquake, explosion, external discharge or leakage of water except loss resulting from rain, snow or sleet, or (e) theft, larceny, robbery or pilferage.

In addition to the limit of liability, the company, following a theft of the entire automobile, also will reimburse the named insured for the reasonable expense, not exceeding \$5 per day nor a total of \$150, for the rental of a substitute automobile, including taxicabs, incurred during the period starting seventy-two hours after the report of theft to the company and ending when the company offers settlement for the theft.

Coverage F—Bodily Per Cent Collision. To pay 80% of the first \$250 and 100% over that amount of loss to the automobile caused by collision with another object or upset of the automobile.

Coverage G—Deductible Collision. To pay for loss to the automobile caused by collision with another object or upset of the automobile

II. Definition of Insured, etc.

(a) Insured—with respect to the insurance afforded under coverages A and B, the unqualified word "insured" includes the named insured and, if the named insured is an individual, his spouse if a resident of the same household, and also includes any person while using the automobile and any person or organization legally responsible for the use thereof, provided the actual use is by the named insured or such spouse or with the permission of either. The insurance with respect to any person or organization other than the named insured or such spouse does not apply to:

(1) any person or organization, or to any agent or employee thereof, operating an automobile business, with respect to any accident arising out of the operation thereof, except that coverages A and B shall apply, as excess insurance over any other collectible insurance, to a resident of the same household as the named insured, to a partner, or to any partner, agent or employee of such resident or partnership;

(2) any employee with respect to bodily injury of another employee of the same employer injured in the course of such employment arising out of the maintenance or use of the automobile in the business of such employer.

(b) Automobile Business—means an automobile repair shop, public garage, sales agency, service station or public parking place.

(c) Bodily Injury—means bodily injury, sickness or disease including death at any time resulting therefrom.

(d) Damages—wherever used with respect to coverage A includes damages for care and loss of service, and with respect to coverage B damages for loss of use.

(e) Loss—wherever used with respect to coverages D, E, F and G means each direct and accidental loss of or damage to the automobile.

(f) Person—means a natural person and not a corporation, partnership, association or business name.

III. Automobile Defined.

(a) Automobile. Except where stated to the contrary, the word "automobile" means:

(1) Described Automobile—the motor vehicle or trailer described in the declarations;

(2) Trailer—under coverages A, B and C, provided the described automobile is not classified as "commercial," and is not so described, if designed for use with a private passenger automobile and if not (a) a passenger trailer, (b) a trailer used for business purposes with another type automobile, or (c) a trailer used as premises for office, store or display purposes. This insurance does not apply, under coverage C, to a house trailer while used as permanent living quarters. The word "trailer" includes semitrailer;

(3) Temporary Substitute Automobile—under coverages A, B and C, an automobile not owned by the named insured or a member of the same household while temporarily used as a substitute for the described automobile when withdrawn from normal use because of its breakdown, repair, servicing, loss or destruction;

(4) Newly Acquired Automobile—an automobile, ownership of which is acquired by the named insured or his spouse if a resident of the same household, if (a) it replaces an automobile owned by either and covered by this policy, or the company insures all automobiles owned by the named insured and such spouse on the date of its delivery, and (b) the named insured or such spouse notifies the company within thirty days following such delivery date. The named insured shall pay any additional premium required because of the application of the insurance to such newly acquired automobile.

(b) Equipment. The word "automobile" also includes under coverages D, E, F and G any equipment permanently attached thereto.

(c) Private Passenger Automobile—means a private passenger, station wagon or jeep type automobile.

(d) Two or More Automobiles. When two or more automobiles are insured hereunder, the policy shall apply separately to each but a motor vehicle and a trailer or trailers attached thereto shall be one automobile as respects the limits of liability under coverages A, B, and C.

IV. Use of Other Automobiles. If the named insured is an individual or husband and wife and if during the policy period such named insured, or the spouse of such individual if a resident of the same household, owns an automobile covered by this policy and classified as "pleasure and business," such insurance as is afforded by this policy under coverages A, B, C, F, G or H with respect to said automobile applies to any other automobile subject to the following provisions:

(a) With respect to the insurance afforded under coverages A and B the unqualified word "insured" includes (1) such named insured and spouse, and (2) any other person or organization legally responsible for the use by such named insured or spouse of an automobile not owned or hired by such other person or organization. Insuring Agreement II(a) does not apply to this Insuring Agreement IV.

(b) Coverage F, G or H applies only to a private passenger automobile while being operated or used by such named insured or spouse. Exclusion (1)(2) does not apply to this provision.

(c) Insuring Agreement IV does not apply:

(1) to any automobile owned by, registered in the name of, hired as part of a regular use of hired automobiles by, or furnished for regular use to either the named insured or a member

and any other conditions of such contract in excess of the deductible amount stated in the declarations as applicable hereto.

Limit of Liability—Settlement Option—Coverages D, E, F and G. The limit of liability for loss to the automobile or part thereof shall not exceed the actual cash value nor what it would then cost to repair or replace the automobile or part with like kind and quality, less depreciation and deductible amount applicable.

The company may pay for the loss in money or may repair or replace the automobile or such part thereof as aforesaid, or may return any stolen property with payment for any resultant damage thereto at any time before the loss is paid or the property is so replaced, or may take all or each part of the automobile at the agreed value but there shall be no abandonment to the company.

Coverage H—Emergency Road Service. To pay the reasonable expenses incurred in connection with the automobile because of:

- (1) delivery of gasoline, oil, loaned battery, or change of tire, but not the cost of such items;
- (2) mechanical first aid not to exceed one hour at the place of disablement;
- (3) towing to the nearest garage or service station where the necessary repairs can be made if the automobile will not operate under its own power.

This policy does not apply under:

- (a) any of the coverages (except under coverage C for bodily injuries to the named insured and while residents of his household, his spouse or the relatives of either) while the automobile is rented or leased to others by the insured, used as a public or livery conveyance, or used for carrying persons for a charge, but the transportation on a share expense basis in a private passenger automobile of friends, neighbors, fellow employees or school children shall not be deemed carrying persons for a charge;
- (b) coverages A, B, and C (except under coverage C for bodily injuries to the named insured and while residents of his household, his spouse or the relatives of either) while the automobile is used for the towing of any trailer owned or hired by the insured and not covered by like insurance in the company; or while any trailer covered by this policy is used with any automobile owned or hired by the insured and not covered by like insurance in the company;
- (c) coverages A and B, to liability assumed by the insured under any contract or agreement;
- (d) coverage A, to bodily injury of any employee of the insured arising out of and in the course of the insured's employment, except domestic and not then if benefits therefor are in whole or in part either payable or required to be provided under any workmen's compensation law;
- (e) coverage A, to any obligation for which the insured or his insurer may be held liable under any workmen's compensation, unemployment compensation or disability benefits law, or under any similar law; or for bodily injury to the insured or any member of the family of the insured residing in the same household as the insured;
- (f) coverage B, to injury to or destruction of property owned or transported by the insured, or property rented to or in charge of the insured other than a residence or private garage injured or destroyed by a private passenger automobile covered by this policy;
- (g) coverage C, to bodily injury to any person:
 - (1) if benefits therefor are in whole or in part either payable or required to be provided under any workmen's compensation law;

EXCLUSIONS

- (2) while in or upon, entering into or alighting from, or through being struck by any automobile, land motor vehicle or trailer if such vehicle is owned by the named insured or, while residents of his household, his spouse or the relatives of either, and is not included in Insuring Agreement III;
- (3) other than the named insured and while residents of his household, his spouse or the relatives of either, while in or upon, entering into or alighting from any vehicle not included in Insuring Agreements III or IV:
 - (a) coverages C, D, E, F, G and H and with respect to expenses under Coverage A(3)(c), to bodily injury or loss due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing;
 - (b) coverages D, E, F, G and H:
 - (1) to loss due to taking by any governmental authority;
 - (2) while the automobile is subject to any bailment lease, conditional sale, purchase agreement, mortgage or other encumbrance, not declared in this policy;
 - (c) coverages D, E, F and G:
 - (1) to any loss to the automobile which is due and confined to wear and tear, freezing, mechanical or electrical breakdown or failure, or loss of tools or repair equipment, unless such loss is the direct result of a theft, covered by this policy, of the entire automobile;
 - (2) to robes, wearing apparel or personal effects;
 - (3) to tires, unless stolen, damaged by fire or malicious mischief, or which loss be coincident with other loss covered by this policy;
 - (d) coverages D and E, to loss due to conversion, embezzlement or secretion by any person in possession of the automobile under a bailment lease, conditional sale, purchase agreement, mortgage or other encumbrance;
 - (e) coverages F and G, to breakage of glass if insurance with respect to such loss is otherwise afforded.

CONDITIONS

(The conditions apply to all coverages unless otherwise noted.)

- 1. **Notice of Accident or Loss.** When an accident or loss occurs written notice shall be given by or on behalf of the insured to the company or any of its authorized agents as soon as practicable. Such notice shall contain particulars sufficient to identify the insured, and also reasonably obtainable information respecting the time, place, circumstances of the accident, names and addresses of injured persons and available witnesses. In the event of theft, larceny, robbery or pilferage prompt notice also shall be given to the police.
- 2. **Notice of Claim or Suit—Coverages A and B.** The insured shall immediately forward to the company every demand, notice, summons or other process received by him or his representative.
- 3. **Notice and Payment of Claim—Coverage C.** As soon as practicable the injured person or someone on his behalf shall give to the company written notice of claim, and upon request shall make medical reports and copies of records available to the company. The injured person, when requested, shall submit to physical examination by physicians selected by the company.

The company may pay the injured person or any person or organization rendering the services and such payment shall reduce the amount payable hereunder. Any payment shall not constitute admission of liability of the insured or company.
- 4. **Named Insured's Duties When Loss Occurs—Coverages D, E, F, G and H.** When loss occurs, the named insured also shall:
 - (a) use every reasonable means to protect the automobile covered by this policy from any further loss; reasonable expense incurred in affording such protection shall be deemed incurred at the company's request;
 - (b) upon the company's request, exhibit the damaged property to the company and submit to examinations under oath by anyone designated by the company, subscribe the same, procure and produce for the company's examination all pertinent records, receipts and invoices, or certified copies, if originals be lost, permitting copies thereof to be made, all at such reasonable times and places as the company shall designate.
- 5. **Action Against Company.** No action shall lie against the company:
 - (a) unless as a condition precedent thereto there shall have been full compliance with all terms of this policy;
 - (b) under coverages A and B, until the amount of the insured's obligation to pay shall have been finally determined either by

- judgment against the insured after actual trial or by written agreement of the insured, the claimant and the company.
- Any person or organization, or the legal representative thereof, having secured such judgment or agreement, shall be entitled to recover under this policy to the extent of the insurance afforded. Nothing contained in this policy shall give any person or organization any right to join the company as a co-defendant in any action against the insured to determine the insured's liability.
- Bankruptcy or insolvency of the insured or his estate shall not relieve the company of its obligations.
- (c) Under coverages C, D, E, F, G and H, until thirty days after the required notice of accident or loss has been filed with the company.
- 6. **Assistance and Cooperation of the Insured.** The insured shall cooperate with the company and upon its request attend hearings and trials, assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits. The insured shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expense other than for such immediate medical and surgical relief to others as shall be imperative at the time of accident.
- 7. **Subrogation.** Upon payment under this policy, except under coverage C, the company shall be subrogated to all the insured's rights of recovery therefor and the insured shall do whatever is necessary to secure such rights and do nothing to prejudice them.
- 8. **Other Insurance.** If the insured has other insurance against liability or loss covered by this policy, the company under all coverages except coverage C, shall not be liable for a greater proportion of such liability or loss than the applicable limit of liability bears to the total applicable limit of liability of all collectible insurance against such liability or loss, subject to the following:
 - (a) The insurance with respect to Insuring Agreement III(a)(4), shall not apply to any liability or loss against which the insured has other collectible insurance applicable thereto in whole or in part.
 - (b) The insurance with respect to Insuring Agreements III(a)(2) and (3) and IV shall be excess over other collectible insurance, but neither coverage F, G or H shall apply to any loss under Insuring Agreement IV when there is other collectible insurance applicable thereto in whole or in part.

CONDITIONS (Continued)

Under coverage C with respect to bodily injury to any person while in or upon, entering into or alighting from, or through being struck by a described or newly acquired automobile, the amount payable shall not be reduced on account of the existence of other insurance. In all other cases the insurance under coverage C shall be excess over any other collectible automobile medical payments insurance available to the insured person.

9. No Benefit to Bailor. Insurance under coverages D, E, F, G and H shall not inure to the benefit of any carrier or bailor liable for loss to the automobile.

10. Changes. The terms of this policy may not be waived or changed except by policy endorsement attached hereto, signed by an executive officer of the company.

11. Assignment. No interest in this policy is assignable unless the company's consent is endorsed hereon. If the named insured dies, this policy shall cover as an insured any person having proper temporary custody of the automobile until the appointment and qualification of a legal representative and thereafter as named insured such legal representative.

12. Cancellation. The named insured may cancel this policy by mailing to the company written notice stating when thereafter such cancellation shall be effective.

The company may cancel this policy by written notice, addressed to the insured named in the declarations and mailed to the address shown therein, stating when not less than ten days thereafter cancellation shall

be effective. Such notice of cancellation shall be sufficient notwithstanding the death of the insured named in the declarations.

The mailing of the notice shall be sufficient proof of notice and the effective date and hour of cancellation stated therein shall become the end of the policy period. Delivery of written notice shall be equivalent to mailing.

If the named insured cancels, earned premiums shall be computed in accordance with the company's short rate table and procedures. If the company cancels, earned premiums shall be computed pro rata. Premium adjustment may be made at the time cancellation is effected or as soon as practicable thereafter, but the payment or tender of unearned premiums is not a condition of cancellation.

13. Terms of Policy Conformed to Statute. Policy terms which are in conflict with the statutes of the State wherein this policy is countersigned are hereby amended to conform to such statutes.

14. Joint and Several Interests. If two or more insureds are named in the declarations, this policy shall apply to them jointly and severally, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability.

15. Declarations. By acceptance of this policy the named insured agrees that the statements in the declarations are his agreements and representations, that this policy is issued in accordance with the truth of such representations and that this policy embodies all agreements existing between himself and the company or any of its agents relating to this insurance.

MUTUAL CONDITIONS

1. Membership. The membership fees set out in this policy, which are in addition to the premiums, are not returnable but entitle the named insured to insure one automobile for the coverages for which said fees were paid so long as this company continues to write such coverages and the insured remains a risk desirable to the company.

While this policy is in force, the named insured is entitled to vote at all meetings of members and to share in the earnings and savings of the company in accordance with the dividends declared by the Board of Directors on this and like policies.

In Witness Whereof, the State Farm Mutual Automobile Insurance Company has caused this policy to be signed by its President and Secretary at Bloomington, Illinois, and countersigned on the declarations page by a duly authorized representative of the company.

2. No Contingent Liability. This policy is non-assessable.

3. Annual Meeting. The annual meeting of the members of the company shall be held at its home office at Bloomington, Illinois, on the second Monday of June at the hour of 10:00 A.M., unless the Board of Directors shall elect to change the time and place of such meeting, in which case, but not otherwise, due notice shall be mailed each member at the address disclosed in this policy at least ten days prior thereto.

J. H. Campbell
Secretary

Charles H. Welch
President

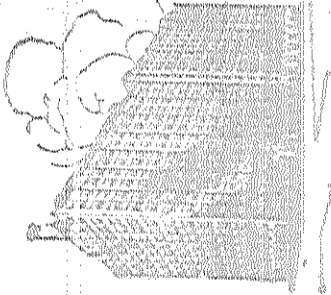
STATE FARM
Automobile Policy

State Farm Mutual
Automobile Insurance
Company

HOME OFFICE - BLOOMINGTON, ILLINOIS

Southern Office
2100 S. 18th Street
Birmingham 1, Alabama

This Policy is Non-Assessable



HOME OFFICE BUILDING OWNED AND OCCUPIED EXCLUSIVELY
BY THE STATE FARM INSURANCE COMPANIES

Please Read Your Policy

Six Months
Short Rate Table

Days in force	Per Cent to be charged or retained	Days in force	Per Cent to be charged or retained
1	6	79-80	54
2	7	81-82	55
3	8	83	56
4	9	84-85	57
5	10	86-87	58
6	11	88-89	59
7	12	90-91 (3 mo.)	60
8	13	92-93	61
9	14	94-95	62
10	15	96-98	63
11	16	99-100	64
12	17	101-102	65
13-14	18	103-104	66
15-16	19	105-107	67
17-18	20	108-109	68
19-20	21	110-111	69
21	22	112-114	70
22-23	23	115-116	71
24-25	24	117-118	72
26-27	25	119-120	73
28-29	26	121-123 (4 mo.)	74
30-31 (1 mo.)	27	124-125	75
32	28	126-127	76
33-34	29	128-130	77
35-36	30	131-132	78
37-38	31	133-134	79
39-40	32	135-136	80
41	33	137-139	81
42-43	34	140-141	82
44-45	35	142-143	83
46-47	36	144-145	84
48-49	37	146-148	85
50-51	38	149-150	86
52	39	151-152 (5 mo.)	87
53-54	40	153-155	88
55-56	41	156-157	89
57-58	42	158-159	90
59-60	43	160-161	91
61-62 (2 mo.)	44	162-164	92
63	45	165-166	93
64-65	46	167-168	94
66-67	47	169-171	95
68-69	48	172-173	96
70-71	49	174-175	97
72-73	50	176-177	98
74	51	178-179	99
75-76	52	180 (6 mo.)	100
77-78	53		

The State of Alabama,
Baldwin County.

}

Circuit Court, Baldwin County

No. 4729

..... TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon SIX

STATE FARM MUTUAL ~~IN~~ AUTOMOBILE INSURANCE COMPANY, A CORPORATION

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in
the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against STATE FARM MUTUAL

AUTOMOBILE INSURANCE COMPANY, A Corporation, Defendant

by C. P. FORREST

....., Plaintiff

Witness my hand this 12th day of October 1959

Ex 10-19-59

Alice J. Duke, Clerk

The State of Alabama
Baldwin County

CIRCUIT COURT

C. P. FORREST

Plaintiffs

vs.

STATE FARM MUTUAL IN AUTOMOBILE
INSURANCE COMPANY, A Corporation
Defendants

Summons and Complaint

Filed October 12, 19 59

Alice J. Duck Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

Oct 12 19 59

_____, Sheriff

I have executed this summons

this _____ 19 _____

by leaving a copy with

Executed this the 14 day of Oct 1959

on State Farm Mutual
Automobile Insurance Co.

at _____
by leaving a copy of within with

Mr. Dugas esq.
of said co

HOLT A. McDOWELL Sheriff
Jefferson County, Alabama

By H. L. ... D.S.

_____, Sheriff

_____, Deputy Sheriff

TRAVELING EXPENSE \$1.00

Adams

H. L. ...

C. P. FORREST,

Complainant,

vs.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, A CORPORA-
TION,

Respondent.

Y
Y
Y
Y
Y
Y
Y
Y

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

Comes the Respondent in the above styled cause and demurs to the Bill of Complaint filed in said cause and to the separate and several aspects of such Bill of Complaint as hereinafter set out and assigns the following separate grounds, viz:

- 1. That said Bill of Complaint does not state a cause of action.
- 2. As to that aspect of the Bill of Complaint as set out in paragraph "2" thereof the Respondent demurs and assigns the following separate and several grounds, viz:
 - a. That it is not alleged that the Complainant paid the premiums due on such policy.
 - b. That it is not alleged that such policy was in force and effect when the accident referred to in such Bill of Complaint occurred.
 - c. That it affirmatively shows by the policy attached as "Exhibit 1" to the Bill of Complaint that it had expired under its terms prior to the date of such accident unless the required renewal premium had been paid by the insured on or before the expiration of the current policy period and accepted by the company and there is no allegation as to such payment.

- 3. As to that aspect of the Bill of Complaint set out in paragraph "3" of the Bill of Complaint, the Respondent demurs and assigns the following separate and several grounds, viz:
 - a. That it is not alleged that such policy was in full force and effect at the time of such injury.
 - b. That the allegation in such paragraph that the Respondent insured the Complainant against financial loss as to all damages which the insured became legally obligated to pay, is in conflict with Exhibit "1" to such Bill of Complaint which expressly limits such lia-

bility to \$5,000.00

c. That the allegations are but conclusions of the pleader.

d. That the allegation that the Respondent agreed to defend any suit completely ignores the conditions contained in such policy under which the Respondent agreed to defend such suit.

4. As to that aspect of the Bill of Complaint as set out in paragraph "5" of the Bill of Complaint the Respondent demurs and assigns the following separate and several grounds, viz:

a. That it is not alleged that the suit was filed in Mobile County, Alabama, to recover damages from the Complainant for any injuries covered by the insurance policy attached as "Exhibit 1" of the Bill of Complaint.

b. For aught that appears such suit was not still pending at the time of the filing of such Bill of Complaint.

c. That it is not alleged that the Complainant notified the Respondent promptly after such Bill of Complaint was served on him.

d. That it is not alleged that any summons to appear in court was served on the Complainant.

5. As to that aspect of the Bill of Complaint as set out in paragraph "7" the Respondent demurs and assigns the following separate and several grounds, viz:

a. That such allegation is but a conclusion of the pleader.

b. That it is not alleged whether the notices given were oral or in writing.

c. That it is not alleged when the first of such notices was given.

d. That it is not alleged that notice was given as required by the policy therein referred to.

e. For aught that appears the Complainant did not give the Respondent written notice of the accident as soon as practicable after the accident or loss occurred as required by condition "1" of such policy.

f. That it is not alleged that the Complainant immediately forwarded to the Respondent every demand, notice, summon or other process received by him or his representative as required by condition "2" of the policy.

6. As to that aspect of the Bill of Complaint as contained

in paragraph "8" of the Bill of Complaint the Respondent demurs and assigns the following separate and several grounds, viz:

a. That it is not alleged when the Respondent investigated the accident.

b. For aught that appears the Respondent was not notified of such accident and made no investigation until several months after the accident occurred.

7. As to that aspect of the Bill of Complaint set out in Paragraph "9" of the Bill of Complaint the Respondent demurs and assigns the following separate and several grounds, viz:

a. That sufficient facts are not set out in this paragraph or under the entire Bill of Complaint to enable the Complainant to bring this type of litigation.

b. That such allegation is but a conclusion of the pleader.

c. For aught that appears no litigation is now pending against the Complainant in Mobile County, Alabama.

d. That the complainant is not entitled to the relief sought in said Bill of Complaint.

CHASON & STONE

By:


Solicitors for Respondent

C. P. FORREST,	Y	
Complainant,	Y	IN THE CIRCUIT COURT OF
vs.	Y	
	Y	BALDWIN COUNTY, ALABAMA
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, A Corpora- tion,	Y	IN EQUITY
Respondent.	Y	

Comes the Respondent in the above styled cause and for answer to the Bill of Complaint filed in said cause, and each and every paragraph thereof, says:

1. The Respondent admits the allegations of the first paragraph of the Bill of Complaint.
2. The Respondent admits the allegation of the second paragraph of the Bill of Complaint.
3. The Respondent denies the allegations of the third paragraph of the Bill of Complaint and demands strict proof thereof.
4. The Respondent denies the allegations of the fourth paragraph of the Bill of Complaint and demands strict proof thereof.
5. The Respondent denies the allegations of the fifth paragraph of the Bill of Complaint and demands strict proof thereof.
6. The Respondent denies the allegations of the sixth paragraph of the Bill of Complaint and demands strict proof thereof.
7. The Respondent denies the allegations of the Seventh paragraph of the Bill of Complaint and demands strict proof thereof.
8. The Respondent denies the allegations of the eighth paragraph of the Bill of Complaint and demands strict proof thereof.
9. The Respondent denies the allegations of the ninth paragraph of the Bill of Complaint and demands strict proof thereof.
10. The Respondent denies the allegations of the tenth paragraph of the Bill of Complaint and demands strict proof thereof.
11. The Respondent denies the allegations of the eleventh paragraph of the Bill of Complaint and demands strict proof thereof.

For further answer to the Bill of Complaint the Respondent says that the Complainant violated the terms of the policy in that the Complainant did not give written notice of the accident complained of to the Respondent or any of its authorized agents as soon as practicable, such notice not having been given until approximately

six months after such accident occurred, in violation of condition "1" of said policy. That the Complainant also violated condition "2" of the policy by its failure to immediately forward to the company every demand, notice, summons or other process received by him or his representative. That the Complainant also violated condition "6" of said policy in that he did not cooperate with the Respondent.

CHASON & STONE

By:


Solicitors for Respondent

C. P. FORREST,
Complainant,
VS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,
A CORPORATION,

CASE NUMBER: 4729

Respondent.

ORDER OVERRULING DEMURRERS

This cause coming on to be heard on Demurrers filed by the Respondent to the Bill of Complaint was submitted on oral argument by the parties; upon consideration of all of which, it is, therefore, ORDERED, ADJUDGED AND DECREED by this Court as follows:

1. That the same are hereby overruled.

ORDERED, ADJUDGED AND DECREED on this the 15th day of December, 1959.

FILED

DEC 21 1959

ALICE I. DUCK, CLERK
REGISTER

Robert M. Hall

JUDGE OF CIRCUIT COURT

4729

C. P. FORREST,

Complainant,

VS.

STATE FARM MUTUAL
AUTOMOBILE INSURANCE
COMPANY, A CORPORATION,

Respondent.

ORDER OVERRULING DEMURRERS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

Handwritten signature/initials

108

C. P. FORREST,)	
)	
Complainant,)	IN THE
)	
VS.)	CIRCUIT COURT OF BALDWIN COUNTY,
)	
STATE FARM MUTUAL AUTOMOBILE)	ALABAMA. IN EQUITY
INSURANCE COMPANY, a Corpora-)	
tion,)	NO. 4729.
)	
Respondent.)	
)	
)	

DECREE:

This cause coming on to be heard is submitted upon the bill of complaint on behalf of the Complainant, answer of the Respondent and the testimony of witnesses taken ore tenus.

The Court, after considering the pleadings and all of the evidence in the case is of the opinion and finds as follows:

1. That the Complainant is over the age of 21 years and a resident of Baldwin County, Alabama, and that the Respondent is a Corporation, organized under the Laws of the State of Illinois and authorized to do business in the State of Alabama.
2. That on, to-wit: the 23rd day of October, 1956, the Respondent, for a valuable consideration, executed its policy No. 758-177-D29-01 to the Complainant.
3. That under the terms of said policy the Respondent insured the Complainant against financial loss as to all damages which the insured should become legally obligated to pay because of bodily injuries sustained by other persons caused by accident arising out of the ownership, maintenance or use of the automobile described in said policy, and that under the terms of said policy Respondent agreed to defend any suit against the insured alleging such bodily injury.

4. That after the effective date of said policy and while said policy was in full force and effect, the Complainant was involved in an accident in the County and City of Mobile, State of Alabama, in which one Grace Rawls Norris suffered injuries from which he died, and that a suit has been filed against the Complainant in the Circuit Court of Mobile County, Alabama.

5. That the Respondent denies any liability under said policy.

6. That a short time after the alleged accident the Complainant notified the general agent of the Respondent, Stanley Kasuba, of Fairhope, Alabama, of such accident.

7. That an actual justiciable controversy exists between the Complainant and the Respondent. It is, therefore,

ORDERED, ADJUDGED AND DECREED that the Policy No. 758-177-D29-01 as entered into by and between the Complainant and the Respondent at Fairhope, Alabama, in Baldwin County, was in full force and effect at the time of the accident on June 21, 1957. It is further

ORDERED, ADJUDGED AND DECREED that the Respondent is liable to the Complainant in accordance with all the terms and conditions set out in said policy. It is further

ORDERED, ADJUDGED AND DECREED that the Respondent pay the costs herein, for which execution may issue.

Dated this 5th day of July, 1960.

Hubert M. Stace
Judge of the 28th Judicial Circuit
of Alabama.

filed 7-5-60
Archie W. Smith
Register