

No. 124565

**In the
Supreme Court of Illinois**

RODELL SANDERS and THE CITY OF CHICAGO HEIGHTS,

Plaintiffs-Appellees,

v.

ILLINOIS UNION INSURANCE COMPANY and
STARR INDEMNITY & LIABILITY COMPANY,

Defendants-Appellants.

On Appeal from the Illinois Appellate Court, First Judicial District,
Second Division, No. 01-18-0158, on Appeal from the Circuit
Court of Cook County, Illinois, No. 16 CH 02605
Honorable **Celia Gamrath**, Judge Presiding

**BRIEF OF APPELLANT, STARR
INDEMNITY & LIABILITY COMPANY**

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ORAL ARGUMENT REQUESTED



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NATURE OF THE CASE

Starr Indemnity & Liability Company adopts and incorporates by reference the nature of the case set forth in Illinois Union Insurance Company's appellant brief.

ISSUES PRESENTED FOR REVIEW

1. In 1994, 17 years before the insurance policies at issue incepted, a municipality criminally charged a suspect with malice and without probable cause. The malicious prosecution immediately, at the time of charging, inflicted injury on the victim by depriving him of his liberty—an injury that was exacerbated upon conviction. In 2014, after the victim was exonerated, he filed and ultimately settled a wrongful prosecution lawsuit against the municipality. The municipality’s liability insurer in 1994, when the injury was inflicted, contributed its policy limits to the settlement. The first issue is whether the municipality’s 2014 exoneration-year policies, which require an “occurrence” and “personal injury” during the policy period, cover injurious conduct that first took place and initially inflicted injury in 1994.

2. In 2013 and 2014, in the midst of the victim’s nearly 20-year ongoing injury, the suspect was retried twice before he was ultimately exonerated. The second issue is whether the retrials, which prolonged the original injury inflicted in 1994, constitute a new “occurrence” or “personal injury” during the policy period, as required to trigger coverage under the municipality’s 2013 and 2014 policies.

STATEMENT OF JURISDICTION

On February 19, 2019, Illinois Union Insurance Company and Starr Indemnity & Liability Company timely filed a joint petition for leave to appeal. On May 22, 2019, this Court accepted the petition for leave to appeal.

STATEMENT OF FACTS

Starr Indemnity & Liability Company adopts and incorporates by reference the statement of facts set forth in Illinois Union Insurance Company's appellant brief.

PREFATORY NOTE: THE CASE IN A NUTSHELL

Starr Indemnity & Liability Company supports, adopts and incorporates by reference all arguments set forth in Illinois Union Insurance Company's appellant brief. Starr Indemnity & Liability Company provides the following supplemental brief for purposes of highlighting two points:

1. The undisputed requirement of an "offense" during the policy period intrinsically requires both the initial causative conduct and the simultaneously resulting harm for such an "offense" to exist. Here, the initial causative conduct and resulting harm took place long before the policies at issue incepted.
2. Understanding the "offense" of malicious prosecution to encompass both the malicious prosecution conduct and the simultaneous infliction of injury is consistent with the trigger-of-coverage for all other types of claims set forth in the insuring agreement, each of which requires both the injurious conduct and resulting injury during the policy period.

Under the occurrence-based policies at issue here, the City of Chicago Heights must prove the offense of malicious prosecution during the policy period to trigger coverage for Sanders' malicious prosecution claim. Before turning to the policy language itself, this abstract requirement refers to three possible policy period events:

1. *The conduct* of filing a criminal charge with malice and without probable cause, which took place here in 1994; or
2. *The injury* inflicted by a malicious prosecution, deprivation of liberty, which initially took place here in 1994, immediately upon commencement of the malicious prosecution; or
3. *Accrual* of a malicious prosecution cause of action, which took place here in 2014, when Sanders was exonerated and the malicious prosecution injury came to an end.

In determining which of these requirements governs the occurrence-based policies at issue, the circuit court looked to the policy language:

The **Insurer** will indemnify the **Insured** for **Damages** and **Claim Expenses** in excess of the **Retained Limit** for which the **Insured** becomes legally obligated to pay because of **Claim** first arising out of an **Occurrence** happening during the **Policy Period** ... for ... **Personal Injury** ... taking place during the **Policy Period**.

(A130, A191, A233, A263) The circuit court observed that “[b]oth the occurrence and personal injury must happen or take place during the policy period,” and that a “standard general liability occurrence-based policy provides coverage for injury or damage caused by an occurrence resulting in loss during the policy period, as well as personal injury caused by an offense committed during the policy period.” (A4, A10) In this context, the circuit court properly found that the policies do not cover liability for a malicious prosecution commenced and first inflicting injury in 1994, 17 years before the policies incepted.

In overturning the circuit court, however, the appellate court ignored the fundamental policy requirements of an “occurrence” and “personal injury” during the policy period. The appellate court mistakenly held—in a narrow two-to-one decision—that coverage was triggered in 2014, when Sanders was exonerated and the tort of malicious prosecution accrued. Despite the fact that the policies require both an “occurrence” and “personal injury” during the policy period, the appellate court incongruously concluded that the policies were triggered by neither the causative act nor the resulting injury.

The appellate court went astray by conflating the tort law inquiry of when a malicious prosecution cause of action accrues, for purposes of triggering the limitations period, with the unrelated insurance law

inquiry of when the “offense” of malicious prosecution takes place, for purposes of triggering coverage. The appellate court’s error must be corrected and uniformity restored to Illinois law, which holds that the insurance requirement of an “offense” of malicious prosecution during the policy period means that the injurious conduct must take place during the policy period. Because the malicious prosecution at issue here took place and first inflicted injury in 1994, when Sanders was charged, the 2011-14 policies are not triggered.

ARGUMENT

I. **Coverage for a malicious prosecution claim is triggered by injurious conduct during the policy period, even though the tort does not accrue until years later.**

The hallmark of coverage under occurrence-based policies is an act or injury during the policy period. *Indian Harbor Ins. Co. v. City of Waukegan*, 2015 IL App (2d) 140293, ¶ 32 (“In an occurrence-based policy, coverage is triggered by an act or injury that occurs during the policy period.”). Occurrence-based policies employ various terms to articulate the event during the policy period that triggers coverage: “damage[s];” “injury;” “occurrence;” “offense;” “personal injury;” or “wrongful act.”

Consistent with standard occurrence-based policies, the policies here are triggered by an act (“occurrence”) and injury (“Bodily Injury,” “Property Damage,” “Advertising Injury” or “Personal Injury”) during the policy period. This is evident from the insuring agreement, which indemnifies damages “because of **Claim** first arising out of an **Occurrence** happening during the **Policy Period** ... for ... **Personal Injury** ... taking place during the **Policy Period**.” (A130, A191, A233, A263) The insuring agreement’s fundamental premise is that both the “occurrence” and “personal injury” must take place during the policy period.

The type of “occurrence” and “personal injury” that must take place during the policy period are defined by illustrative “offenses,” one of which

is malicious prosecution. (A121, A182, A233, A263) Courts recognize that the triggering “offense” of malicious prosecution means that the injurious conduct must take place during the policy period. *Indian Harbor*, 2015 IL App (2d) 140293, ¶ 33 (“A typical occurrence-based policy, containing multiple references to coverage for occurrences or offenses happening during the term of the policy, reflects the intent to insure only for the insured’s acts or omissions that happen during a policy period.”); *see also First Mercury Ins. Co. v. Ciolino*, 2018 IL App (1st) 171532, ¶ 30 (finding that “offense” means conduct committed during the policy period).

With respect to malicious prosecution claims in particular, the terms “occurrence” and “personal injury” are able to share the common definition of the “offense” of malicious prosecution. This cross-reference between the causative conduct (“occurrence”) and resulting harm (“personal injury”) is possible because, in the malicious prosecution context, those events take place virtually simultaneously—indeed, the causative conduct and resulting harm are inextricably intertwined. *Indian Harbor*, 2015 IL App (2d) 140293, ¶ 26 (holding that the insured’s conduct in filing a criminal complaint with malice and without probable cause immediately inflicts injury, in that the victim is arrested, required to post bail and suffers reputational damage); *St. Paul Fire & Marine Ins. Co. v. City of Zion*, 2014 IL App (2d) 131312, ¶ 26 (holding that one who is maliciously

prosecuted suffers injury and damages immediately upon being prosecuted); *see also Genesis Ins. Co. v. City of Council Bluffs*, 677 F.3d 806, 814 (8th Cir. 2012) (predicting Iowa law) (observing that the wrong and resulting damage are practically contemporaneous); *Harbor Ins. Co. v. Cent. Nat'l Ins. Co.*, 165 Cal. App. 3d 1029, 1037 (1985) (holding that the “initial wrong and consequent harm have been committed upon commencement of the action and initial impact thereof on the defendant”).

Because the event that triggers coverage is the insured’s commencement of a malicious prosecution (the “occurrence”) and the simultaneous harm to the claimant (“personal injury”), coverage for the “offense” of malicious prosecution is typically triggered long before the victim’s eventual exoneration. *Muller Fuel Oil Co. v. Ins. Co. of N. Am.*, 232 A.2d 168, 175 (N.J. Super. Ct. App. Div. 1967) (holding that the act and injury are a *fait accompli*, before the tort accrues). That is, coverage is triggered when *the injury is first inflicted*—not at the time of exoneration, when *the injury comes to an end*. Accrual of the tort and trigger-of-coverage are separate and unrelated inquiries, as they focus on two distinct points in time for purposes of triggering two distinct legal mechanisms in two distinct contexts.

Because malicious prosecution claims are characterized by simultaneous wrongful conduct and resulting harm, variances in

occurrence-based policies' triggering language amount to differences without distinction. Whether the policy language requires an "occurrence," "injury" or "offense" during the policy period, the result is the same because the act *is* the injury—both take place at the time of wrongful charging. *Ciolino*, 2018 IL App (1st) 171532, ¶¶ 8-9, 30, 35 (holding that coverage under a policy requiring during the policy period an "offense" that causes "personal injury," defined as malicious prosecution injury, is triggered by commencement of the malicious prosecution); *St. Paul Fire & Marine Ins. Co. v. City of Waukegan*, 2017 IL App (2d) 160381, ¶¶ 12-13, 48 (finding that the requirement of "injury or damage" during the policy period refers, in the malicious prosecution context, to that "personal injury" inflicted at the time of charging); *Cnty. of McLean v. States Self-Insurers Risk Retention Grp., Inc.*, 2015 IL App (4th) 140628, ¶¶ 16-17, 26 (holding that coverage under a policy requiring "personal injury," defined as malicious prosecution injury, resulting from an occurrence during the policy period is triggered when the wrongful prosecution commences); *Indian Harbor*, 2015 IL App (2d) 140293, ¶¶ 4, 30 (holding that coverage under policies requiring a "wrongful act," defined as the "personal injury" of malicious prosecution, during the policy period is triggered by commencement of the malicious prosecution); *City of Zion*, 2014 IL App (2d) 131312, ¶¶ 12, 19, 25 (adopting "[m]ost courts[]" view that coverage

under a policy requiring “injury or damage” during the policy period, defined as the “personal injury” of malicious prosecution, is triggered by commencement of the malicious prosecution).

Illinois is by no means an outlier in recognizing that, in the malicious prosecution context, the “occurrence,” “personal injury,” “wrongful act” or “offense” all take place simultaneously—at the time of charging. *See, e.g., Genesis*, 677 F.3d 814-16; *City of Erie, Pa. v. Guar. Nat’l Ins. Co.*, 109 F.3d 156, 159 (3d Cir. 1997) (predicting Pennsylvania law); *Royal Indem. Co. v. Werner*, 979 F.2d 1299, 1300 (8th Cir. 1992) (predicting Missouri law); *Billings v. Commerce Ins. Co.*, 936 N.E.2d 408, 411-14 (Mass. 2010); *Paterson Tallow Co. v. Royal Globe Ins. Cos.*, 444 A.2d 579, 586 (N.J. 1982).

It is against this backdrop that Sanders’ malicious prosecution claim must be analyzed. Viewed in context, the policies here require that the “occurrence” and “personal injury,” defined commonly as the “offense of malicious prosecution,” take place during the policy period. Therefore, there is no coverage because the policies were issued long after the coverage-triggering event—injurious conduct—came to pass. What is more, this mandate fits seamlessly within the existing legal framework governing trigger-of-coverage for malicious prosecution claims. While some decisions involve act-based triggers-of-coverage and others involve

injury-based triggers-of-coverage, a uniform, predictable and consistent rule emerges—the rule that malicious prosecution conduct (the “occurrence”) and resulting harm (“personal injury”) both take place at the time of charging.

II. The appellate court’s adoption of an exoneration trigger finds no support in law, logic or the policy language.

A. The appellate court flouted the principle of *stare decisis*.

The principle of *stare decisis* dictates that reconsideration and alteration of settled law should be approached with “the utmost caution.” *City of Waukegan*, 2017 IL App (2d) 160381, ¶ 30. Circumspection promotes evenhanded, predictable and consistent development of the law; fosters reliance on judicial decisions; eases the administration of justice; and preserves the integrity of the judicial process. *Id.* A court should not strike a different path on the mere belief that it might have reached a different conclusion, if the question presented were a novel one. *Id.*

The appellate court employed no such circumspection. While the Illinois Appellate Court’s prior decisions technically were not binding, they still could not be cast aside under the guise of inconsequential policy language differences. The appellate court pointed to no compelling circumstances, such as detrimental prejudice to the public interest, that merited a legal sea change. *Id.* Rather, the appellate court simply disagreed with its brethren. (A23 (discarding *County of McLean* as

“irrelevant,” despite admittedly similar policy language, because the appellate court found the Fourth District’s analysis unpersuasive)) This, however, the appellate court was not free to do—especially because another First District panel, in *Ciolino*, had reached the opposite conclusion regarding trigger-of-coverage for malicious prosecution claims in a published decision issued just eight months earlier. *City of Waukegan*, 2017 IL App (2d) 160381, ¶ 30 (stating that “we are reluctant to abandon or modify an earlier decision soon after its publication”).

To justify its rogue departure from Illinois law, the appellate court tried to distinguish an entire body of precedent based on minor policy language differences and disregarded the common analysis and rationale unifying that body of precedent. *Ciolino*, 2018 IL App (1st) 171532, ¶ 30 (finding that Illinois decisions’ different policy language does not compel different results, noting that the rationale undergirding the rule that coverage is triggered by commencement of the malicious prosecution applies equally).

A closer examination of the appellate court’s discussion of Illinois precedent reveals a contrivance to discard controlling law. One example is *City of Zion*. 2014 IL App (2d) 131312. The appellate court purported to find a material distinction in the *City of Zion* policies because the policies here do not require the malicious prosecution injury to take place during

the policy period. (A22) This is flatly wrong. In fact, the policies here explicitly require “personal injury ... taking place during the policy period.” (A130, A191, A233, A263) *Genesis Ins.*, 677 F.3d at 813-14 (finding that “personal injury” describes when the malicious prosecution begins).

The appellate court likewise tried to jettison precedent with its treatment of *Ciolino*. 2018 IL App (1st) 171532. Under the *Ciolino* policy, coverage was triggered where a malicious prosecution offense was “committed” during the policy period. *Id.* at ¶ 30. The appellate court found that this requirement connoted the affirmative act of commencing a malicious prosecution. (A25-26) The policies here similarly require an “occurrence happening during the policy period” and “personal injury taking place during the policy period.” (A130, A191, A233, A263) Like *Ciolino*, coverage is triggered here only if the interchangeable requirements of an act of commencing a malicious prosecution (the “occurrence”) and initial harm to the claimant (“personal injury”) take place during the policy period. The appellate court strained both context and credibility by concluding that because the policies here do not use the word “commit,” *Ciolino* has no application. In reality, the policies here, as in *Ciolino*, should be interpreted in line with Illinois precedent: coverage

is triggered only in the policy period when the injurious conduct took place—here, 17 years before the policies incepted.

Under these circumstances, the appellate court had no occasion to spurn established and well-reasoned Illinois precedent holding that coverage for a malicious prosecution claim is triggered when the causative conduct first inflicts injury. The appellate court’s creation of an unwarranted fissure in otherwise uniform Illinois law cannot stand.

B. The appellate court’s interpretation does not effectuate the parties’ reasonable expectations.

In interpreting policy language, a court’s objective is to effectuate the parties’ reasonable expectations. *Gen. Star Indem. Co. v. Lake Bluff Sch. Dist. No. 65*, 354 Ill. App. 3d 118, 127 (2d Dist. 2004) (holding that policy language must be read in light of the insured’s reasonable expectations). The appellate court purported to employ such an approach, finding that interpreting an “offense” as a completed cause of action comports with an average person’s understanding of the insured risk. (A25-26) Not so.

Foremost, it is unreasonable to expect the exoneration-year policy to cover liability arising from a malicious prosecution that was commenced and first inflicted injury decades earlier. No reasonable person would read the policy language, requiring *both* an “occurrence” and “personal injury” during the policy period, as covering a malicious prosecution claim where *neither* the “occurrence” *nor* the “personal injury” took place during the

policy period. *City of Waukegan*, 2017 IL App (2d) 160381, ¶ 47 (finding it “absurd” that the parties intended a more recent policy to cover non-injurious conduct occurring during that policy period, as a means to bootstrap coverage for injurious conduct occurring years earlier).

It is equally unreasonable to expect the exoneration-year policy to cover a malicious prosecution claim when courts have consistently held that exoneration is *not* the trigger-of-coverage. *Ciolino*, 2018 IL App (1st) 171532, ¶¶ 30, 35; *City of Waukegan*, 2017 IL App (2d) 160381, ¶ 48; *Cnty. of McLean*, 2015 IL App (4th) 140628, ¶ 26; *Indian Harbor*, 2015 IL App (2d) 140293, ¶ 30; *City of Zion*, 2014 IL App (2d) 131312, ¶ 25.

Because the appellate court’s interpretation of “offense” as a completed cause of action is strained and unnatural, there is no merit to the appellate court’s admonition that the insurers could have drafted the policies more precisely. (A27) The insurers did just that with the inclusion of the insuring agreement requirement that both the “occurrence” and “personal injury” take place during the policy period.

C. The appellate court’s interpretation ignores the policies’ context and the insured risk.

A court must also interpret the policy as a whole, in light of the insured risk. *Outboard Marine Corp. v. Liberty Mut. Ins. Co.*, 154 Ill. 2d 90, 108 (1992) (holding that a court must construe the policy as a whole, with due regard to the risk undertaken, the subject matter insured and

the purposes of the entire contract). The appellate court's determination that exoneration triggers coverage for a malicious prosecution claim violates the policies' basic purpose and context.

Viewed in context, the insuring agreement mandates that two events are required to take place during the policy period to trigger coverage: the causative conduct and the resulting injury. For each type of coverage, the insuring agreement indemnifies damages "because of a **Claim** first arising out of an **Occurrence** happening during the **Policy Period** [the cause] ... for **Bodily Injury, Personal Injury, Advertising Injury, or Property Damage** [the harm] taking place during the **Policy Period**." (A130, A191, A233, A263) Because the insuring agreement employs "during the policy period" twice, the phrase must be construed to apply separately to each of the two referenced events. *Horwitz ex rel. Gilbert v. Bankers Life & Cas. Co.*, 319 Ill. App. 3d 390, 410 (1st Dist. 2001) (holding that contract language must be construed to give effect to all terms, such that none are rendered surplusage). Specifically, the insuring agreement's first use of "during the policy period" refers to the causative conduct and the insuring agreement's second use of "during the policy period" refers to the resulting injury. Such a construction gives effect to both instances of the insuring agreement's use of that phrase.

This is certainly true of “bodily injury” and “property damage” coverage. For example, where the insured’s failure to maintain its premises causes a passerby to trip and break her leg or damages her vehicle, both the causative “occurrence” and resulting “bodily injury” or “property damage” must take place during the policy period. (A130, A191, A233, A263)

The same is true of “advertising injury” coverage. For such claims, both the causative “occurrence” and resulting “advertising injury” are defined commonly by reference to certain “advertising injury” “offenses”—like libel, slander, defamation and copyright infringement, among others. (A116, A177, A233, A263) A common definition is possible because the causative conduct (the “occurrence”) and resulting harm (“advertising injury”) take place simultaneously and, as such, are interchangeable.

The insuring agreement treats “personal injury” coverage the same way. For such claims, both the causative “occurrence” and resulting “personal injury” are defined commonly by reference to certain “personal injury” “offenses”—like false arrest, malicious prosecution and publication of material that violates a person’s right of privacy, among others. (A121, A182, A233, A263) Like “advertising injury,” a common definition is possible for “occurrence” and “personal injury” because the causative conduct and resulting harm take place simultaneously. *E.g., Indian*

Harbor, 2015 IL App (2d) 140293, ¶ 26 (holding that malicious prosecution immediately inflicts injury); *City of Zion*, 2014 IL App (2d) 131312, ¶ 26 (holding that a malicious prosecution victim suffers injury immediately upon being prosecuted). Each “personal injury” “offense” embodies the policies’ intent to cover damages arising out of the insured’s causative conduct and the claimant’s resulting harm during the policy period.

For these reasons, it is apparent that the insuring agreement’s two references to “during the policy period” apply to both the causative conduct and resulting harm for each type of coverage—including “personal injury” coverage. The appellate court ignored this broader context and the policies as a whole in finding that coverage for a malicious prosecution claim is triggered by neither causative conduct nor the resulting harm during the policy period, contrary to the same dual requirements for every other type of coverage within the insuring agreement.

Instead, the appellate court mistakenly focused on when a malicious prosecution claim accrues—at exoneration, an event unconnected to either the causative conduct or resulting harm. *Ciolino*, 2018 IL App (1st) 171532, ¶ 32 (“It defies common sense to construe the exoneration of an innocent person as ‘offensive’ or wrongful conduct.”); *Cnty. of McLean*, 2015 IL App (4th) 140628, ¶ 34 (holding that exoneration “obviously” does not qualify as a malicious prosecution injury); *Indian Harbor*, 2015 IL App

(2d) 140293, ¶ 24 (holding that exoneration is not injurious); *City of Zion*, 2014 IL App (2d) 131312, ¶ 23 (rejecting the notion that a criminal defendant’s release from prison is injurious).

Exoneration is, of course, a necessary condition precedent to accrual of a malicious prosecution cause of action. But that is not the gist of the claim. What imbues a prosecution with maliciousness is, as the dissent observed, the insured’s state of mind—not the victim’s actual innocence. (A31) *Johnson v. Target Stores, Inc.*, 341 Ill. App. 3d 56, 72 (1st Dist. 2003) (holding that the focus is the state of mind of the one commencing the prosecution, not the actual facts of the case or the accused’s guilt or innocence). Thus, exoneration merely confirms what was true all along: the insured’s conduct at the time of charging was wrongful and injurious.

In sum, an exoneration trigger impermissibly ignores the fact that each type of claim covered in the insuring agreement has a common trigger-of-coverage: “occurrence” and harm during the policy period. As such, the appellate court’s ruling is untethered to the insured risk and divorced from the context of the policies as a whole.

D. The appellate court’s invocation of a retroactive date, as a means to limit coverage, demonstrates its misapprehension of the fundamental nature of an occurrence-based policy.

The appellate court posited that “defendants and other insurers are free to include retroactive dates in their policies, thereby limiting their

risk of exposure for acts committed in years past.” (A27) The assertion makes no sense. A retroactive date, as its name conveys, limits retrospective coverage. *Med. Protective Co. v. Kim*, 507 F.3d 1076, 1082 (7th Cir. 2007) (applying Illinois law) (explaining that such provisions limit retrospective coverage to claims arising from conduct occurring after the specified retroactive date). But occurrence-based policies afford only *prospective* coverage. *Indian Harbor*, 2015 IL App (2d) 140293, ¶ 32; *see also Geisler v. Everest Nat’l Ins. Co.*, 2012 IL App (1st) 103834, ¶ 67 (holding that an occurrence-based policy provides continuing coverage, even after the policy expires). Consequently, a retroactive date could not possibly curtail the scope of coverage under an occurrence-based policy.

For this reason, retroactive dates are found exclusively in claims-made policies. *Med. Protective*, 507 F.3d at 1082-83 (discussing retroactive dates in connection with claims-made policies); IRMI, <https://www.irmi.com/term/insurance-definitions/retroactive-date> (last visited June 26, 2019) (defining a retroactive date as “[a]provision found in many (although not all) claims-made policies”).

The appellate court’s interpretive blunder reveals that it misunderstood the occurrence-based policies here to be something akin to claims-made policies, which require no “occurrence” or injury during the policy period. *Indian Harbor*, 2015 IL App (2d) 140293, ¶ 33 (observing

that an exoneration trigger would change an occurrence-based policy into something similar to a claims-made policy, and concluding that the rule that coverage is triggered by commencement of the malicious prosecution is “more consistent with the intent of the parties to an occurrence-based policy”). The appellate court’s confusion between occurrence-based and claims-made policies is insight into how a policy that requires an “occurrence” and injury during the policy period was misunderstood to require neither an “occurrence” nor injury during the policy period.

III. The appellate court’s ruling is ill-conceived and impractical.

A. Because exoneration marks the end of the malicious prosecution injury, there are no compensable damages.

The appellate court’s ruling would likely leave insureds with triggered coverage, but no injury during the policy period that could be compensated. Consistent with the nature of occurrence-based policies, the duty to indemnify is limited to damages for “personal injury” during the policy period. (A130, A191, A233, A263) The appellate court’s finding that coverage for a criminal malicious prosecution claim is not triggered until exoneration, which marks the end of the injury, begs the question of what “personal injury” there is to compensate. *Indian Harbor*, 2015 IL App (2d) 140293, ¶ 24 (holding that exoneration is not commencement of the injury or damage).

The aberration is readily apparent. If coverage is not triggered until *after* the malicious prosecution injury ends, as the appellate court believed, then no “personal injury” could possibly take place *during* the policy period. Nor do the policies cover damages flowing from a malicious prosecution injury that precedes the policies’ inception dates, as occurrence-based policies afford only prospective coverage. *Geisler*, 2012 IL App (1st) 103834, ¶ 67. *Translation*: If an exoneration trigger is judicially added to an occurrence-based policy, there would be no covered damages for the policy to indemnify.

B. An exoneration trigger would be unworkable in practice because it turns on the particulars of tort law, which are ever evolving.

The appellate court’s exoneration trigger is flawed not just because the tort of malicious prosecution is subject to a vastly different analytical framework than the contractual requirements to trigger coverage for such a claim. Equally problematic is the constant evolution of the contours of tort law. Consider that just a few months ago, this Court issued a decision clarifying the standard by which just one of the five elements of a malicious prosecution claim is governed. *Beaman v. Freesmeyer*, 2019 IL 122654, ¶¶ 26-33. And just a few days ago, the United States Supreme Court issued a decision holding that the statute of limitations for a fabricated evidence claim, analogous to a malicious prosecution claim, does not begin to run until the underlying criminal proceeding against the

claimant terminates in his favor. *McDonough v. Smith*, No. 18-485, 588 U.S. --- (2019). The fact that such issues persist exemplifies the practical difficulties in equating trigger-of-coverage with accrual of the tort. No practical difficulties exist where the trigger-of-coverage is the injurious conduct. Such a rule benefits insurers and insureds alike, in that it can be easily applied, yields predictable results and accurately reflects an occurrence-based policy's insured risk.

IV. Sanders' retrials are not new coverage triggers: The retrials did not involve new conduct giving rise to new injuries, but merely prolonged the injury inflicted in 1994.

The Illinois Appellate Court has routinely rejected a multiple trigger theory with respect to coverage for malicious prosecution claims. *E.g.*, *City of Waukegan*, 2017 IL App (2d) 160381, ¶¶ 44, 48 (observing that *City of Zion*, *Indian Harbor* and *County of McLean* all rejected a multiple trigger theory for wrongful conviction claims). A multiple trigger theory was developed in connection with claims involving latent injuries, where there is a lengthy temporal gap between exposure and manifestation of the injury. *Id.* at ¶ 37. That consideration does not extend to malicious prosecution claims, where the injury—deprivation of liberty—is obvious from the outset. *Id.*

Instead, such claims are subject to a single trigger theory. *Id.* at ¶¶ 44, 48. The insured's continued wrongful conduct bears on only the *extent*

of injury, not the *fact* of injury. *Id.* at ¶¶ 33, 36 (adopting a single trigger theory in the context of continued proceedings that prolong the original injury, but do not inflict new injuries); *Indian Harbor*, 2015 IL App (2d) 140293, ¶ 40 (holding that continued proceedings are an extension of the original injury, in that they prolong incarceration, but do not constitute new and harmful acts); *City of Zion*, 2014 IL App (2d) 131312, ¶ 26 (explaining that although continued proceedings increase the extent of damages, the fact of damages occurs with commencement of the malicious prosecution and its initial impact on the victim).

Undaunted, the City of Chicago Heights nevertheless resurrects a multiple trigger theory in a last-ditch effort to manufacture coverage for injurious conduct that occurred long before the policies inception. Grasping for some event that occurred during the policy period, the City of Chicago Heights seizes on Sanders' retrials. In the alternative to an exoneration trigger theory, the City of Chicago Heights declares that each retrial was a separate "offense" that independently triggered coverage. But a retrial trigger theory fares no better than an exoneration trigger theory.

For one, the subject policies cover claims that "first arise" from an "occurrence" and "personal injury" during the policy period. (A130, A191, A233, A263) Such a claim can "first arise" only once – at the time of charging.

Further, the retrials were part and parcel of the original proceedings. *City of Waukegan*, 2017 IL App (2d) 160381, ¶ 36 (holding that retrials are continuations of the initial wrongful prosecution). This conclusion is buttressed by the statutory definition of “prosecution,” which encompasses “all” proceedings through “final disposition” of the criminal case. 720 ILL. COMP. STAT. ANN. 5/2-16 (West 2016) (defining “prosecution” as “all legal proceedings by which a person’s liability for an offense is determined, commencing with the return of the indictment or the issuance of the information, and including the final disposition of the case upon appeal”).

Moreover, Sanders did not allege that he sustained any new or different injuries that constitute claims “first arising out of an **Occurrence** happening” at the time of the retrials. (A40, A43-44, A83) As such, the retrials simply prolonged Sanders’ deprivation of liberty—the very same injury he sustained immediately upon commencement of the malicious prosecution. *City of Waukegan*, 2017 IL App (2d) 160381, ¶ 36 (holding that retrials increase damages, but do not constitute new injuries).

The appellate court did not hold otherwise, as it declined to reach the merits of the City of Chicago Heights’ alternative multiple trigger theory. (A27) But the dissent did—and correctly rejected it. (A34-35) This Court should do likewise.

CONCLUSION

For the reasons stated above and upon the authorities cited, Starr Indemnity & Liability Company respectfully requests that this Court: 1) vacate and reverse the appellate court's judgment; 2) reinstate the circuit court's order granting Starr Indemnity & Liability Company's motion to dismiss the complaint with prejudice; and 3) grant such further and additional relief as this Court deems just.

Respectfully submitted,

/s/ Agelo L. Reppas

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, including the portions adopted and realleged from Illinois Union Insurance Company's Brief (8,807 words) and excluding the words contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), totals 14,212 words.

/s/ Agelo L. Reppas _____

Agelo L. Reppas

APPENDIX

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SUPREME COURT CLERK

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

49216/D

RODELL SANDERS and THE CITY OF
CHICAGO HEIGHTS,

Plaintiffs,

v.

ILLINOIS UNION INS. CO. and STARR
INDEMNITY AND LIABILITY CO.,

Defendants.

Case No. 16 CH 2605

Judge Celia Gamrath

Calendar 6

MEMORANDUM OPINION AND ORDER

This matter comes before the court on Illinois Union Insurance and Starr Indemnity's amended motion to dismiss Plaintiffs' second amended complaint under 735 ILCS 5/2-619(a)(9). A section 2-619 motion to dismiss raises affirmative matter outside the complaint and "allows for the dismissal of a complaint on the basis of issues of law or easily proven issues of fact." *Advocate Health and Hospitals Corp. v. First Nat'l Bank of Chicago*, 348 Ill. App. 3d 755, 759 (1st Dist. 2004). In deciding a motion to dismiss, the court accepts all well-pled facts and draws all reasonable inferences in favor of the nonmoving party. For the following reasons, the amended motion to dismiss is granted.

I. BACKGROUND

This coverage dispute arises from the malicious prosecution of Rodell Sanders who was exonerated in 2011 of a 1993 murder. Sanders sued the City of Chicago Heights, which had pursued the criminal cases against him, alleging violations of state law and his federal constitutional rights. The civil case was settled for \$15 million after Sanders was exonerated.

Of the \$15 million, the City agreed to pay Sanders \$2 million. United National, the City's insurer in 1994 (the year Sanders was charged), agreed to pay an additional \$3 million. The City had insurance policies with Defendants Illinois Union and Starr between 2010 and 2014. Both insurers refused to contribute to the \$15 million settlement and denied coverage on the ground that the malicious prosecution of Sanders did not occur during the policy period. The City assigned its rights to seek recovery against these insurers to Sanders, subject to certain conditions. Both Sanders and the City were aware at the time of settlement that the insurers were denying coverage.

Sanders and the City filed a second amended complaint seeking a determination as to whether the City was entitled to a defense and indemnity under the policies. The issue presented here is whether the malicious prosecution of Sanders occurred for purposes of insurance coverage at the time charges were filed in 1994 or at the time of exoneration in 2011. Defendants maintain coverage was triggered in 1994, before the policies were issued. Sanders and the City contend the offense of malicious prosecution occurred at the time of exoneration in 2011, triggering coverage under the policies. The court holds, consistent with the overwhelming majority view throughout the country, coverage was triggered at the commencement of the malicious prosecution and upon injury in 1994, before the policies issued.

II. TRIGGER DATE

The court must determine, based on the relevant insurance policies, when the offense of malicious prosecution occurred to trigger coverage. The question boils down to whether the term offense means the accrual of the completed cause of action of malicious prosecution or the act and injury giving rise to the claim. As the insurers see it, the malicious prosecution occurred

when charges were brought against Sanders. This, they contend, is the offense because it is when the misconduct and injury occurred. If true, the occurrence would fall outside the policy period. Their argument is supported by the common definition of offense, which refers to a crime, misconduct, or wrongdoing, rather than the accrual of a completed cause of action.

Sanders and the City contend the offense happened upon exoneration. Until then, there was no offense of malicious prosecution because not all tort elements were met. They agree the injury and wrongful act anteceded the offense, but contend this does not matter because the policies define personal injury as discrete offenses of false arrest, false imprisonment, wrongful detention, or malicious prosecution. Sanders and the City equate the word offense with a completed tort or accrual of a cause of action, but the policy language does not support their interpretation. The policy language uses the word offense, not tort. Nonetheless, a tort is an offense against an individual, referring to a wrongful action that causes harm. This is the essence of what triggers coverage; exoneration is merely the remedy years later that allows a cause of action for malicious prosecution to ensue.

The court has carefully analyzed the language of the policies, comparing it to language in many other cases. An insurance policy is a contract and its terms are to be given their plain and ordinary meaning. In construing an insurance policy, the primary function of the court is to ascertain and enforce the intentions of the parties as expressed in the agreement. *Outboard Marine Corp. v. Liberty Mutual Insurance Co.*, 154 Ill. 2d 90, 108 (1992). If provisions are susceptible of more than one interpretation or are ambiguous, they will be construed against the insurer and liberally in favor of the insured. *Oakley Transport, Inc. v. Zurich Insurance Co.*, 271 Ill. App. 3d 716, 722 (1st Dist. 1995). A court must not read policy provisions in an unreasonable way in order to create an ambiguity. *Sims v. Allstate Ins. Co.*, 365 Ill.App.3d 997, 1001 (5th

Dist. 2006). Looking at the policy language most favorably to Sanders and the City, the court finds no ambiguity or a legal or factual basis to hold coverage was triggered upon exoneration.

III. OCCURRENCE POLICY LANGUAGE

The parties agree the Illinois Union policy is an occurrence policy, not a claims-made policy. The Starr policy tracks the terms of the Illinois Union policy. The General Liability Coverage Part of the Illinois Union policy provides:

The Insurer will indemnify the Insured for Damages and Claim Expenses in excess of the Retained Limit for which the Insured becomes legally obligated to pay because of a Claim first arising out of an Occurrence happening during the Policy Period in the Coverage Territory for Bodily Injury, Personal Injury, Advertising Injury, or Property Damage taking place during the Policy Period.

Occurrence means:

b. With respect to Personal Injury, only those offenses specified in the Personal Injury Definition. All damages arising out of substantially the same Personal Injury regardless of frequency, repetition, the number or kind of offenses, or number of claimants, will be considered as arising out of one Occurrence.

Personal Injury means one or more of the following offenses:

a. False arrest, false imprisonment, wrongful detention or malicious prosecution.

In essence, the policies provide that if a suit is brought against the City for damages for personal injury (the offense of malicious prosecution, false arrest, *etc.*) first arising out of an occurrence during the policy period, Illinois Union and Starr would provide coverage. Both the occurrence and personal injury must happen or take place during the policy period.

The court joins the majority of courts in Illinois and across the nation that have concluded the coverage trigger is the filing of the malicious prosecution action, not its termination or the

accused's exoneration. To hold otherwise would impermissibly convert the occurrence policy into a claims-made policy, contrary to the parties' intent. See *Indian Harbor Ins. Co. v. City of Waukegan*, 2015 IL App (2d) 140293, ¶¶32-33 (describing occurrence-based policy).

IV. FOLLOWING THE MAJORITY VIEW

To prevail on a claim of malicious prosecution, a plaintiff must prove the defendant instituted a prior civil or criminal proceeding without probable cause and with improper purpose, and that the prior proceeding terminated in his favor. A plaintiff's cause of action accrues upon exoneration and he is then entitled to seek recovery of damages. Under the policies, Illinois Union and Starr would owe the City a duty to indemnify against a claim brought against it for damages for personal injury – the offense of malicious prosecution – taking place during the policy period if the claim first arose out of an occurrence happening during the policy period. An occurrence, as defined in the policy, relates to the personal injury itself, which in turn means one of the enumerated offenses taking place during the coverage period. The focus is on the act and injury, not the exoneration or accrual of a completed cause of action.

Sanders and the City contend that the offense of malicious prosecution does not occur under the policy until exoneration. The vast majority of Illinois courts that have considered the issue have held that the occurrence causing personal injury under an insurance policy is the filing of the underlying malicious suit, not its termination. See *St. Paul Fire & Marine Ins. Co. v. City of Zion*, 2014 IL App (2d) 131312; *Indian Harbor*, 2015 IL App (2d) 140293; *County of McLean v. States Self-Insurers Risk Retention Group, Inc.*, 2015 IL App (4th) 140628 (all holding the trigger of coverage for the malicious prosecution is the conviction, not exoneration or favorable termination of the proceeding); and *St. Paul Fire & Marine Insurance Co. v. City of Waukegan*,

2017 IL App (2d) 160381 (applying the same approach in the context of *Brady* and Fifth Amendment claims, observing that the time of occurrence in insurance law is different than the time of accrual in tort law). This is consistent with the majority view throughout the country.

The 1978 case of *Security Mutual Cas. Co. v. Harbor Ins. Co.*, 65 Ill. App. 3d 198 (1st Dist. 1978), *rev'd*, 77 Ill. 2d 446 (1979), and federal cases relying on it, have been called into question or squarely rejected. The Illinois Supreme Court reversed *Security Mutual* and no Illinois state court has followed it since. The court in *Westport Ins. Corp. v. City of Waukegan*, 2017 U.S. Dist. LEXIS 148107, reversed itself on the trigger of coverage issue and abandoned all reliance on *Security Mutual* and the 7th Circuit case of *American Safety Cas. Ins. Co. v. City of Waukegan*, 678 F.3d 475 (7th Cir. 2012), which followed *Security Mutual*. Relying instead on *Indian Harbor*, *St. Paul*, and *County of McLean*, the *Westport* court held the policy could be triggered only if the misconduct that led to the wrongful conviction occurred during the policy period; the accrual of the underlying cause of action was not the trigger.

Notably, the 7th Circuit in *American Safety* did not have the benefit of these three decisions; it had only *Security Mutual* to rely on. No court since has followed *American Safety* nor the appellate opinion of *Security Mutual*. In addition, *Security Mutual* relied on *Roess v. St. Paul Fire & Marine Ins. Co.*, 383 F.Supp. 1231 (M.D. Fla. 1974), which has been "consistently criticized" by other courts declining to adopt its minority view. See *North River Ins. Co. v. Broward Cnty. Sheriff's Office*, 428 F.Supp.2d 1284, 1291 (S.D. Fla. 2006) (collecting cases).

Sanders and the City ask the court to follow the reversed decision of *Security Mutual* instead of the more recent Illinois appellate decisions. However, under *stare decisis*, the court is

duty bound to follow the precedential decisions of *Indian Harbor*, *St. Paul*, and *County of McLean* and their progeny.

In analyzing the trigger of coverage question, this court is persuaded that occurrence and offense do not equate with exoneration or a completed tort or accrual of a cause of action. As the Illinois Appellate Court has recognized, occurrence policies insure for acts or omissions that result in injury during a policy period. *Indian Harbor*, 2015 IL App (2d) 140293. The accrual of the cause of action is not the event that triggers coverage; rather, the occurrence with respect to personal injury at the commencement of the prosecution is the triggering event. See *St. Paul*, 2014 IL App (2d) 131312. The malicious act or tortious conduct is over by the time of exoneration and so too is the injury. The injury and "gist" of the malicious prosecution first occurs upon the filing of the charges, arrest, and incarceration. While exoneration is a required element and a necessary condition precedent before the malicious prosecution claim accrues, it is not an occurrence that causes injury or harm within the meaning of the policy. "[T]he time of occurrence in insurance law is different from the time of accrual in tort law." *St. Paul*, 2014 IL App (2d) 131312, ¶48.

As noted above, the parties agree the Illinois Union and Starr policies are occurrence policies, not claims-made policies. The policies define personal injury as a category of insurable offenses or acts that produce harm. This is not materially different than language defining personal injury as an injury arising out of or caused by an insurable offense or wrongful act. Neither gives rise to an interpretation that would require full completion and accrual of the claim of malicious prosecution, for it is the wrongful act of the insured that triggers coverage in an occurrence policy, not the fortuitous date of the accused's exoneration. Moreover, in *County of McLean*, the policy defined occurrence the same way as here and held the commencement of the

offense of malicious prosecution triggered coverage. *County of McLean* answers the question left open in *St. Paul* as to when coverage is triggered where the policy refers to the offense of malicious prosecution.

Several courts prefer this majority rule because the essence of the malicious prosecution claim is the filing of charges, not the favorable termination of the legal proceeding. The damage flows immediately from the tortious act, which subjects the accused to arrest and incarceration. Using a date of exoneration could permit a tortfeasor to shift the burden of damages to an unwary insurance company for prior acts of misconduct that caused harm at the outset. *See City of Erie v. Guaranty Nat'l Ins. Co.*, 109 F.3d 156, 160 (3d Cir.1997). This makes sense with occurrence policies that insure for events, accidents, occurrences, wrongful acts, and omissions that cause injury. Exoneration is not part of the wrongdoing or the injury; rather it "marks the 'beginning of the judicial system's remediation' of the wrong committed." *St. Paul*, 2014 IL App (2d) 131312, ¶¶ 23, 25 (internal quotations omitted). Placing importance on the date of exoneration to trigger coverage would be inconsistent with the parties' intent reflected in their occurrence policy to provide coverage for a claim first arising out of an occurrence for personal injury taking place during the policy period.

In reaching this conclusion, the court has analyzed and is persuaded by a multitude of out-of-state cases and federal decisions that have adopted the majority rule. *See City of Erie*, 109 F.3d at 163 (applying Pennsylvania law, "tort of malicious prosecution occurs for insurance purposes at the time the underlying charges are filed"); *Selective Ins. Co. v. Paris*, 681 F.Supp.2d 975, 983 (C.D.Ill.2010) (applying Illinois law; tort of malicious prosecution occurred for insurance purposes at time criminal charges were filed); *North River Ins. Co.*, 428 F.Supp.2d at 1291 (applying Florida law; "an 'occurrence' in a malicious prosecution case is the date the

[p]laintiffs in the [u]nderlying [c]omplaints were actually harmed, not the date they were allegedly vindicated”); *Royal Indem. Co. v. Werner*, 784 F.Supp. 690, 692 (E.D.Mo.), *aff’d*, 979 F.2d 1299, 1300 (8th Cir.1992) (applying Missouri law); *Ethicon, Inc. v. Aetna Cas. & Sur. Co.*, 688 F.Supp. 119, 127 (S.D.N.Y.1988) (applying New Jersey law; injury begins to flow when complaint is filed); *Zurich Ins. Co. v. Peterson*, 188 Cal.App.3d 438, 448, 232 Cal.Rptr. 807 (Cal.Ct.App.1986) (rejecting *Roess* and minority view); *S. Freedman & Sons v. Hartford Fire Ins. Co.*, 396 A.2d 195 (D.C.1978); *Paterson Tallow Co. v. Royal Globe Ins. Cos.*, 89 N.J. 24, 31, 444 A.2d 579 (1982); *Newfane v. General Star Nat’l Ins. Co.*, 14 A.D.3d 72, 79, 784 N.Y.S.2d 787 (N.Y.2004) (offense of malicious prosecution was committed when the prosecution was instituted, not when the action could have been brought); *Hampton v. Carter Enterprises, Inc.*, 238 S.W.3d 170, 176 (Mo.App.2007); *American Family Mutual Ins. Co. v. McMullin*, 869 S.W.2d 862 (Mo.App.1994); *Genesis Ins. Co. v. City of Council Bluffs*, 677 F.3d 806, 813 (8th Cir. 2012) (offense of malicious prosecution occurs when underlying charges are filed); *Harbor Ins. Co. v. Central Nat. Ins. Co.*, 165 Cal.App.3d 1029, 211 Cal.Rptr. 902, 906-07 (Cal.Ct.App.1985) (cited in *Indian Harbor*, 2015 IL App (2d) 140293, for proposition that the initial wrong and harm are committed upon initiation of the malicious prosecution).

This court also looked to the language of the policies as a whole. The use of the phrase “first arising out of” in the General Liability Coverage Part suggests the initiating act is the trigger. This is bolstered by occurrence language that provides, “All damages arising out of substantially the same Personal Injury regardless of frequency, repetition, the number or kind of offenses, or number of claimants, will be considered as arising out of one Occurrence.” It would be logically inconsistent to hold that coverage is triggered by exoneration twenty years after the personal injury in light of this clear language indicating a continuation of an offense and

continuing damages presents a single occurrence. Further, it is well established that Illinois law does not treat a malicious prosecution claim as a continuing tort that triggers coverage each year its effects are felt. Rather, the acts or omissions alleged to have occurred after the accused is charged are a continuation of the same alleged harm. *See Indian Harbor*, 2015 IL App (2d) 140293, ¶ 40.

In sum, it is commonly understood that the standard general liability occurrence-based policy provides coverage for injury or damage caused by an occurrence resulting in loss during the policy period, as well as personal injury caused by an offense committed during the policy period. Occurrence generally means an accidental act, whereas an offense generally connotes an intentional act. The policy here delineates the specific offense of malicious prosecution and requires the personal injury take place during the policy period. The term occurrence specifically relates back to the personal injury itself and specified offenses. Accordingly, coverage for personal injury is only triggered if the offense causing the injury and the injury itself is committed during the policy period.

In the absence of language demonstrating an intent that a completed cause of action is what triggers coverage, the court finds the malicious prosecution of Sanders first occurred for coverage purposes when the charges were filed and he suffered personal injury. This occurred years before the Illinois Union and Starr policies were in effect, which precludes coverage. Had the City obtained a claims-made policy in effect at the time of exoneration, perhaps there would be coverage. But the Illinois Union and Starr policies are occurrence policies that were not in effect when the gist of the offense of malicious prosecution happened and when injury to Sanders occurred.

V. REJECTING MULTIPLE TRIGGERS

The court rejects Sanders and the City's contention that malicious prosecution be treated as having multiple triggers. Courts nationwide, including Illinois, have rejected the notion that malicious prosecution constitutes a continuing injury. They conclude instead that a claim for malicious prosecution does not trigger multiple policies, but instead triggers only the policy in effect at the time the charges are filed. See *Indian Harbor*, 2015 IL App (2d) 140293; *St. Paul*, 2017 IL App (2d) 160381, ¶36; *Billings v. Commerce Ins. Co.*, 458 Mass. 194 (2010); *City of Lee's Summit v. Missouri Public Entity Risk Mang.*, 2012 WL 6681961 (Mo. App. Ct. Dec. 26, 2012); *Genesis Ins. Co.*, 677 F.3d at 816; *Idaho Cty. Risk Mang. Prog. Und. v. Northland Ins. Cos.*, 205 P.3d 1220 (2009); *City of Erie*, 109 F.3d at 165. As these cases observe, the multiple trigger theory has been used in very limited circumstances, such as asbestos cases. The court finds no legal or factual reason to expand this theory or depart from settled case law.

VI. CONCLUSION

The court concludes the triggering event under the Illinois Union and Starr occurrence policies is the institution of the malicious prosecution and injury to Sanders, not his exoneration. Although his legal claim for malicious prosecution was contingent on exoneration, the claim first arose out of an occurrence for personal injury that took place years before the policies were in effect.

IT IS ORDERED: Illinois Union Insurance and Starr Indemnity's amended motion to dismiss Plaintiffs' second amended complaint is granted under 735 ILCS 5/2-619(a)(9).

Judge Celia Gamrath

JAN 02 2018

Circuit Court - 2031

ENTERED:



Hon. Celia Gamrath, No. 2031

Circuit Court of Cook County, Chancery Division

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2019 IL App (1st) 180158
No. 1-18-0158

SECOND DIVISION
January 15, 2019

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

RODELL SANDERS and THE CITY OF)	Appeal from the Circuit Court
CHICAGO HEIGHTS,)	of Cook County.
)	
Plaintiffs-Appellants,)	
)	No. 16 CH 02605
v.)	
)	
ILLINOIS UNION INSURANCE COMPANY)	The Honorable
and STARR INDEMNITY & LIABILITY)	Celia Gamrath,
COMPANY,)	Judge Presiding.
)	
Defendants-Appellees.)	

JUSTICE PUCINSKI delivered the judgment of the court, with opinion.
Justice Hyman concurred in the judgment and opinion.
Presiding Justice Mason dissented, with opinion.

OPINION

¶ 1 Plaintiffs, Rodell Sanders and City of Chicago Heights (City), appeal from the trial court's dismissal with prejudice of their second amended complaint pursuant to section 2-619(a)(9) of the Code of Civil Procedure (Code) (735 ILCS 5/2-619(a)(9) (West 2016)). On appeal, plaintiffs argue that the trial court erred in concluding that the insurance policies issued by defendants, Illinois Union Insurance Company (Illinois Union) and Starr Indemnity & Liability Company (Starr), did not provide coverage for Sanders's underlying claim of malicious prosecution against the City (*Sanders* suit). For the reasons that follow, we reverse and remand.

1-18-0158

¶ 2

BACKGROUND

¶ 3

In the *Sanders* suit, filed in the federal court, Sanders brought, among others, a claim of malicious prosecution against the City and some of its employees. In it, Sanders alleged that members of the City's police department manipulated and coerced false witness identifications of Sanders as being involved in a December 1993 shooting. Sanders also alleged that members of the City's police department made false statements to prosecutors to encourage his prosecution, fabricated evidence, and withheld exculpatory information in connection with his prosecution for the shooting. As a result, Sanders alleged, he was wrongly convicted of murder, attempt (murder), and armed robbery arising out of that shooting

¶ 4

The *Sanders* suit ultimately settled for \$15 million. Under the terms of the settlement, the City agreed to pay \$2 million of the settlement and United National Insurance Company, the City's insurer at the time Sanders was initially charged with the crimes, agreed to pay \$3 million. The City also assigned to Sanders its rights to pursue recovery from defendants, the City's other insurers.

¶ 5

Pursuant to that assignment, Sanders became a plaintiff in the present action, joined by the City. In their second amended complaint in the present action, plaintiffs alleged that Sanders was sentenced to 55 years' imprisonment on the murder conviction, to run consecutively to his 25-year sentence on the attempt (murder) conviction and concurrently with his 20-year sentence on the armed robbery conviction. In January 2011, Sanders's convictions were vacated and that ruling was affirmed by the Illinois Appellate Court in May 2012. *People v. Sanders*, 2012 IL App (1st) 110373-U. In 2013, Sanders was retried, which resulted in a mistrial. He was retried again in July 2014, at which time he was finally acquitted.

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¶ 6 The second amended complaint in the present action further alleged that Illinois Union issued primary insurance policies to the City that were collectively in effect for the period of November 1, 2010, through November 1, 2014. Starr issued excess insurance policies to the City that collectively were in effect from November 1, 2011, through November 1, 2014.¹ Despite the City's repeated demands for coverage for the *Sanders* suit, Illinois Union and Starr denied coverage and refused to contribute to the settlement of the *Sanders* suit. As a result, plaintiffs alleged claims for breach of contract and improper claims practices and sought a declaratory judgment that defendants owed coverage under their respective policies for the claims made in the *Sanders* suit.

¶ 7 Defendants filed a motion to dismiss the second amended complaint pursuant to section 2-619(a)(9) of the Code (735 ILCS 5/2-619(a)(9) (West 2016)). In it, they argued that their policies did not provide coverage for the claims in the *Sanders* suit because the trigger for coverage under the policies was the filing of the criminal charges against Sanders, an act that took place before defendants' policies went into effect. Defendants further argued that the retrials of Sanders did not qualify as additional coverage triggers because they were simply continuations of the original 1994 prosecution. In response, plaintiffs argued that because defendants' policies provided coverage for the "offense" of malicious prosecution, the coverage trigger was not the filing of the criminal charges against Sanders but was, instead, the completed tort of malicious prosecution. Here, all of the elements of Sanders's claim for malicious prosecution were alleged to have been met upon his exoneration in 2014. The plaintiffs also argued that, even if coverage were triggered by the wrongful conduct of the City's police officers

¹Plaintiffs attached to their second amended complaint only defendants' policies covering the period of November 1, 2012, through November 1, 2014, and focused primarily on those policies in their allegations against defendants.

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and not Sanders's exoneration, then the retrials of Sanders, which occurred while defendants' policies were in effect, were additional triggers for coverage.

¶ 8 After a hearing on the matter, the trial court issued its memorandum opinion and order, granting defendants' motion to dismiss. In doing so, the trial court found that the language of the policies, in conjunction with existing case law, dictated the conclusion that coverage for a malicious prosecution claim under defendants' policies was triggered by the initiation of Sanders's prosecution, not his subsequent exoneration. The trial court also rejected plaintiffs' argument that the retrials of Sanders were additional triggers of coverage, instead concluding that they were merely a continuation of the original prosecution.

¶ 9 Following the trial court's dismissal of the second amended complaint, plaintiffs filed this timely appeal.

¶ 10

ANALYSIS

¶ 11

On appeal, plaintiffs argue that the trial court erred in dismissing the second amended complaint on the basis that the coverage trigger—the filing of the criminal charges against Sanders—occurred outside the effective dates of defendants' policies. Plaintiffs argue that the language of the policies requires a conclusion that coverage was not triggered until the tort of malicious prosecution was complete, *i.e.*, Sanders was exonerated, which occurred while defendants' policies were in effect. Alternatively, plaintiffs argue that even if it was the wrongful conduct of the City, and not the satisfaction of the elements of the malicious prosecution, that triggered coverage under defendants' policies, then Sanders's retrials during the effective dates of defendants' policies triggered coverage. For the reasons that follow, we conclude that coverage under the policies was triggered upon the completion of the tort of malicious prosecution, *i.e.*, Sanders's exoneration, which occurred while the policies were in effect.

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Accordingly, the trial court's dismissal of plaintiffs' second amended complaint must be reversed and the matter remanded for further proceedings.

¶ 12 Defendants' motion to dismiss was brought pursuant to section 2-619(a)(9) of the Code (735 ILCS 5/2-619(a)(9) (West 2016)), which provides for the dismissal of a complaint on the basis that "the claim asserted against defendant is barred by other affirmative matter avoiding the legal effect of or defeating the claim." In making such a motion, the movant admits the legal sufficiency of the complaint but asserts that an affirmative defense or some other matter defeats the claims contained therein. *Van Meter v. Darien Park District*, 207 Ill. 2d 359, 367 (2003). We review dismissals under section 2-619(a)(9) *de novo*. *Id.* at 368.

¶ 13 The propriety of the trial court's dismissal of plaintiffs' second amended complaint turns on the interpretation of the insurance policies issued by defendants, namely, whether coverage under those policies is triggered by the initiation of the alleged malicious prosecution or the exoneration of Sanders. Although plaintiffs alleged in their second amended complaint that Illinois Union's policies covered the collective period of November 1, 2010, through November 1, 2014, and Starr's policies covered a collective period of November 1, 2011, through November 1, 2014, plaintiffs' focus on appeal is on defendants' policies covering the period of November 1, 2012, through November 1, 2014, the policies in effect during Sanders's retrials. Accordingly, our focus will be the same.

¶ 14 Our supreme court has summarized the principles governing our interpretation of insurance policies:

"Because an insurance policy is a contract, the rules applicable to contract interpretation govern the interpretation of an insurance policy. [Citations.] Our primary function is to ascertain and give effect to the intention of the parties, as expressed in the

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policy language. [Citations.] If the language is unambiguous, the provision will be applied as written, unless it contravenes public policy. [Citations.] The rule that policy provisions limiting an insurer's liability will be construed liberally in favor of coverage only applies where the provision is ambiguous. [Citations.] A policy provision is not rendered ambiguous simply because the parties disagree as to its meaning. [Citation.] Rather, an ambiguity will be found where the policy language is susceptible to more than one reasonable interpretation. [Citations.] While we will not strain to find an ambiguity where none exists [citation], neither will we adopt an interpretation which rests on 'gossamer distinctions' that the average person, for whom the policy is written, cannot be expected to understand [citation]." *Founders Insurance Co. v. Munoz*, 237 Ill. 2d 424, 433 (2010).

¶ 15 In its policies, Illinois Union agreed to the following:

"The *Insurer* will indemnify the *Insured* for *Damages* and *Claim Expenses* in excess of the *Retained Limit* for which the *Insured* becomes legally obligated to pay because of a *Claim* first arising out of an *Occurrence* happening during the *Policy Period* in the Coverage Territory for *Bodily Injury*, *Personal Injury*, *Advertising Injury*, or *Property Damage* taking place during the *Policy Period*." (Emphases in original.)

With respect to "Personal Injury," "Occurrence" is defined under the Illinois Union policies as "only those offenses specified in the *Personal Injury* Definition." (Emphasis in original.) The definition of "Personal Injury" provides:

"*Personal Injury* means one or more of the following offenses:

- a. False arrest, false imprisonment, wrongful detention or malicious prosecution;

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b. Libel, slander, defamation of character, or oral or written publication of material that violates a person's right of privacy, unless arising out of advertising activities in electronic chat rooms or bulletin boards;

c. Wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of the owner, landlord or lessor, or by a person claiming to be acting on behalf of the owner, landlord or lessor." (Emphasis in original.)

¶ 16 The Starr policies, as excess policies, essentially follow the terms of the primary policies issued by Illinois Union. In other words, subject to specific terms and exclusions that are not relevant here, if coverage under the Illinois Union policies is triggered, excess coverage under the Starr policies is also triggered.

¶ 17 None of the parties dispute that the above provisions require the "offense" of malicious prosecution to take place during the relevant policy periods.² Rather, the dispute centers around when the "offense" of malicious prosecution is deemed to occur under the policies. According to plaintiffs, because the policies define an occurrence as the "offense" of malicious prosecution, the policies refer to the completed tort of malicious prosecution and, thus, the "offense" of malicious prosecution does not happen until all the elements of the tort of malicious prosecution are satisfied. In Sanders's situation, the tort elements of malicious prosecution were not complete until he was exonerated in 2014. See *Ferguson v. City of Chicago*, 213 Ill. 2d 94, 99 (2004) ("A cause of action for malicious prosecution does not accrue until the criminal proceeding on which it is based has been terminated in the plaintiff's favor."). At that point, according to plaintiffs, the

²The insuring agreement of the Illinois Union policies requires that the "*Occurrence* happen[] during the *Policy Period*." (Emphases in original.) An occurrence is any "offense" listed in the personal injury definition. The definition of personal injury lists malicious prosecution as one of the qualifying offenses. Thus, the offense of malicious prosecution must happen during the policy period.

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offense of malicious prosecution “happen[ed]” and coverage was triggered under defendants’ policies. In contrast, defendants argue that the “offense” of malicious prosecution is not the completed tort of malicious prosecution but is the offensive act of maliciously prosecuting someone, *i.e.*, charging someone with malice and without probable cause. Thus, coverage is triggered by initiation of the alleged malicious prosecution.

¶ 18 None of defendants’ policies define the term “offense.” In situations where an insurance policy does not define a term, that term is to be given its plain and ordinary meaning, and courts often refer to dictionaries in making this determination. *Muller v. Firemen’s Fund Insurance Co.*, 289 Ill. App. 3d 719, 725 (1997). Black’s Law Dictionary defines “offense” as “[a] violation of the law; a crime, often a minor one.” Black’s Law Dictionary (10th ed. 2014). This definition suggests that the term “offense” refers to the legal cause of action that arises out of wrongful conduct, not just the wrongful conduct itself. After all, crimes and other violations of law, like tort causes of action, are typically comprised of a number of elements, only one of which is the wrongful act itself. The crime, legal violation, and tort cause of action does not arise or exist until all those elements have been satisfied; thus, only upon completion of the final element is a wrongful act transformed into a crime or a tort.

¶ 19 Although defendants advance other definitions of “offense” that are more favorable to them, the other language of the Illinois Union policies supports a conclusion that the term “offense” refers to the legal cause of action for malicious prosecution, not the underlying wrongful conduct giving rise to a legal cause of action for malicious prosecution. As noted, the Illinois Union policies define “personal injury” by reference to a list of “offenses.” Importantly, this list of offenses refers exclusively to legal causes of actions by their proper, legal names, *e.g.*, false arrest, false imprisonment, malicious prosecution, libel, defamation, wrongful eviction, etc.

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Nowhere in the policies' list of offenses does it refer to the underlying wrongful acts themselves, *i.e.*, arresting, imprisoning, or prosecuting someone without probable cause; telling lies about someone; or physically removing someone from a property. The policies' reference to the offenses by their proper, legal names instead of by their underlying wrongful conduct makes clear that coverage is triggered by the occurrence of the completed cause of action (in this case, upon Sanders's exoneration) and not by merely the underlying wrongful conduct. See *Milwaukee Guardian Insurance, Inc. v. Taraska*, 236 Ill. App. 3d 973, 975 (1992) (“[T]he provisions of an insurance policy should be read and interpreted as an integrated whole, not as isolated parts.”).

¶ 20 We believe such an interpretation is consistent with what the average person would understand to be covered under the Illinois Union policies. For the reasons discussed above, the average person, reading that the Illinois Union policies provided coverage for the “offenses” of false arrest, malicious prosecution, libel, wrongful eviction, etc., would believe that the policies provided coverage for the legal claims of false arrest, malicious prosecution, libel, wrongful eviction, etc. The average person would have no reason to think that although the “offenses” were identified by the proper, legal names of whole causes of action, they actually only were intended to refer to the underlying wrongful conduct. Thus, at the point the elements of those causes of actions were met, the average insured would believe that coverage is triggered. Where the term “offense” is coupled with the titles of legal causes of action and does not specifically refer to the base wrongful acts alone, to conclude otherwise would be to “adopt an interpretation which rests on ‘gossamer distinctions’ that the average person, for whom the policy is written, cannot be expected to understand.” *Founders Insurance Co.*, 237 Ill. 2d at 433.

¶ 21 For the above reasons, we conclude that the plain and ordinary meaning of the term “offense,” as it is used in relation to “malicious prosecution” in the Illinois Union policies, refers

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to the completed, legal cause of action of malicious prosecution. The tort of malicious prosecution requires proof of five elements: “(1) the commencement or continuation by the defendant of an original judicial proceeding against the plaintiff; (2) termination of the original proceeding in favor of the plaintiff; (3) absence of probable cause for the proceeding; (4) malice; and (5) special damages.” *Grundhoefer v. Sorin*, 2014 IL App (1st) 131276, ¶ 11. Here, Sanders’s claim for malicious prosecution was not complete until he was exonerated in 2014. See *Ferguson*, 213 Ill. 2d at 99 (“A cause of action for malicious prosecution does not accrue until the criminal proceeding on which it is based has been terminated in the plaintiff’s favor.”). Accordingly, coverage under the defendants’ policies was not triggered until 2014, when Sanders was acquitted after his third trial.

¶ 22 In opposition, defendants argue that we should follow a line of Illinois cases holding that the triggering event for coverage of a claim of malicious prosecution is the initiation of the alleged malicious prosecution against the claimant. See *First Mercury Insurance Co. v. Ciolino*, 2018 IL App (1st) 171532; *St. Paul Fire & Marine Insurance Co. v. City of Waukegan*, 2017 IL App (2d) 160381; *County of McLean v. States Self-Insurers Risk Retention Group, Inc.*, 2015 IL App (4th) 140628; *Indian Harbor Insurance Co. v. City of Waukegan*, 2015 IL App (2d) 140293; *St. Paul Fire & Marine Insurance Co. v. City of Zion*, 2014 IL App (2d) 131312. Of these cases, three of them are not applicable here because the relevant policy language was markedly different than the language in Illinois Union’s policies. Specifically, the policies in these three cases provided that the claimant’s injury or the insured’s wrongful act must take place during the policy period. See *City of Waukegan*, 2017 IL App (2d) 160381, ¶ 12 (the policy covered “injury or damage that *** happens while this agreement is in effect”); *Indian Harbor*, 2015 IL App (2d) 140293, ¶ 4 (the policy covered “damages resulting from a wrongful act(s),” but

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required that “ ‘[t]he wrongful act(s) must occur during the policy period’ ”); *City of Zion*, 2014 IL App (2d) 131312, ¶ 12 (the policy covered an injury or damage that “ ‘happens while this agreement is in effect’ ”). Thus, it is no surprise that these courts concluded that the triggering event was the initiation of the wrongful prosecution, as the claimant’s injury occurs immediately upon the insured’s wrongful act of filing criminal charges with malice and without probable cause. See *City of Zion*, 2014 IL App (2d) 131312, ¶ 23. In this case, however, the Illinois Union policies require the “offense” of malicious prosecution to happen in the policy period, not the injury resulting from or the wrongful act giving rise to malicious prosecution. Accordingly, these cases are irrelevant to our analysis.

¶ 23 Two of the cases cited by defendants contain similar language to the policies in this case: *County of McLean* and *First Mercury*. Nevertheless, we conclude that these cases do not govern our decision in the present case. In *County of McLean*, the policy at issue provided coverage for, among other things, damages from personal injury, so long as the personal injury was “ ‘the result of an *occurrence* during the *policy period*.’ ” (Emphases in original.) *County of McLean*, 2015 IL App (4th) 140628, ¶ 16. An occurrence was defined as follows: “ ‘With respect to *personal injury*, only the offenses defined under *personal injury*. For any claim for *personal injury*, the date of the *occurrence* is the date that the first offense took place or is alleged to have taken place.’ ” (Emphases in original.) *Id.* ¶ 17. The term personal injury was defined in relevant part as “ ‘injury (other than *bodily injury* or *property damage*) caused by one or more of the following offenses: 1. False or wrongful arrest, detention, imprisonment[,] or malicious prosecution.’ ” (Emphases in original.) *Id.*

¶ 24 Despite the fact that the policy in *County of McLean*, like the Illinois Union policies here, plainly required the “occurrence” to take place during the policy period, the court in *County of*

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McLean improperly read the policy as if it specifically required the claimant's injury to take place during the policy period. The court appears to have reached this conclusion by conflating the definitions of occurrence and personal injury:

“Construing the terms as a whole, the policy clearly defines ‘personal injury’ as ‘injury *** caused by *** malicious prosecution.’ (Emphasis added.) Accordingly, to conclude that the ‘occurrence’ resulting in Beaman’s ‘personal injury’ happened within the policy period, the *injury caused by* the malicious prosecution must have taken place within the policy period. In other words, the event that triggers coverage is the actual *injury* suffered by the prosecuted party, not the accrual of the *tort* of malicious prosecution.” (Emphases in original.) *Id.* ¶ 33.

As this excerpt of the court's analysis demonstrates, although the court correctly recognized that the “occurrence” must take place within the policy period, it incorrectly equated an occurrence with personal injury, which was defined as an injury caused by malicious prosecution. The policy, however, specifically provided that an occurrence was any of the *offenses* listed in the personal injury definition; it did not provide that an occurrence was the same as a personal injury, *i.e.*, an injury caused by the listed offenses. As a result of this confusion, the court in *County of McLean* focused on the timing of the claimant's injury and did not actually examine when the “offense” of malicious prosecution occurs. Accordingly, although the policy in *County of McLean*, like the Illinois Union policies here, provided that coverage was triggered by the “offense” of malicious prosecution, the court in *County of McLean* interpreted the policy as if it provided that coverage was triggered by the claimant's injury, thereby making the decision irrelevant to our analysis.

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¶ 25 That brings us to *First Mercury*, the case on which defendants primarily rely. Like here, the issue presented in *First Mercury* was when coverage was triggered for an underlying claim of malicious prosecution—at the initiation of the allegedly malicious prosecution or at the claimant’s exoneration. Also like here, the insurance policy at issue was in effect at the time the claimant in the underlying malicious prosecution suit was exonerated but was not in effect when the claimant was initially charged. *First Mercury*, 2018 IL App (1st) 171532, ¶ 7. The insurance policy provided that the insurer would cover damages because of personal injury “ ‘caused by an offense arising out of your business *** but only if the offense was committed *** during the policy period.’ ” *Id.* ¶ 8. The term personal injury was defined as an “ ‘injury, other than “bodily injury,” arising out of one or more of the following offenses.’ ” *Id.* ¶ 9. Malicious prosecution was included as one of the offenses listed in the definition of personal injury. *Id.* Thus, like in the present case, the insurance policy required that the “offense” of malicious prosecution take place within the policy period, and the parties disagreed about when that was deemed to have occurred. *Id.* ¶ 25.

¶ 26 In answering that question, the *First Mercury* court disagreed with the defendant’s contention that the term “offense” referred to the completed tort of malicious prosecution. *Id.* ¶ 29. The court concluded that the use of the word “offense” did not necessarily indicate an intent by the parties that coverage under the policy be triggered only by the completed tort of malicious prosecution. *Id.* ¶ 30. Instead, the court held that a more straightforward reading of the term “offense” was that the policy required the offensive conduct to take place within the policy period. *Id.* “[A]pplying the common and popular understanding of the word,” the court concluded that “the policy refers to a wrongful act or conduct committed during the policy period, regardless of whether the elements of a tort have accrued.” *Id.* The court also observed

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that it defied common sense to characterize the exoneration of an innocent person as offensive or wrongful conduct and, thus, interpreting the word “offense” to include exoneration would distort the term’s common and popular understanding. *Id.* ¶ 32.

¶ 27 As discussed above, we disagree with the *First Mercury* court’s opinion on the common understanding of the term “offense,” specifically when it is used to describe a list of legal causes of action and not wrongful acts or misconduct. Even putting that fundamental disagreement aside, we note an important factor that distinguishes the language of the *First Mercury* policy from the language of the Illinois Union policies. The policy in *First Mercury* required the offense to have been “committed” during the policy period, while the Illinois Union policies provide coverage for claims arising out of an occurrence (*i.e.*, the offense) “happening” during the policy period. Merriam-Webster defines “commit” as “to carry into action deliberately: PERPETRATE.” Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/commit> (last visited Jan. 7, 2019) [<https://perma.cc/KP7E-NR8H>]. In contrast, it defines “happen” as “to occur by chance” and “to come into being or occur as an event, process, or result.” Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/happen> (last visited Jan. 7, 2019) [<https://perma.cc/3RKK-DC6X>].

¶ 28 As these definitions make clear, the use of the word “commit” denotes an affirmative, deliberative act by a person, whereas the use of the word “happen” suggests the completion of a process or the passive coming into existence of something. Thus, when the term “offense” is read in the context of the *First Mercury* policy, which required that the offense be “committed,” it is not unreasonable to conclude that the parties to the policy intended “offense” to refer to an affirmative act by the insured, *i.e.*, the initiation of the wrongful prosecution. In contrast, the Illinois Union policies refer to malicious prosecution “happening” during the policy period,

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which supports a conclusion that the parties intended “offense” to refer to the completed tort of malicious prosecution and not the initiation of the prosecution. This is because a completed tort “come[s] into being,” while, in contrast, the filing of charges is deliberately “carr[ied] into action.” Thus, due to this distinction in language and for the other reasons discussed above, we disagree that we are bound by the interpretation of “offense” utilized in *First Mercury*.

¶ 29 Defendants make a number of other arguments in support of their position that warrant discussion. First, defendants, as some of the courts in the above-discussed cases have, argue that the exoneration of a claimant in a wrongful prosecution claim cannot be considered the trigger for coverage because there is nothing offensive about the exoneration. Instead, the exoneration is the judicial system’s first step in rectifying the wrong done to the claimant. This argument is without merit because it misstates the coverage trigger. The trigger of coverage is not the exoneration alone but instead is the satisfaction of all the elements of the tort of malicious prosecution. Although it is true that the claimant’s exoneration is typically the final element of a claim of malicious prosecution to be met, there is nothing about the exoneration itself that triggers coverage.

¶ 30 Defendants also argue that if coverage is triggered by the completed tort of malicious prosecution, then where the same set of facts give rise to claims for both false arrest and malicious prosecution, it is possible that one insurer would provide coverage for the false arrest claim while a different insurer would cover the malicious prosecution claim. In addition, defendants contend that our interpretation of “offense” puts insurers at risk of having to cover acts that were committed in years past. We do not disagree that these are potential effects of our interpretation, but we do disagree that they render our conclusion incorrect. If defendants or insurers do not wish to subject themselves to these possible effects, it is well within their

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power—in fact, it rests exclusively within their power—to issue policies that limit or preclude these effects. Specifically, defendants and other insurers are free to redraft their policies to define an occurrence based on the insured’s misconduct rather than on the “offense” of malicious prosecution (*i.e.*, the completed tort). In addition, defendants and other insurers are free to include retroactive dates in their policies, thereby limiting their risk of exposure for acts committed in years past.

¶ 31 In sum, we conclude that the language of the Illinois Union policies, when read in context, is plain in providing that coverage is triggered by the “offense” of malicious prosecution “happening” within the policy period and the offense of malicious prosecution only happens once all of the elements of the tort are met. In the present case, that means that the coverage trigger was Sanders’s exoneration in 2014, which was well within the effective periods of the Illinois Union and Starr policies. Thus, the trial court erred when it dismissed plaintiffs’ second amended complaint with prejudice.

¶ 32 Because we conclude that Sanders’s exoneration triggered coverage under defendants’ policies, we need not address plaintiffs’ alternative argument that Sanders’s retrials were additional triggers for coverage.

¶ 33 CONCLUSION

¶ 34 For the foregoing reasons, the judgment of the circuit court of Cook County is reversed, and this matter is remanded for further proceedings.

¶ 35 Reversed and remanded.

¶ 36 PRESIDING JUSTICE MASON, dissenting:

¶ 37 I agree with my colleagues that the language of an insurance policy governs its interpretation and that, depending on the policy language, the same occurrence may be covered

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under one policy and not another. But if the offense of malicious prosecution is not *committed* when the defendant in the underlying case is exonerated (*First Mercury*, 2018 IL App (1st) 171532, ¶¶ 35-36), I see no legal or grammatical reason why, under the insurance policies here, we should conclude that malicious prosecution *happens* or *takes place* upon exoneration. Under the clear and unambiguous language of the Illinois Union/Starr policies, the malicious prosecution of Sanders happened in 1994 when he was wrongfully charged with murder; it did not happen in either 2013, when he was retried, or in 2014, when after his third trial, he was acquitted. Because I believe the trial court properly granted summary judgment to defendants, I respectfully dissent.

¶ 38 Illinois Union agreed to provide coverage for claims arising out of an occurrence (defined, in relevant part, as “those offenses specified in the definition of Personal Injury,” including malicious prosecution) “happening” during the policy period for “Personal Injury” (defined to include “malicious prosecution”) “taking place” during the policy period. If we substitute “malicious prosecution” in the policy’s coverage grant, it provides coverage for “claims arising out of malicious prosecution happening during the policy period for malicious prosecution taking place during the policy period.” This language may be redundant, but it is not ambiguous: the occurrence and the personal injury/malicious prosecution giving rise to the claim must happen and take place during the policy period.

¶ 39 To support the conclusion that the offense of malicious prosecution takes place or happens when a defendant is exonerated, my colleagues rely on a definition of “offense” from Black’s Law Dictionary, which includes among its definitions “[a] violation of the law; a crime, often a minor one.” Black’s Law Dictionary (10th ed. 2014). Black’s Law Dictionary also defines “offense” as “an intentional unlawful act that causes injury or loss to another and that

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gives rise to a claim for damages.” *Id.* And Merriam-Webster defines offense as “something that outrages the moral or physical senses”; “the act of attacking”; “the act of displeasing or affronting”; or “a breach of moral or social code.” Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/offense> (last visited Jan. 7, 2019). [<https://perma.cc/KG27-NBK9>].

¶ 40 In my view, any one of these definitions, including the one relied on by the majority, suggests that an “offense” is the wrongful conduct or unlawful act. It was a “violation of the law” for Chicago Heights police officers to bring false murder charges against Sanders, just as those false charges constituted an “intentional unlawful act” and “something that outrages the moral sense.” None of these definitions associates “offense” with a completed tort that triggers the running of the statute of limitation and the concomitant right to sue. See *First Mercury*, 2018 IL App (1st) 171532, ¶ 30.

¶ 41 The overwhelming weight of authority in Illinois supports the conclusion that it is the commencement of prosecution, and not exoneration, that triggers coverage for malicious prosecution. See *id.* ¶ 35 (concluding that “offense” as used in the policy referred to the insured’s wrongful conduct that led to the claimant’s conviction rather than the claimant’s exoneration, which could not “logically be considered part of an ‘injury’ to the [claimant]”); *Indian Harbor*, 2015 IL App (2d) 140293, ¶ 24 (“[T]he favorable termination of a malicious prosecution marks the beginning of the judicial system’s remediation of the wrong committed, not the commencement of the injury or damage.” (Internal quotation marks omitted.)); *City of Waukegan*, 2017 IL App (2d) 160381, ¶ 48 (explaining that “the time of occurrence in insurance law is different from the time of accrual in tort law. In insurance law, the time of occurrence is used to determine when the operative terms of the policy provide coverage. In tort law, the time

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of accrual is used to determine when the statute of limitations begins to run, a separate consideration ***.”); see also *City of Zion*, 2014 IL App (2d) 131312, ¶¶ 12, 26 (claimant charged with murder before inception of policy, but exonerated during policy period not entitled to coverage under policy covering claims for malicious prosecution that “ ‘happens while this agreement is in effect’ ”); *County of McLean*, 2015 IL App (4th) 140628, ¶¶ 26, 32-34 (the “occurrence” of the alleged “personal injury” was each underlying plaintiff’s “arrest and prosecution, not his exoneration”).

¶ 42 And Illinois is not alone in reaching this conclusion. See *Hampton v. Carter Enterprises, Inc.*, 238 S.W.3d 170, 177 (Mo. Ct. App. 2007) (“offense” of malicious prosecution occurs upon the institution of the underlying action as “[t]hat is the point *** at which the defendant invoked the judicial process against the victim maliciously and without probable cause, causing the victim’s injury”); *Zurich Insurance Co. v. Peterson*, 232 Cal. Rptr. 807, 813 (Ct. App. 1986) (the “occurrence” is the filing of criminal complaint, which triggers coverage under insurance policy); *Harbor Insurance Co. v. Central National Insurance Co.*, 211 Cal. Rptr. 902, 907 (Ct. App. 1985) (“[a]lthough favorable termination thus serves to confirm the element of lack of probable cause, the focus of the wrong is upon the institution of the suit, with malice and without such probable cause”).

¶ 43 The results reached in these cases dealing with insurance coverage comport with the point in time at which a prosecution is determined to be “malicious,” *i.e.*, at its outset. See *Miller v. Rosenberg*, 196 Ill. 2d 50, 58 (2001) (recognizing that element of claim for malicious prosecution is showing that the defendant “instituted the underlying suit without probable cause and with malice”); *Howard v. Firmand*, 378 Ill. App. 3d 147, 150 (2007) (complaint for malicious prosecution arose out of petition for order of protection: There must be “an *honest*

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belief by the complainant at the time of subscribing a criminal complaint that another is probably guilty of an offense; it is immaterial that the accused may thereafter be found not guilty.” (Emphasis in original and internal quotation marks omitted.); *Johnson v. Target Stores, Inc.*, 341 Ill. App. 3d 56, 72 (2003) (“It is the state of mind of the one commencing the prosecution, and not the actual facts of the case or the guilt or innocence of the accused, that is at issue.” (Internal quotation marks omitted.)); *Turner v. City of Chicago*, 91 Ill. App. 3d 931, 937 (1980) (in malicious prosecution case against prosecutor, “[m]alice *** is proved by showing that the prosecutor was actuated by improper motives”); see also *Beaman v. Freesmeyer*, 2017 IL App (4th) 160527, ¶¶ 57-58 (in order to find police officer liable in malicious prosecution case when decision to prosecute rests with State’s Attorney, plaintiff must show that the “officer pressured or exercised influence on the prosecutor’s decision or made knowing misstatements upon which the prosecutor relied”). Malicious prosecution focuses on the state of mind of the defendant at the time the underlying proceedings were commenced. Here, Sanders’s acquittal, absent a showing that the prosecution was malicious, does not give rise to any claim. And because Illinois Union’s policy covers *malicious* prosecution that “happens” and “takes place” during the policy period, the trigger of coverage is when the wrongful prosecution was commenced.

¶ 44 The majority’s attempt to distinguish relevant Illinois authority based on minor differences in policy language is unpersuasive. I find no meaningful difference between Illinois Union’s policy language and the language at issue in other Illinois cases, all of which have reached uniform conclusions. For example, in *First Mercury*, a case decided by a different division of this district less than a year ago and very closely analogous to this case, the policy provided coverage for an “‘offense’ ” (read: malicious prosecution) that was “‘committed’ ” during the policy period. 2018 IL App (1st) 171532, ¶ 8. Here, the policy covers an occurrence

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(read: malicious prosecution) “happening” and “taking place” during the policy period. There is no sound reason to reach a polar opposite conclusion regarding the trigger of coverage in this case, particularly since it unavoidably creates a split of authority within this district.

¶ 45 Unlike the majority, I ascribe little weight to the fact that the policy refers to offenses by their “proper, legal names” as opposed to the “underlying wrongful acts.” *Supra* ¶ 20.

¶ 46 First, virtually every liability policy providing coverage for such offenses describes them by their “proper, legal names.” See, e.g., *First Mercury*, 2018 IL App (1st) 171532, ¶ 9 (policy referred to the offense of “malicious prosecution”); *Allstate Insurance Co. v. Amato*, 372 Ill. App. 3d 139 (2007) (policy referred to, among other things, offenses of “false arrest,” “wrongful entry,” “libel,” “slander,” and “defamation of character” (internal quotation marks omitted)); *John T. Doyle Trust v. Country Mutual Insurance Co.*, 2014 IL App (2d) 121238, ¶ 6 (policy referred to “wrongful eviction,” “wrongful entry,” and “invasion of the right of private occupancy” (internal quotation marks omitted)); *Dixon Distributing Co. v. Hanover Insurance Co.*, 244 Ill. App. 3d 837, 842 (1993) (policy listed offenses of “ ‘libel, slander, defamation of character, discrimination, false arrest, false imprisonment, wrongful eviction, wrongful detention, malicious prosecution or humiliation’ ”). And, to date, no court has used that common language to equate the “occurrence” of these offenses with the accrual of a claimant’s right to sue.

¶ 47 Second, as a practical matter, it would be impossible to draft an insurance policy that described all of the possible wrongful acts that could give rise to a claim for such offenses. For example, there are many ways a person can commit the policy’s enumerated offense of defamation of character. An insured could publish (by speaking, writing or otherwise disseminating (*Goldberg v. Brooks*, 409 Ill. App. 3d 106, 110 (2011)) a statement that a third

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party committed a crime or is infected with a loathsome communicable disease or lacks integrity or ability in the performance of duties of office or employment (*Tunca v. Painter*, 2012 IL App (1st) 093384, ¶¶ 41-42) or otherwise “expose[s] [the third party] to hatred, ridicule, or contempt” by damaging the party’s personal reputation, financial reputation, or deterring others from associating with the third party (Restatement (Second) of Torts § 559 cmt. b, c (1977)). And these are by no means all of the ways a person can defame the character of another. The same is true of malicious prosecution. The tort may be committed by the police, the complainant in a criminal case, the prosecution, or a civil litigant. It can involve, among other things, the manufacturing of false evidence, the procurement of false testimony, the withholding of evidence, or the pursuit of a case, civil or criminal, without factual or legal justification or for an improper purpose. A policy that attempted to articulate all of the wrongful acts that could possibly give rise to a claim for one of the enumerated offenses would be verbose in the extreme and, for that reason, unintelligible.

¶ 48 As Illinois Union pointed out at oral argument, the interpretation of the policy adopted by the majority would invite insurers to selectively decline to write or renew insurance once the insured’s potential liability for malicious prosecution was raised but before the right to sue—the trigger of coverage according to the majority—accrued. This case is an excellent example. Sanders was charged with murder in 1994. The policy period at issue here is November 1, 2013, through November 1, 2014. By January 2013, in the middle of the previous policy period, Sanders had enough information to file a federal civil rights lawsuit in which he made detailed factual allegations about fabricated and withheld evidence and asserted claims against Chicago Heights and its officers for violations of due process, conspiracy, malicious prosecution, and intentional infliction of emotional distress. Since Sanders had not yet been acquitted after his

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third trial, he admits his malicious prosecution claim was premature. If the majority's interpretation of the date the "offense" of malicious prosecution occurs under Illinois Union's policy is correct, upon being advised of the federal lawsuit, Chicago Heights' current carrier, believing that it could potentially be on the hook for decades of wrongful incarceration, would likely decline to renew the municipality's insurance. Any other insurer, understanding that it was assuming the risk of an adverse judgment once Sanders was exonerated, would either charge an exorbitant premium, exclude the risk via an endorsement, or refuse to insure the municipality altogether.

¶ 49 Because I conclude that the offense of malicious prosecution occurs, under the language of Illinois Union's policy, when the prosecution is initiated, I would address Sanders's alternative argument that his retrials were additional triggers for coverage. This court rejected an identical argument in *City of Waukegan*, 2017 IL App (2d) 160381, which I find persuasive. There, the insured argued that the State's use of a coerced confession and its continued withholding of evidence during retrials of the claimant, Juan Rivera, were independent acts triggering coverage. *Id.* ¶ 18. We disagreed, stating that "Rivera's second and third trials were continuations of his wrongful prosecution, which increased his damages but were not new injuries." *Id.* ¶ 36. The same holds true here. Retrials are new trials on existing charges; they are not new and separate prosecutions. It is the charging of the claimant, not the trial of the claimant on those charges, that constitutes an "occurrence" for policy purposes. Other language of Illinois Union's policy also supports this result. In its definition of "occurrence," the policy provides that "[a]ll damages arising out of substantially the same offense [(read: malicious prosecution)] regardless of frequency, repetition, the number or kind of offenses *** will be considered as arising out of one Occurrence." Sanders's initial prosecution and his retrials all arose out of the

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same false charges against him. As such, the retrials were not independent occurrences triggering coverage.

¶ 50 For these reasons, I would affirm the decision of the trial court.

3. Chicago Heights and the individual defendants tendered Mr. Sanders's lawsuit to three of their insurance companies—United National Insurance Company, Illinois Union Insurance Company, and Starr Indemnity & Liability Company.

4. United National acknowledged coverage obligations under a reservation of rights, but Illinois Union and Starr Indemnity denied coverage. The denials were wrongful, unreasonable, and vexatious. In response, Chicago Heights and the individual defendants filed this lawsuit, seeking a declaration that Illinois Union and Starr Indemnity owe coverage obligations for Mr. Sanders's suit.

5. Mr. Sanders was also named as a defendant in this lawsuit, solely to the extent he may be deemed a necessary party with an interest in the outcome. No separate relief was sought from Mr. Sanders.

6. In Mr. Sanders's federal civil rights suit, after motions to dismiss and summary judgment dismissed some defendants, the remaining defendants were Chicago Heights, Jeffrey Bohlen, and Robert Pinnow (collectively, the "Chicago Heights Actors").

7. Mr. Sanders and the Chicago Heights Actors recently concluded Mr. Sanders's civil rights suit. On September 28, 2016, a consent judgment was entered in Mr. Sanders's favor, for \$15 million. The Chicago Heights Actors agreed to contribute \$2 million, without admission of liability or wrongdoing, and United National agreed to contribute its \$3 million policy.

8. Illinois Union and Starr Indemnity refused to pay a dime. Their refusal to provide insurance coverage was wrongful, unreasonable, and vexatious.

9. The present Complaint is based on an assignment Mr. Sanders received from the Chicago Heights Actors, to pursue their claims against Illinois Union and Starr Indemnity,

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including their claims in this declaratory judgment lawsuit. Mr. Sanders hereby incorporates by reference the factual allegations in the original complaint in this lawsuit.

10. On November 17, 2016, this Court entered an order realigning the parties to properly identify Mr. Sanders as the plaintiff and Illinois Union and Starr Indemnity as the defendants. On May 10, 2017, this Court entered an agreed order granting Mr. Sanders leave to file this second amended complaint, naming the City of Chicago Heights as a necessary party plaintiff.

JURISDICTION AND VENUE

11. The Court has jurisdiction of this action pursuant to Article VI § 9 of the Illinois Constitution and 735 ILCS § 5/2-209.

12. Venue is proper pursuant to 735 ILCS § 5/2-101 and 735 ILCS § 5/2-102.

PARTIES AND OTHER RELEVANT PERSONS AND ENTITIES

13. Plaintiff Rodell Sanders is an individual, resident and citizen of Illinois.

14. Defendant Illinois Union is a for-profit corporation organized and existing under the laws of Illinois, with its principal place of business located in Illinois.

15. Defendant Starr Indemnity is a for-profit corporation organized and existing under the laws of Texas, with a registered agent in Illinois.

16. The City of Chicago Heights is a necessary party plaintiff because it may have a right to relief arising out of the same transaction or series of transactions based on common questions of law.

FACTS ALLEGED IN THE UNDERLYING CIVIL RIGHTS COMPLAINT

Introduction

17. There was no physical evidence linking Mr. Sanders to this crime. Rather, the only purported evidence against Mr. Sanders consisted of two allegedly false witness

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identifications. These wrongful identifications were procured through alleged manipulation and coercion by members of the City of Chicago Heights's police department.

18. The misconduct that caused Mr. Sanders' wrongful conviction was allegedly widespread. Prior to Mr. Sanders' unlawful prosecution, other individuals were allegedly unlawfully arrested by the same group of Chicago Heights Police Detectives, led by Jeffrey Bohlen, Robert Pinnow, and their former Chief.

19. Although Mr. Sanders's conviction has been reversed, he will never regain the lost decades of his life. He brought his federal civil rights lawsuit seeking redress for his injuries.

Federal Civil Rights Lawsuit

20. When Rodell Sanders brought his federal civil rights lawsuit, he was 48 years-old. Mr. Sanders was born and raised in Chicago Heights. He has two daughters. When he was wrongfully imprisoned, his oldest daughter was 13 years old and his youngest was not yet born. His daughters grew up without having a father in their lives, as a result of Mr. Sanders's wrongful incarceration.

21. Apart from the wrongful conviction that was the subject of his federal civil rights lawsuit, Mr. Sanders has no felony criminal convictions.

22. The City of Chicago Heights is an Illinois municipal corporation, and is and/or was the employer of Bohlen and Pinnow. The City of Chicago Heights is responsible for the acts of those Officers while employed by the City of Chicago Heights and while acting within the scope of their employment.

23. At all times relevant hereto, Jeffrey Bohlen and Robert Pinnow were police officers in the Chicago Heights Police Department acting under color of law and within the scope of their employment for the City of Chicago Heights.

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The Shooting

24. On December 15, 1993, Stacy Armstrong and Phillip Atkins were sleeping in a parked car around two in the morning. After being abruptly awoken, Ms. Armstrong and Mr. Atkins were accosted by a group of men and led to an abandoned garage.

25. The garage was so dark that the offenders used a lighter to carry out the robbery and shooting that followed.

26. Mr. Atkins was killed and Ms. Armstrong was shot multiple times and left for dead. Ms. Armstrong blacked out after being shot. Once she regained consciousness, Ms. Armstrong sought help by going to a nearby house and she was taken to the hospital. Ms. Armstrong survived the shooting.

Mr. Sanders' Innocence

27. Mr. Sanders had absolutely nothing to do with the crime.

28. At the time of the shooting, Mr. Sanders was nowhere nearby. Rather, Mr. Sanders was at his friend Vicky Ross's apartment. According to Ms. Ross and many others, Mr. Sanders was playing cards and hanging out with them at all relevant times on the night of December 14, 1993. The alibi witnesses recall that Mr. Sanders stayed at the apartment into the early morning hours of the following day.

Chicago Heights Actors' Alleged Misconduct

29. There was never any physical evidence linking Mr. Sanders to this crime. None of his fingerprints or his DNA was found at the crime scene, nor was any incriminating evidence of any kind ever discovered in his possession.

30. Bohlen and Pinnow knew Mr. Sanders and allegedly bore a grudge against him. Despite the lack of evidence against him, the Chicago Heights Actors allegedly pinned the shootings on Mr. Sanders.

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31. The Chicago Heights Actors first spoke with Ms. Armstrong at the hospital on the night of the shooting. However, Ms. Armstrong's fragile condition prevented her from having anything more than a brief conversation with the Chicago Heights Actors at that time.

32. After a couple of weeks, Bohlen and Pinnow interviewed Ms. Armstrong again. During this subsequent interview, Ms. Armstrong gave a detailed account of the shooting.

33. In particular, Ms. Armstrong informed Bohlen and Pinnow that four people committed the crime. She could not identify the first and the fourth offenders, whom she described only as black men who acted as lookouts.

34. Ms. Armstrong, however, allegedly gave a detailed description of the shooter and the individual who ordered the shooting.

35. As to the shooter, Ms. Armstrong allegedly informed Pinnow and Bohlen that he was a 16-year-old, short black male (between five feet, five inches and five feet, seven inches) with a medium build and medium complexion who was wearing a black shirt with a black hood and black pants.

36. Ms. Armstrong further allegedly described the man who ordered the shooting (who will be hereafter referred to alternatively as Offender Number Three) as a 30-year-old, taller (approximately six feet) and skinny black man who was wearing black and grey faded pants and an olive, knit ski cap.

37. Germaine Haslett, approximately six feet tall and skinny, has confessed that he was the person who acted as Offender Number Three.

38. The Chicago Heights Actors were allegedly already well acquainted with Mr. Haslett. He allegedly had been working as their snitch in another Chicago Heights prosecution against a man named Bernard Ellis. Although the Ellis prosecution later fell apart when the

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courts learned that the police had provided undisclosed benefits to the State witnesses, at the time of the investigation into the Atkins and Armstrong shooting, Mr. Haslett was an important witness for the Chicago Heights Actors.

39. Because the Chicago Heights Actors were allegedly focused on protecting Mr. Haslett, the Chicago Heights Actors allegedly sought to minimize Mr. Haslett's complicity in the crime by finding someone else to take his place as Offender Number Three, namely Mr. Sanders.

40. At the time of the shooting, Mr. Sanders stood five feet eight inches tall, weighed close to 200 pounds, and was 30 years old. He did not match the alleged description of Offender Number Three (a tall skinny guy) or that of the shooter (a sixteen-year-old teenager). Nor did Mr. Sanders have anything whatsoever to do with this crime.

41. Because Mr. Sanders did not match Ms. Armstrong's description, the Chicago Heights Actors allegedly manipulated Ms. Armstrong into changing her identification of Offender Number Three from tall and skinny Mr. Haslett to short and stocky Mr. Sanders.

42. To accomplish the task of having Ms. Armstrong misidentify Mr. Sanders, the Chicago Heights Actors allegedly concocted a flawed photographic line-up designed to improperly implicate Mr. Sanders. To begin, although Ms. Armstrong had allegedly described Offender Number Three as tall and skinny, the Chicago Heights Actors allegedly inserted the short and stocky Mr. Sanders into the photo line-up shown to Ms. Armstrong. Furthermore, the Chicago Heights Actors allegedly did not include tall and skinny Germaine Haslett's photograph in the photo line-up.

43. The Chicago Heights Actors allegedly used additional means to improperly influence Ms. Armstrong into picking Mr. Sanders' photograph out of the photo line-up. Among other manipulation that was used, the Chicago Heights Actors allegedly arranged for Ms.

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Armstrong to be relocated out of state in exchange for her identification of Mr. Sanders. Neither that relocation nor any of the other alleged manipulation to which Ms. Armstrong was subjected was ever disclosed to Mr. Sanders.

44. As a result of the Chicago Heights Actors' alleged unlawful conduct, Ms. Armstrong also identified Mr. Sanders in a subsequent live lineup.

Mr. Sanders' Unlawful Arrest

45. Several weeks after the shooting, the Chicago Heights Actors arrested Mr. Sanders based on Armstrong's allegedly false identification.

46. According to Pinnow, he arrested Mr. Sanders because he was aware of an "arrest card" that the Chicago Heights Police Department had issued for Mr. Sanders, although that arrest card was never produced during discovery or at the trial.

47. At the police station, Mr. Sanders was interrogated. During that interrogation, and on all subsequent occasions, Mr. Sanders steadfastly maintained his innocence, denying that he had any knowledge or involvement in the crime.

48. The Chicago Heights Actors also questioned Mr. Haslett about the shootings. Unlike Mr. Sanders, Mr. Haslett confessed his involvement as Offender Number Three to the Chicago Heights Actors. Indeed, since the morning of the shooting, Mr. Haslett allegedly has repeatedly confessed to having ordered the shooting of Mr. Atkins and Ms. Armstrong to family and friends.

49. Moreover, Haslett allegedly told the Chicago Heights Actors that the person who actually shot Atkins and Armstrong was present at the crime scene. The Chicago Heights Actors allegedly withheld this revelation from Mr. Sanders, withholding both the shooter's name and the fact that Haslett said he was present at the scene of the crime. This information was allegedly

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withheld from Mr. Sanders during the entirety of his criminal proceedings and was not discovered until after his acquittal.

50. Although the Chicago Heights Actors allegedly knew that Mr. Haslett was guilty and Mr. Sanders was innocent of this crime, the Chicago Heights Actors endeavored to protect Mr. Haslett. They allegedly offered Mr. Haslett a deal—if he would falsely implicate Mr. Sanders as Offender Number Three, they would allow Mr. Haslett to paint himself as just one of the look-outs and give him a generous plea deal.

Haslett's Undisclosed Benefits

51. Mr. Haslett allegedly agreed to participate in the illicit scheme. In exchange for his false statement inculcating Mr. Sanders, Mr. Haslett allegedly received a deal on the Atkins and Armstrong case, allegedly allowing him to plead guilty to armed robbery instead of facing charges for murder and attempt murder.

52. That, however, was not the only benefit that Mr. Haslett allegedly received. Unbeknownst to Mr. Sanders, during the pendency of Mr. Sanders' case, Bohlen allegedly arranged for Mr. Haslett to continue his career as an FBI and Chicago Heights police informant, including by giving testimony against Mr. Sanders. In doing so, Mr. Haslett was able to allegedly curry multiple additional, undisclosed favors for himself.

53. First, in exchange for Haslett's testimony against Mr. Sanders, the Chicago Heights Actors allegedly agreed to terminate Mr. Haslett's probation in an unrelated drug case. That consideration was never disclosed to Mr. Sanders or his defense.

54. Second, the Chicago Heights Actors allegedly arranged for Mr. Haslett to receive a two-year reduction on the 12-year sentence he was given as part of his plea in the Atkins and Armstrong case. As a result, Mr. Haslett allegedly served fewer than five years in prison. In addition, the Chicago Heights Actors allegedly ensured that Mr. Haslett was housed during those

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five years in the witness quarters in the State's Attorney's Office, protective custody at the Cook County Jail or in the federal system. The alleged reduction in Mr. Haslett's sentence and his preferred housing while incarcerated were both withheld from Mr. Sanders and his defense.

The Wrongful Conviction

55. At trial, the only evidence introduced against Mr. Sanders consisted of the allegedly false identifications by Ms. Armstrong and Mr. Haslett. All other evidence, including the physical evidence collected by the Chicago Heights Actors, allegedly exculpated Mr. Sanders.

56. Nevertheless, on the basis of the allegedly false identifications procured by the Chicago Heights Actors, the jury convicted Mr. Sanders of attempt murder, armed robbery and murder.

57. Mr. Sanders was then sentenced to 55 years of incarceration for the murder and 25 years of incarceration for the attempt murder to run consecutively. In addition, Mr. Sanders was sentenced to a concurrent 20 years of imprisonment on the armed robbery charge.

Mr. Sanders' Exoneration

58. Mr. Sanders fought tirelessly to overturn his wrongful conviction. After almost two decades of incarceration, Rodell Sanders' unjust conviction was finally vacated on January 14, 2011.

59. The Circuit Court's ruling overturning Mr. Sanders' conviction and vacating his sentence was affirmed by the Illinois Court of Appeals on May 30, 2012.

60. Mr. Sanders had to stand retrial in July 2013, which resulted in a mistrial, and in July 2014, when he was acquitted of all charges.

61. The Chicago Heights Actors allegedly violated Mr. Sanders's constitutional rights during the 2013 and 2014 trials, including by withholding allegedly exculpatory evidence, such

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as Haslett's confession that he was Offender Number Three, Haslett's statements placing the true shooter at the scene, and their alleged manipulation of Armstrong's identification of Mr. Sanders, as well as by fabricating Mr. Haslett's false testimony implicating Plaintiff.

62. Absent those alleged constitutional violations, Mr. Sanders would not have been retried after the vacation of his conviction was affirmed in 2012.

Mr. Sanders' Injuries

63. In serving nearly two decades behind bars, Mr. Sanders has been, and continues to be, wrongfully deprived of much of his adult life. Mr. Sanders has been stripped of the various pleasures of basic human experience, from the simplest to the most important, which all free people enjoy as a matter of right. He missed out on the ability to raise his daughters, share holidays, births, funerals, and other life events with loved ones, and the fundamental freedom to live one's life as an autonomous human being.

64. Further, despite having had his wrongful conviction overturned, Mr. Sanders had to face trial in 2013 and 2014 based on evidence allegedly fabricated by the Chicago Heights Actors, while other exculpatory evidence was allegedly withheld from him by those same individuals.

65. As a result of his wrongful incarceration, Mr. Sanders must now attempt to rebuild his life, all without the benefit of the life experiences that ordinarily equip adults for that task.

Federal Civil Rights Lawsuit

66. Mr. Sanders filed a federal civil rights lawsuit titled *Rodell Sanders v. City of Chicago Heights, et al.*, Case No. 13-CV-221 (N.D. Ill.). The defendants in that suit were the City of Chicago Heights and the officers involved in allegedly wrongfully convicting Mr. Sanders.

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67. Mr. Sanders alleged, among other things, violations of due process, conspiracy, failure to intervene, malicious prosecution, and intentional infliction of emotional distress. *See Rodell Sanders v. City of Chicago Heights, et al.*, Case No. 13-CV-221 (N.D. Ill.). Mr. Sanders alleged that the officers acted individually, jointly, in conspiracy, within the scope of their employment, under color of law, and pursuant to the policy and practice of the Chicago Heights Police Department. Accordingly, Mr. Sanders sought to hold the individual defendants liable for their own actions, and sought to hold the City of Chicago Heights liable in its own right as well as in its role as an indemnitor. Mr. Sanders sought compensatory damages, costs, attorneys' fees, and other relief.

68. Mr. Sanders filed his initial Complaint on January 11, 2013. At that time, his wrongful convictions had not been fully and finally overturned in his favor (a legal requirement to the assertion of a malicious prosecution claim).

69. Until his criminal proceedings were concluded, Mr. Sanders could not bring a claim for malicious prosecution.

70. Mr. Sanders was retried in August of 2013, resulting in a hung jury. He was tried again in July 2014, resulting in a full acquittal.

71. At his 2013 and 2014 re-trials, the prosecution added theories that had never been tried before – specifically, asking the jury to convict Mr. Sanders based on a theory of accountability.

72. He filed a First Amended Complaint on August 5, 2014, adding claims of malicious prosecution. He later filed a Second Amended Complaint on April 10, 2015. The Second Amended Complaint is attached hereto as Exhibit A.

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Illinois Union Insurance Policies

73. Illinois Union issued primary insurance policies to the City of Chicago Heights for the time periods of: (1) November 1, 2010, to November 1, 2011 (Policy No. PEP G24891562); (2) November 1, 2011, to November 1, 2012 (Policy No. PEP G24891562 002); (3) November 1, 2012, to November 1, 2013 (Policy No. PEP G24891562 003); and (4) November 1, 2013, to November 1, 2014 (Policy No. PEP G24891562 004). These policies are referred to collectively as the "Illinois Union policies." The 2012–13 policy is attached as Exhibit B (this policy period covers Mr. Sanders's first retrial). The 2013–14 policy is attached as Exhibit C (this policy period covers Mr. Sanders's second retrial, and his acquittal). On information and belief, the 2010–11 and 2011–12 policies are substantially similar to the attached policies.

74. The Illinois Union policies have a one hundred thousand dollar (\$100,000) self-insured retention limit.

75. The Illinois Union policies include law enforcement liability as part of the General Liability Coverage Part, with a total coverage limit of one million dollars (\$1,000,000) for each occurrence and two million dollars (\$2,000,000) in the aggregate for each policy period.

76. On information and belief, the City of Chicago Heights paid a total premium of \$325,445 for the 2012–13 Illinois Union policy, and \$355,091 for the 2013–14 Illinois Union policy.

77. The Illinois Union policies provide primary coverage for claims of the offense of malicious prosecution made against the Chicago Heights Actors for alleged conduct undertaken in the course of and within the scope of law enforcement duties and responsibilities.

78. The Illinois Union policies promise to indemnify the Chicago Heights Actors for damages and claims expenses, which include attorneys' fees and costs, when the insureds have

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satisfied the \$100,000 self-insured retention limit. With regard to defense and settlement, the Illinois Union primary policies Common Conditions, Definitions and Exclusions provides in relevant part:

7. Defense and Settlement

d. When the **Damages and Claim Expenses** for which **You** become legally obligated to pay exceed the **Retained Limit**, **You** will be entitled to indemnification by **Us**. You shall submit any request for indemnification to **Us** as soon as practicable after the **Damages and Claim Expenses** exceed the **Retained Limit**. **We** will promptly indemnify **You** in excess of the **Retained Limit** subject to the Limit of Insurance for the applicable Coverage Part as shown on the Declarations. The **Retained Limit** must be satisfied by actual payment by **You**. The **Retained Limit** may not be satisfied by payment by the **Insured** of any deductible of any other **Policy** or payments made on behalf of the **Insured** by any other insurer, person or entity. The **Insured** must make actual payment of the **Retained Limit** under this **Policy** without regard to whether the **Insured** must pay other amounts under any other **Policy**, even if the claimed amounts are deemed to have been caused by one **Occurrence, Accident or Wrongful Act**. The **Retained Limit** shall not be impaired by any **Claim** brought against an **Insured** which is not covered under the applicable Coverage Part.

79. The Illinois Union policies include definitions that describe the types of claims alleged in Mr. Sanders's federal civil rights lawsuit. The Common Policy Definitions of the Illinois Union policies provide definitions including, but not limited to the following:

Definitions

6. **Bodily Injury** means physical injury to the body, sickness or disease, including death resulting from any of these at any time, and if arising out of the foregoing, mental anguish, mental injury, mental tension, emotional distress, disability, pain and suffering, shock or fright.

8. **Claims Expenses** means:

c. Pre-judgment and post-judgment interest awarded in any **Claim**.

17. **Insured** means each of the following to the extent set forth below:

a. **The Named Insured;**

b. While acting within the scope of their duties for the **Named Insured**:

iii. All of **Your** current or former **Employees**.

20. **Law Enforcement Activities** means any of the official activities or operations of **Your** police force or any other public safety organization, including their agents or employees, which enforces the law and protects persons or property.

23. **Occurrence** means:

a. With respect to **Bodily Injury and Property Damage**, an accidental happening including continuous or repeated exposure to substantially the same general harmful conditions which results in **Bodily Injury or Property Damage**. All such exposure to substantially the same general conditions will be considered as arising out of one **Occurrence**;

b. With respect to **Personal Injury**, only those offenses specified in the **Personal Injury** Definition. All damages arising out of substantially the same **Personal Injury** regardless of frequency, repetition, the number of kind of offenses, or number of claimants, will be considered as arising out of one **Occurrence**.

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24. **Personal Injury** means one or more of the following offenses:

a. False arrest, false imprisonment, wrongful detention or malicious prosecution;

80. The Insuring Agreement in the General Liability Coverage Part of the Illinois Union policies provides as follows:

General Liability Coverage Part

THE LIMITS OF INSURANCE AVAILABLE TO PAY INSURED DAMAGES SHALL BE REDUCED BY AMOUNTS INCURRED FOR CLAIMS EXPENSES. AMOUNTS INCURRED FOR DAMAGES AND CLAIMS EXPENSES SHALL ALSO BE APPLIED AGAINST THE RETAINED LIMIT AMOUNTS.

In consideration of the payment of the premium, in reliance upon the **Application**, and subject to the Declarations and the terms and conditions of this **Policy**, the **Insureds** and the **Insurer** agree as follows:

A. Insuring Agreement

The **Insurer** will indemnify the **Insured** for **Damages** and **Claim Expenses** in excess of the **Retained Limit** for which the **Insured** becomes legally obligated to pay because of a **Claim** first arising out of an **Occurrence** happening during the **Policy Period** in the Coverage Territory for **Bodily Injury**, **Personal Injury**, **Advertising Injury**, or **Property Damage** taking place during the **Policy Period**.

No other obligation to pay any additional sums, perform acts or provide services is covered.

Starr Indemnity Excess Liability Policy

81. Starr Indemnity issued excess liability policies, to the City of Chicago Heights for the time periods of: (1) November 1, 2011, to November 1, 2012 (Policy No. SISCPEL00011411); (2) November 1, 2012, to November 1, 2013 (Policy No.

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SISCPEL01944312, Renewal of SISCPEL00011411); and (3) November 1, 2013, to November 1, 2014 (Policy No. 1000005129, Renewal of SISCPEL01944312). These policies are referred to collectively as the "Starr Indemnity policies." The 2012–13 policy is attached as Exhibit D (this policy period covers Mr. Sanders's first retrial). The 2013–14 policy is attached as Exhibit E (this policy period covers Mr. Sanders's second retrial, and his acquittal). On information and belief, the 2011–12 policy is substantially similar to the attached policies.

82. The Starr Indemnity policies are follow form excess liability policies providing coverage over the underlying Illinois Union policies. The Starr Indemnity policies have a limit of ten million dollars (\$10,000,000) for each occurrence.

83. The Starr Indemnity policies identify the Illinois Union policies as the underlying insurance.

84. On information and belief, the City of Chicago Heights paid a policy premium of \$115,800 for the 2012–13 Starr Indemnity policy, and a policy premium of \$121,600 for the 2013–14 Starr Indemnity policy.

85. Section I. Coverage of the Starr Indemnity Excess Liability Policy provides:

SECTION I. COVERAGE

- A.** We will pay on behalf of the Insured, the "Ultimate Net Loss" in excess of the "Underlying Insurance" as shown in **ITEM 5.** of the Declarations, that the Insured becomes legally obligated to pay for loss or damage to which this insurance applies and that takes place in the Coverage Territory. Except for the terms, definitions, conditions and exclusions of this Policy, the coverage provided by this Policy shall follow the terms, definitions, conditions and exclusions of the applicable First Underlying Insurance Policy(ies) shown in **ITEM 5.A.** of the Declarations.
- B.** Regardless of any other warranties, terms, conditions, exclusions or limitations of this Policy, if any applicable Underlying Insurance Policy(ies) does not cover "Ultimate Net Loss" for reasons other than exhaustion of its limit of liability

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by payment of claims or suits, then this Policy will not cover such "Ultimate Net Loss".

C. The amount we will pay for the "Ultimate Net Loss" is limited as described in **SECTION II. LIMITS OF INSURANCE.**

86. Section II. Limits of Insurance of the Starr Indemnity Excess Liability Policy provides:

SECTION II. LIMITS OF INSURANCE

A. The Limits of Insurance shown in the Declarations and the rules below describe the most we will pay regardless of the number of:

- 1. Insureds;
- 2. Claims made or suits brought; or
- 3. Persons or organizations making claims or bringing suits.

B. The Limits of Insurance of this Policy will apply as follows:

1. This Policy applies only in excess of the "Underlying Insurance" scheduled in **ITEM 5.** of the Declarations.

7. The Limits of Insurance shown in **ITEM 4.** of the Declarations apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the Policy Period shown in the Declarations, unless the Policy Period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the preceding period for purposes of determining the Limits of Insurance.

87. Section III. Definitions of the Starr Indemnity Excess Liability policies provides:

SECTION III. DEFINITIONS

A. "Ultimate Net Loss"

"Ultimate Net Loss" means the total sum, after reduction for all recoveries including other valid and collectible insurance, excepting only the "Underlying Insurance" scheduled under **ITEM 5.** of the Declarations, actually paid or payable due to a claim or suit for which you or an Insured are liable either by a settlement to which we agreed or a final judgment.

The term "Ultimate Net Loss" shall also include defense costs

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when such defense costs are included within the limits of insurance of any applicable "Underlying Insurance."

B. "Underlying Insurance"

"Underlying Insurance" means the Policy(ies) and/or self-insured retention identified in **ITEM 5.** of the Declarations. "Underlying Insurance" shall include:

1. The First Underlying Insurance Policy(ies) scheduled in **ITEM 5.A.** of the Declarations;
2. Any additional Underlying Insurance Policy(ies) scheduled in **ITEM 5.B.** of the Declarations, and
3. Any renewal or replacement of such Policy(ies).

88. The Declarations specify that Illinois Union is the underlying insurance.

Denials of Coverage

89. The allegations in this section concern primarily communications between the Chicago Heights Actors and either Illinois Union or Starr Indemnity. These allegations are made on information and belief.

90. The Chicago Heights Actors tendered Mr. Sanders's lawsuit to three of their insurance companies—United National Insurance Company, Illinois Union Insurance Company, and Starr Indemnity & Liability Company. United National acknowledged coverage obligations under a reservation of rights, but Illinois Union and Starr Indemnity denied coverage. The denials were wrongful, unreasonable, and vexatious.

91. Illinois Union, as primary carrier, and Starr Indemnity, as excess carrier, failed to promptly acknowledge claims, failed to timely affirm or deny coverage, failed to provide a reasonable explanation of the basis of denying coverage, failed to participate in settlement negotiations, and thereby compelled the Chicago Heights Actors to pursue this litigation to enforce their rights under the insurance policies.

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92. The Chicago Heights Actors tendered Mr. Sanders's lawsuit to Illinois Union (primary carrier) and Starr Indemnity (excess carrier) for coverage under the law enforcement liability ("LEL") policy provisions, as well as any other applicable provisions of the primary and excess policies issued from November 1, 2011, through November 1, 2014.

93. Upon developments in Mr. Sanders's federal civil rights lawsuit, the Chicago Heights Actors reasserted their claims for coverage. For example, when Mr. Sanders's claims for malicious prosecution ripened after his acquittal, the Chicago Heights Actors reasserted their claims for coverage from Illinois Union and Starr Indemnity. The notice of claim also alerted Illinois Union and Starr Indemnity that Mr. Sanders was retried, twice, during the coverage periods. And Mr. Sanders's federal civil rights suit alleged that the Chicago Heights Actors' actions not only led to Mr. Sanders's wrongful incarceration, but also to his *continued* incarceration. That is, Mr. Sanders alleged that the Chicago Heights Actors continued to deprive him of his constitutional rights up through and during his re-trials in 2013 and 2014, and absent that denial he would have been exonerated even earlier than he in fact was.

94. Illinois Union was non-responsive to the Chicago Heights Actors' coverage claims for approximately two years. On December 22, 2014, Illinois Union declined coverage, even though the Illinois Union claims adjuster admitted that the policies included a duty to defend. This initial declination was conclusory in substance and devoid of legal or factual authority to support denial.

95. Upon receipt of Illinois Union's declination letter, the City of Chicago Heights' third party administrator ("TPA") immediately asked Illinois Union to reconsider its position in light of recent case law. Illinois Union rejected the TPA's request.

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96. In addition to Mr. Sanders's date of exoneration, the TPA expressly notified Illinois Union and Starr Indemnity of the retrial dates—August 2013 and July 2014—as discrete dates of loss.

97. Further, in January 2015, the TPA notified Illinois Union and Starr Indemnity of Mr. Sanders's settlement demand, which fell within the limits of the combined primary and excess coverage.

98. Starr Indemnity never responded to the notice of claim or notice of the settlement demand sent by the TPA.

99. When Illinois Union acknowledged receipt of the additional claims in February 2015, it sent a declination letter to the TPA, mirroring its initial declination letter, and declining coverage under the 2010–11 policy, even though the dates of loss for which Illinois Union was on notice occurred during the 2012–13 and 2013–14 policy periods. The Illinois Union declination letter once again acknowledged a duty to defend under the policy, but denied coverage.

100. In June 2015, the Chicago Heights Actors, through legal counsel, sent Illinois Union and Starr Indemnity correspondence once again demanding coverage, and including a detailed coverage analysis discussing relevant case law that supported the Chicago Heights Actors' coverage position.

101. In response, Illinois Union remained steadfast in a blanket denial of coverage.

102. In October 2015, counsel for the Chicago Heights Actors sent another letter to Illinois Union, discussing additional authority in support of the Chicago Heights Actors' coverage position, and putting Illinois Union on notice that the Chicago Heights Actors have paid claims expenses in excess of the self-insured retention amount (\$100,000), and demanding

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indemnification pursuant to the provisions of Illinois Union's policies. Thereafter, Illinois Union continued to deny coverage.

103. Starr Indemnity did not respond to the Chicago Heights Actors' June 2015 or October 2015 coverage correspondence until December 2015, almost one year after Illinois Union's initial declination. At that time, Starr Indemnity delivered a declination, piggybacking on Illinois Union's position that no malicious prosecution fell within the coverage period. This theory for declining coverage is wrong, unreasonable, and vexatious. Mr. Sanders's malicious prosecution claim occurred in July 2014 (when Mr. Sanders was acquitted), during the coverage period. Furthermore, Mr. Sanders was retried during the coverage period, and at his retrials he was subjected to the deprivation of his constitutional rights as a result of the Chicago Heights Actors' misconduct, as well as false charges, false imprisonment, wrongful detention, emotional distress, mental injury, and pain and suffering.

104. Both Illinois Union and Starr Indemnity were notified that Mr. Sanders tendered a settlement demand that fell within the limits of the insurers' collective liability. But both carriers ignored their obligations to participate with the Chicago Heights Actors in response to the settlement demand. Instead, the carriers shunned the Chicago Heights Actors and unequivocally denied coverage despite the existence of legal authority supporting the Chicago Heights Actors' coverage position. Neither carrier filed a declaratory judgment action to obtain a judicial determination and interpretation of whether the policies were triggered by Mr. Sanders's federal civil rights lawsuit.

105. The Chicago Heights Actors notified the carriers that governing law from the First District Illinois Appellate Court supports a determination that Mr. Sanders's claims trigger coverage under policies in effect at the time of Mr. Sanders's acquittal. The Chicago Heights

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Actors alerted the carriers that the Illinois precedent they cited has been relied upon by the United States Court of Appeals for the Seventh Circuit, in wrongful conviction coverage cases that are directly applicable to Mr. Sanders's case. Nonetheless, Illinois Union and Starr Indemnity refused to acknowledge the relevance of the First District precedent described above.

106. Accordingly, the Chicago Heights Actors filed a declaratory judgment action, seeking a declaration that they are entitled to coverage under the subject insurance policies. The coverage includes, but is not limited to, participation in settlement funding by both Illinois Union and Starr Indemnity.

107. It is approaching four years since Mr. Sanders filed his initial federal civil rights Complaint. During this time, both Illinois Union and Starr Indemnity have abandoned the Chicago Heights Actors.

108. At no point did Illinois Union or Starr Indemnity undertake the Chicago Heights Actors' defense under a reservation of rights. Nor did either insurer initiate a declaratory judgment action to resolve the coverage disputes.

109. At no point has Illinois Union or Starr Indemnity attempted in good faith to effectuate prompt, fair, and equitable settlement of Mr. Sanders's claims.

Settlement and Continued Denial of Coverage

110. On July 27, 2016, Mr. Sanders made a settlement demand of fifteen million dollars (\$15,000,000) to settle all of his claims against the Chicago Heights Actors as a means of compensating him for harms caused by the Chicago Heights Actors' alleged wrongful conduct.

111. In the course of settlement negotiations, Mr. Sanders agreed to voluntarily withdraw with prejudice his claims for punitive damages.

112. Upon receipt of that demand, the Chicago Heights Actors notified United National, Illinois Union and Starr Indemnity of the demand and sought settlement contribution.

113. In assessing Mr. Sanders's demand, the Chicago Heights Actors investigated jury verdicts awarded to comparable wrongfully convicted plaintiffs who have filed civil rights lawsuits after being exonerated subsequent to long periods of incarceration. It is a matter of public record that Illinois juries have rendered large verdicts to wrongfully convicted plaintiffs. These verdicts have been upheld by Illinois Appellate Courts, *Dominguez v. Hendley*, 545 F.3d 585 (7th Cir. 2008) (affirming \$9.6 million award for 4.5 years of incarceration); *Newsome v. McCabe*, 319 F.3d 301 (7th Cir. 2003) (affirming \$15 million award for 15 years of incarceration). Awards to plaintiffs similar to Mr. Sanders provide evidence of actual recovery of large verdicts, often equal to \$1 million to \$2 million for every year incarcerated. *Id.*

114. In agreeing to settle the federal civil rights lawsuit, the Chicago Heights Actors took into account the size of verdicts awarded to wrongfully convicted plaintiffs incarcerated for many years, the attorneys' fees and costs which can be collected under §1988, and the likelihood of a verdict against one or more of the Chicago Heights Actors. Given the risks of liability and the likely outcome in the event of an adverse judgment, fifteen million dollars (\$15,000,000) is a reasonable settlement figure.

115. As part of the settlement agreement, United National agreed to contribute three million dollars (\$3,000,000), which represents the limits of liability for its applicable policy.

116. In response to notice of Mr. Sanders's demand, Illinois Union and Starr Indemnity both declined to contribute to settlement, stating their position that no covered events occurred during their policy periods.

117. After United National agreed to contribute three million dollars (\$3,000,000) and the Chicago Heights Actors agreed to pay two million dollars (\$2,000,000), without admission of

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liability or wrongdoing, Illinois Union and Starr Indemnity still refused to contribute any sums to negotiate a settlement.

118. Those refusals came, for example, in correspondence dated August 5, 2016, and August 29, 2016, sent by Attorney Christopher A. Wadley on behalf of Illinois Union (denying coverage and refusing defense indemnification and settlement contribution), and correspondence dated August 8, 2016, and August 25, 2016, sent by Attorney Kimberly H. Petrina on behalf of Starr Indemnity (denying coverage and refusing defense indemnification and settlement contribution).

119. The Chicago Heights Actors' settlement decision was also based on the understanding that there would be no admission of liability and that settling the federal civil rights lawsuit: (1) settled any and all claims against the Chicago Heights Actors related to that lawsuit and would result in their release with no additional funding beyond Chicago Heights' two million dollar (\$2,000,000) settlement payment; and (2) would result in the release of United National such that United National owes no additional amounts beyond its three million dollar (\$3,000,000) settlement payment.

120. For the purpose of compromising disputed claims and without admission of fault, Mr. Sanders and the Chicago Heights Actors consented to entry of judgment in Mr. Sanders's favor, for fifteen million dollars (\$15,000,000).

121. Mr. Sanders and the Chicago Heights Actors sought approval of the consent judgment by the federal court. Illinois Union and Starr Indemnity were provided notice of the parties' intent to seek approval for the consent judgment by the federal court.

122. Neither Illinois Union nor Starr Indemnity objected to entry of the consent judgment on any ground.

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123. As determined by the federal district court, the parties consented to judgment in the interest of avoiding the expense, inconvenience, uncertainty, risk, and delay of litigation. The court found that the amount of the consent judgment was just and reasonable, and was agreed upon in good faith. The district court's order is attached as Exhibit F.

124. As a result of the payments from the Chicago Heights Actors and United National, the consent judgment will be partially satisfied for five million dollars (\$5,000,000). In consideration for a covenant not to enforce the remaining ten million dollars (\$10,000,000) of the judgment against the Chicago Heights Actors or United National, the Chicago Heights Actors assigned to Sanders, to the fullest extent of the law, all of the rights, claims, and causes of action of the Chicago Heights Actors against Illinois Union and Starr Indemnity and their agents, brokers, employees, officers and all other persons or entities, relating to or arising out of any applicable insurance policy or policies issued by Illinois Union and/or Starr Indemnity, consisting of rights to insurance coverage for the federal civil rights lawsuit, including but not limited to all statutory rights, contractual rights, and rights arising in tort or any other cause of action, relating to Illinois Union's and Starr Indemnity's duties to indemnify the Chicago Heights Actors, to fund the settlement, and to satisfy of the Consent Judgment. The assignment from the Chicago Heights Actors to Mr. Sanders is attached as Exhibit G.

125. As a result of his assignment, Mr. Sanders is entitled to recover as damages at least the ten million dollars (\$10,000,000) in insurance coverage, attorneys' fees and costs, and pre- and post-judgment interest, plus any other damages the Court determines appropriate.

126. The City of Chicago Heights reserved its right to seek reimbursement from Illinois Union and Starr Indemnity for money that the City of Chicago Heights spent to defend against Mr. Sanders's federal civil rights suit, and to pay a portion of the consent judgment in

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that suit. However, under its settlement agreement with, and assignment of rights to, Mr. Sanders, the City of Chicago Heights “cannot pursue this reservation unless and until Mr. Sanders has recovered \$10,000,000 from Illinois Union and/or Starr Indemnity, and Mr. Sanders’s lawsuit against Illinois and Starr Indemnity reaches a final judgment at the circuit court level.” The settlement agreement between Mr. Sanders and the City of Chicago Heights is attached as Exhibit H.

127. Based on requests raised by Illinois Union and Starr Indemnity, which petitioned that all coverage disputes that relate to coverage for the Sanders claim be adjudicated in one lawsuit, Chicago Heights has been made a necessary party to this action.

128. In accordance with the settlement agreement between Mr. Sanders and Chicago Heights, attached hereto as Exhibit H, Mr. Sanders and Chicago Heights agree that this Court may adjudicate requested relief in sequence, with Mr. Sanders’s request taking first priority.

**COUNT I — BREACH OF CONTRACT AGAINST
ILLINOIS UNION AND STARR INDEMNITY**

129. Mr. Sanders and Chicago Heights incorporate each and every allegation in this Complaint as if fully set forth herein.

130. Illinois Union and Starr Indemnity entered into valid insurance contracts, requiring them to provide insurance coverage to the Chicago Heights Actors related to Mr. Sanders’s federal civil rights lawsuit.

131. The relevant policies provide coverage for claims arising out of false arrest, false imprisonment, wrongful detention, and malicious prosecution—all of which were at issue in Mr. Sanders’s federal civil rights lawsuit.

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132. The relevant policies provide coverage for claims of bodily injury, which includes sickness or disease, mental anguish, mental injury, mental tension, emotional distress, and pain and suffering—which Mr. Sanders alleged in his federal civil rights lawsuit.

133. At least the following covered events occurred within the relevant policy periods: Mr. Sanders's first retrial, Mr. Sanders's second retrial, and Mr. Sanders's acquittal.

134. Illinois Union's and Starr Indemnity's conduct constitute a breach of contract in that from on or about November 1, 2012 to November 1, 2014, Illinois Union, through its duly authorized agents and employees, made unambiguous written promises in the form of written insurance contracts with the City, which established an agreement for insurance coverage, including law enforcement liability coverage. *See Exhibits B and C attached hereto.*

135. From on or about November 1, 2012 to November 1, 2014, Starr Indemnity, through its duly authorized agents and employees, made unambiguous written promises in the form of written insurance contracts with the City, which established an agreement for law enforcement liability coverage. *See Exhibits D and E, attached hereto.*

136. The promises set forth in the Illinois Union primary insurance contracts, Policy Nos. PEP G24891562 003 and PEP G24891562 004, began in November 1, 2012 and were in effect through November 1, 2014. *See Exhibits B and C, attached hereto.*

137. The promises set forth in the Starr Indemnity excess insurance contracts, Policy Nos. SISCPEL01944312 and 1000005129, began in November 1, 2012 and were in effect through November 1, 2014. *See Exhibits D and E, attached hereto.*

138. The City of Chicago Heights accepted Illinois Union's and Starr Indemnity's offers to provide insurance coverage and paid monetary consideration in the form of annual

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premiums to Illinois Union and Starr Indemnity in exchange for its promises of coverage. See Exhibits B through E, policy declarations, attached hereto.

139. On or about January 2013 and continuing up and through the present, Illinois Union breached its promises when it failed to honor its agreements to provide insurance coverage for claims covered by its policy provisions and to indemnify the Chicago Heights Insureds for expenses, costs, and attorneys' fees incurred as a result of being named defendants in the *Sanders* Lawsuit.

140. On or about January of 2015 and continuing up and through the present, Starr Indemnity breached its promises when it failed to honor its agreements to provide insurance coverage for claims covered by its policy provisions and to participate with the Chicago Heights Insureds in response to Sanders's settlement demand, which fell within Starr Indemnity's limits of liability.

141. The *Sanders* Lawsuit, about which Illinois Union and Starr Indemnity are on actual notice, among other claims, alleges a claim for malicious prosecution. This claim accrued upon Sanders' acquittal on July 22, 2014, which is an occurrence falling within the period of Illinois Union's and Starr Indemnity's coverage.

142. The *Sanders* Lawsuit, about which Illinois Union and Starr Indemnity are on actual notice also alleges discrete claims of false imprisonment, wrongful detention, intentional infliction of emotional distress, physical injury, sickness, mental injury, and pain and suffering that are alleged to have occurred at the times of Sanders's second and third trials occurring in August 2013 and July 2014. All such alleged covered acts occurred within the policy periods covered by the Illinois Union primary policies and the Starr Indemnity excess policies.

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143. As a direct result of Illinois Union's and Starr Indemnity's breach of their insurance contracts, Mr. Sanders has been injured in that he has been deprived of ten million dollars (\$10,000,000) from Illinois Union and Starr Indemnity to which he is entitled by order of the U.S. District Court for the Northern District of Illinois, attached hereto as Exhibit F.

144. As a direct result of Illinois Union's and Starr Indemnity's breach of their insurance contracts, Chicago Heights has been injured, and has incurred damages in excess of two million six hundred thousand dollars (\$2,600,000), which represents defense attorneys' fees and costs and settlement funding that should be subject to coverage by Illinois Union and Starr Indemnity, pursuant to the terms of the insurance contracts.

Wherefore, the Mr. Sanders and Chicago Heights pray for judgment on Count I in favor of Mr. Sanders and Chicago Heights against Illinois Union and Starr Indemnity and request relief in the form of direct, compensatory and consequential damages as a result of Illinois Union's and Starr Indemnity's breach of contract, which has resulted in damages. Mr. Sanders prays that this Court order relief on Count I, in an amount commensurate with satisfaction of the Judgment attached hereto as Exhibit F; and Chicago Heights prays for reimbursement for amounts incurred by Chicago Heights to satisfy defense fees and costs and settlement funding and for any other compensatory and consequential damages incurred by the Plaintiffs.

Wherefore, Mr. Sanders and Chicago Heights pray for:

- A. An order finding that Illinois Union and Starr Indemnity have breached the provisions of their insurance contracts and, accordingly, are obligated to pay Mr. Sanders ten million dollars (\$10,000,000) in satisfaction of the Order attached hereto as Exhibit F; and are obligated to indemnify Mr. Sanders for any compensatory and consequential damages, plus such additional amounts as are determined, including but not limited to pre- and post-judgment interest and costs; and
- B. An order finding that Illinois Union and Starr Indemnity have breached the provisions of their insurance contracts and, accordingly, are obligated to pay the

Chicago Heights Insureds' attorneys' fees, costs and settlement funding incurred in defending and settling the *Sanders* Lawsuit, in an amount in excess of two million six hundred thousand dollars (\$2,600,000); and are obligated to indemnify Chicago Heights for any compensatory and consequential damages, plus such additional amounts as are determined, including but not limited to pre- and post-judgment interest and costs.

**COUNT II — IMPROPER CLAIMS PRACTICE AGAINST
ILLINOIS UNION AND STARR INDEMNITY**

145. Mr. Sanders and Chicago Heights incorporate each and every preceding allegation as if fully set forth herein.

146. Illinois Union and Starr Indemnity engaged in unfair claims practices as defined by Sections 154.5 and 154.6 of the Illinois Insurance Code. Their delays and coverage denials were vexatious and unreasonable, as those terms are used in Section 155 of that Code. Illinois Union and Starr Indemnity have engaged in unfair claims practices as prohibited by Sections 154.5 and 154.6 of the *Illinois Insurance Code*, which provide in pertinent part:

Sec. 154.5. (Improper Claims Practices) It is an improper claims practice for any domestic, foreign or alien company transacting business in this State to commit any of the acts contained in Section 154.6 if:

- (a) it is committed knowingly in violation of this Act or any rules promulgated hereunder; or
- (b) it has been committed with such frequency to indicate a persistent tendency to engage in that type of conduct.

215 ILCS 5/145.5.

Sec. 154.6. Acts constituting improper claims practice. Any of the following acts by a company, if committed without just cause and in violation of Section 154.5, constitutes an improper claims practice:

- (b) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under its policies;

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(d) Not attempting in good faith to effectuate prompt, fair and equitable settlement of claims submitted in which liability has become reasonably clear;

(e) Compelling policyholders to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them;

(i) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

(n) Failing in the case of the denial of a claim or the offer of a compromise settlement to promptly provide a reasonable and accurate explanation of the basis in the insurance policy or applicable law for such denial or compromise settlement;

215CS 5/154.5.

147. As set forth above, upon notice of Sanders's claims to Illinois Union and Starr Indemnity, both carriers delayed providing any substantive response as to coverage. Illinois Union delayed for more than two years and Starr Indemnity delayed for almost one year. Indeed, when Illinois Union first responded in December of 2014, it declined coverage without any supporting legal authority, while admitting it had a duty to defend.

148. When the Chicago Heights Insureds invoked indemnification under the Illinois Union policies for the ongoing defense fees and costs that are being incurred, Illinois Union denied coverage and simply turned its back on the Chicago Heights Insureds.

149. When both Illinois Union and Starr Indemnity were notified of Sanders' settlement demand in January of 2015, which fell within the limits of the combined primary and excess coverage, the carriers did nothing to attempt in good faith to effectuate prompt, fair and equitable settlement of Sanders' claims.

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150. Illinois Union and Starr Indemnity have failed to acknowledge with reasonable promptness pertinent communications with respect to claims arising under their policies; failed to adopt and implement reasonable standards for the prompt investigations and settlement of claims arising under their policies; failed to attempt in good faith to effectuate prompt, fair and equitable settlement of claims in which liability has become reasonably clear; refused to pay claims without conducting a reasonable investigation based on all available information; and failed to promptly provide a reasonable and accurate explanation of the basis in the insurance policy or applicable law for denial of a claim or an offer of compromise settlement, all in violation of Section 154.6 of the *Illinois Insurance Code*.

151. Section 154.5 of *Illinois Insurance Code* provides that it is an improper claims practice for an insurance company to commit any of the acts set forth in Section 154.6.

152. The *Illinois Insurance Code* provides a means to assess sanctions against insurance companies that engage in unreasonable and vexatious conduct. 215 ILCS 5/155 provides as follows:

Sec. 155. Attorney fees.

(1) In any action by or against a company wherein there is in issue the liability of a company on a policy or policies or insurance or the amount of the loss payable thereunder, or for an unreasonable delay in settling a claim, and it appears to the court that such action or delay is vexatious and unreasonable, the court may allow as part of the taxable costs in the action reasonable attorney fees, other costs, plus an amount not to exceed any one of the following amounts:

(a) 60% of the amount which the court or jury finds such party is entitled to recover against the company, exclusive of all costs;

(b) \$60,000;

(c) the excess of the amount which the court or jury finds such party is entitled to recover, exclusive of costs, over the amount, if any, which the company offered to pay in settlement of the claim prior to the action.

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(2) Where there are several policies insuring the same insured against the same loss whether issued by the same or by different companies, the court may fix the amount of the allowance so that the total attorney fees on account of one loss shall not be increased by reason of the fact that the insured brings separate suits on such policies.

153. Mr. Sanders and Chicago Heights maintain that Illinois Union has acted in contravention of its promises to indemnify the Chicago Heights Insureds for claims expenses in excess of the \$100,000 self-insured retention. As a result of Illinois Union's unreasonable and vexatious conduct, Chicago Heights has incurred in excess of \$700,000 in fees and costs to date, with fees and costs increasing daily.

154. Mr. Sanders and Chicago Heights further maintain that Starr Indemnity has acted in contravention of its promises to provide coverage for defense, judgments and settlements that come within the limits of liability set forth in its policies. Starr Indemnity was notified of Sanders' settlement demand falling within the limits of its liability. In response, Starr Indemnity denied coverage and has turned its back on the Chicago Heights.

155. Accordingly, as set forth in this Count, in the Background allegations set forth above, and in the other Counts set forth herein, Illinois Union's and Starr Indemnity's unreasonable and vexatious conduct, as manifested by their refusal to provide indemnification coverage for defense fees and costs and failure to show a good faith effort to participate in settlement negotiations provides grounds for sanctions under Section 155 of the *Illinois Insurance Code*.

156. Mr. Sanders and Chicago Heights have been harmed by Illinois Union's and Starr Indemnity's actions and have suffered damages and will continue to incur damages.

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157. Wherefore, the Mr. Sanders and Chicago Heights pray for judgment in their favor and against Illinois Union and Starr Indemnity on Count II and pray that a jury or this Court make a finding that Illinois Union and Starr Indemnity, pursuant to Sections 154.5 and 154.6 of the *Illinois Insurance Code* (215 ILCS 5/154.5; 6), have engaged in improper claims practices and should be subjected to sanctions therefore, pursuant to Section 155 of the *Illinois Insurance Code* (215 ILCS 5/155), as follows:

- A. To reimburse and indemnify Mr. Sanders and Chicago Heights for all attorneys' fees and costs incurred related to the *Sanders* Lawsuit.
- B. To reimburse and indemnify Mr. Sanders and Chicago Heights for all attorneys' fees and costs incurred related to this pending declaratory judgment action.
- C. To award Mr. Sanders and Chicago Heights the maximum additional amount awardable under §155 of the *Insurance Code*, 215 ILCS 5/155, which would be the greater of one of the following amounts: (1) 60% of the amount which the court or a jury finds that the Chicago Heights Insured are entitled to recover; or (2) \$60,000; or (3) the excess of the amount which the court or jury finds the Chicago Heights Insured are entitled to recover over the amount, if any, which the insurers offered to pay in settlement of the claim prior to the action.

COUNT III — DECLARATORY JUDGMENT BY SANDERS AND CITY OF CHICAGO HEIGHTS AGAINST ILLINOIS UNION AND STARR INDEMNITY ON ISSUE OF TRIGGER

158. Mr. Sanders and Chicago Heights incorporate each and every preceding allegation as if fully set forth herein.

159. The *Sanders* Lawsuit alleges that after almost two decades of incarceration, Sanders' conviction was vacated on January 14, 2011. *Sanders* Complaint attached hereto as Exhibit A, ¶40; and that the Illinois Court of Appeals affirmed the Circuit Court's ruling overturning Sanders' conviction and vacating his sentence on May 30, 2012. *See Sanders* Complaint attached hereto as Exhibit A, ¶42.

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160. Notwithstanding this reversal, Sanders alleges that he was subjected to years of ongoing judicial proceedings, which ultimately resulted in a third trial on July 22, 2014, during which a jury acquitted Sanders of all the charges against him. *See Sanders* Complaint attached hereto as Exhibit A, ¶43. Sanders' complaint alleges he was wrongfully charged without probable cause and subject to a series of judicial proceedings that resulted in favorable termination on July 22, 2014. By these allegations, Sanders sets forth the elements to state a claim of the offense of malicious prosecution. It is well-established that under state and federal law that the offense of malicious prosecution ripens at the time that all elements of the offense are in place, which occurs at the time of favorable termination of criminal proceedings. *Security Mutual Casualty Co. v. Harbor Insurance Co.*, 65 Ill. App. 3d 198, 206, 382 N.E.2d 1, 6 (1st Dist. 1978), rev'd on other grounds, 77 Ill.2d 446, 397 N.E.2d 839 (1979); *Heck v. Humphrey*, 512 U.S. 477, 114 S.Ct. 2364 (1994).

161. Sanders alleges that the criminal proceedings against him were favorably terminated on July 22, 2014, a date falling within the period when Illinois Union's and Starr Indemnity's policies were in place.

162. Sanders has also alleged injury from ongoing judicial proceedings, which included charges initiated at the outset of each of his three trials, two of which trials (August 2013 and July 2014) took place within Illinois Union's and Starr Indemnity's policy periods.

163. The *Sanders* Lawsuit alleges Sanders was injured by the alleged conduct of Chicago Heights' employees and others while they were engaged in LEL activities and were operating within the scope of their duties. *See Sanders* Complaint attached hereto as Exhibit A, ¶¶10, 54, 128, and 132.

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164. To determine whether there is coverage under an insurance policy, the allegations of the underlying complaint are applied in the context of the provisions of the insurance policy.

165. As set forth above, Illinois Union's and Starr Indemnity's policies include law enforcement liability coverage for the City of Chicago Heights, and its employees acting within the scope of their employment.

166. As set forth above, the Illinois Union's and Starr Indemnity's policies expressly provide coverage for the claims arising out of the offenses of false arrest, false imprisonment, wrongful detention and malicious prosecution, all offenses which are alleged by Sanders.

167. As set forth above, the Illinois Union's and Starr Indemnity's policies expressly provide coverage for claims of bodily injury, which includes sickness or disease, mental anguish, mental injury, mental tension, emotional distress and pain and suffering, which are alleged by Sanders.

168. The *Sanders* Lawsuit alleges wrongdoing against the City of Chicago Heights Insureds occurring during the period from 1994 to the present, including false arrest, false imprisonment, wrongful detention, malicious prosecution, physical injury, sickness, mental injury and pain and suffering, all of which come within the parameters of coverage promised by Illinois Union and Starr Indemnity.

169. The Chicago Heights Insureds demanded coverage from Illinois Union and Starr Indemnity, both of which denied coverage.

170. An actual controversy exists between Mr. Sanders/Chicago Heights and Illinois Union/Starr Indemnity and this Court is vested with the power to declare the rights and liabilities of the parties.

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171. Wherefore, Mr. Sanders and Chicago Heights pray that this Court grant declaratory judgment relief in favor of Mr. Sanders and Chicago Heights and against Illinois Union and Starr Indemnity on Count III as follows:

- A. Determine and adjudicate the rights and liabilities of the parties hereto with respect to the application of policies of insurance described above.
- B. Find and declare that there is one or more occurrence or potential occurrence, as defined under Illinois Union primary policies policy nos. PEP G24891562 003, effective November 1, 2012 to November 1, 2013 and PEP G24891562 004, effective November 1, 2013 to November 1, 2014, related to the *Sanders* Lawsuit and, therefore, that the *Sanders* Lawsuit triggers coverage under the Illinois Union policies.
- C. Find and declare that there is one or more occurrence or potential occurrence, as defined under Starr Indemnity Excess Policy No. SISCPPEL01944312, effective November 1, 2012 to November 1, 2013; and Starr Indemnity Excess Policy No. 1000005129, effective November 1, 2013 to November 1, 2014, related to the *Sanders* Lawsuit and, therefore, that the *Sanders* Lawsuit triggers coverage under the Starr Indemnity policies.
- D. Grant to Mr. Sanders and Chicago Heights such other and further relief that this Court deems proper under the evidence and circumstances.

COUNT IV — DECLARATORY JUDGMENT BY SANDERS AND CHICAGO HEIGHTS AGAINST ILLINOIS UNION AND STARR INDEMNITY FOR INDEMNIFICATION OF JUDGMENT, DEFENSE FEES AND COSTS AND SETTLEMENT FUNDING

172. Mr. Sanders and Chicago Heights incorporate each and every preceding allegation as if fully set forth herein.

173. The claims in the *Sanders* Lawsuit fall within and/or potentially fall within the Illinois Union and Starr Indemnity policies coverage.

174. The Illinois Union primary policies provide a duty to indemnify for defense fees and costs, with the express promise that: "When the **Damages and Claim Expenses** for which **You** become legally obligated to pay exceed the **Retained Limit**, **You** will be entitled to

indemnification by Us..." See Exhibits 2 and 4, Common Conditions, Definitions, and Exclusions p. 2 of 20.

175. Chicago Heights has incurred damage and claim expenses in excess of the SIR of \$100,000 set forth in the Illinois Union policies. See Underwriters Safety & Claims, Inc. 2/11/16 Payment History, attached to the original declaratory judgment complaint as Exhibit I. The Payment History shows payments in the amount of \$582,657.28 as of February 11, 2016. Additionally, since February 11, 2016 additional fees and costs were incurred, which total more than \$700,000, which total will be proved up at trial.

176. Mr. Sanders and Chicago Heights maintain that, pursuant to the terms of the Illinois Union primary policies and the Starr Indemnity excess policies, the carriers have a duty to participate with Chicago Heights in responding to Sanders' settlement demand and/or satisfying judgments in Mr. Sanders's favor, which fall within the combined liability limits of the carriers' policies.

177. Chicago Heights notified the carriers of Sanders' settlement demand, which fell within the carriers' combined limits. Chicago Heights also notified the carriers of the entry of the consent judgment awarding Mr. Sanders relief within their policy limits, attached hereto as Exhibit F, to which the carriers did not present any objection.

178. Illinois Union and Starr Indemnity denied any coverage obligations and denied any duty to participate in settlement discussions.

179. Illinois Union and Starr Indemnity refused to honor coverage obligations to participate in settlement negotiations and have denied any liability to satisfy the remaining \$10,000,000 of the award granted by the consent judgment entered in favor of Mr. Sanders by the U.S. District Court for the Northern District of Illinois, attached hereto as Exhibit F.

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180. Additionally, Illinois Union has refused to indemnify Chicago Heights and has thereby unjustifiably breached its duty to provide indemnification for defense fees and costs, in the approximate amount of \$700,000, and settlement funding, in the amount of \$2,000,000, even after receiving notice of the City of Chicago Heights satisfaction of the SIR.

181. An actual controversy exists between Mr. Sanders/Chicago Heights and Illinois Union/Starr Indemnity and this Court is vested with the power to declare the rights and liabilities of the parties.

WHEREFORE, Mr. Sanders and Chicago Heights demand judgment in their favor and indemnification as follows:

- A. An award against all Defendants Illinois Union and Starr Indemnity, jointly and severally, for at least ten million dollars (\$10,000,000) in compensatory damages;
- B. Attorneys' fees;
- C. Taxable fees and costs, including reasonable attorneys' fees, other costs, plus an amount not to exceed (a) 60% of the amount which the court or jury finds Mr. Sanders is entitled to recover against Illinois Union and Starr Indemnity, exclusive of all costs; (b) \$60,000; (c) the excess of the amount which the court or jury finds Mr. Sanders is entitled to recover, exclusive of costs, over the amount, if any, which Illinois Union or Starr Indemnity offered to pay in settlement of the claim prior to the action;
- D. Any other damages which may appear proper; and
- E. Pre- and post-judgment interest on all sums awarded.

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WHEREFORE, subject to relief being granted to Mr. Sanders in the amount of at least ten million dollars (\$10,000,000), Chicago Heights prays for judgment in its favor and indemnification as follows:

- A. An award against Illinois Union and Starr Indemnity, jointly and severally, for undred thousand dollars (\$2,600,000) in compensatory damages;
- B. Attorneys' fees;
- C. Any other damages which may appear proper; and
- D. Pre- and post-judgment interest on all sums awarded.

Jury Demand

Mr. Sanders and Chicago Heights demand trial by jury on all issues so triable.

RESPECTFULLY SUBMITTED,

/s/ Russell Ainsworth
Attorney for Rodell Sanders

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CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK DOROTHY BROWN

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RODELL SANDERS,)	
)	
Plaintiff,)	
)	13-CV-221
v.)	
)	
CITY OF CHICAGO HEIGHTS, JEFFREY)	Judge St. Eve
BOHLEN, SAM MANGIALARDI, ROBERT PINNOW,)	
MAUREEN TEED, CHARLES NARDONI, ANTHONY)	
MURPHY, JOSEPH RUBESTELLI, JEFFREY)	
GOSS, and UNIDENTIFIED EMPLOYEES)	
OF THE CITY OF CHICAGO HEIGHTS,)	JURY TRIAL DEMANDED
)	
Defendants.)	

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SECOND AMENDED COMPLAINT

NOW COMES Plaintiff, RODELL SANDERS, by his attorneys, LOEVY & LOEVY, and complaining of Defendants, JEFFREY BOHLEN, SAM MANGIALARDI, ROBERT PINNOW, CHARLES NARDONI, ANTHONY MURPHY, JOSEPH RUBESTELLI, JEFFREY GOSS, and UNIDENTIFIED EMPLOYEES of the CITY OF CHICAGO HEIGHTS, acting pursuant to the City's policies and practices (collectively, "Defendant Officers"), Federal Bureau of Investigation ("FBI") Agent MAUREEN TEED and the CITY OF CHICAGO HEIGHTS (hereinafter "City"), alleges as follows:

EXHIBIT
1

Introduction

1. Rodell Sanders spent more than 20 years incarcerated for a murder and attempt murder that he did not commit.

2. There was no physical evidence linking Mr. Sanders to this crime. Rather, the only purported evidence against Mr. Sanders were two purchased and patently false witness identifications. These wrongful misidentifications were procured through manipulation and bribes by members of the City of Chicago Heights's infamously corrupt police department.

3. Unfortunately, the widespread misconduct that caused Mr. Sanders' wrongful conviction was not an isolated event. Prior to Mr. Sanders' unlawful prosecution, other individuals were unlawfully arrested by the same group of Chicago Heights Police Detectives, led by Defendants Jeffrey Bohlen, Robert Pinnow and their former Chief, Defendant Sam Mangialardi, a man who has since been convicted of racketeering, witness tampering, bribery, extortion, and money laundering.

4. Although Mr. Sanders' has been acquitted of all the false charges lodged by Defendants, he will never regain the lost decades of his life. This lawsuit seeks redress for his injuries.

Jurisdiction and Venue

5. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation under color of law of Plaintiff's rights

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as secured by the United States Constitution.

6. This court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1367. Venue is proper under 28. U.S.C. § 1391(b). A number of the parties reside in this judicial district, and the events giving rise to the claims asserted herein occurred here as well.

The Parties

7. Plaintiff Rodell Sanders is 49 years old. Mr. Sanders has two daughters. When he was wrongfully imprisoned, his oldest daughter was 13 years old and his youngest was not yet born. Both daughters grew up without having a father in their lives as a result of Mr. Sanders' wrongful incarceration.

8. Apart from the wrongful conviction that is the subject of this lawsuit, Mr. Sanders has no other criminal convictions. Moreover, although he spent the past two decades incarcerated for a crime that he did not commit, Mr. Sanders sought to better himself while in prison, earning a law clerk certificate and never having been put in segregation.

9. Defendant City of Chicago Heights is an Illinois municipal corporation, and is and/or was the employer of Defendants Mangialardi, Bohlen, Pinnow, Goss, Nardoni, Murphy and Rubestelli. The City of Chicago Heights is responsible for the acts of the Defendant Officers while

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employed by the City of Chicago Heights and while acting within the scope of their employment.

10. At all times relevant hereto, Defendants Mangialardi, Pinnow, Bohlen, Goss, Murphy and Rubestelli were police officers in the Chicago Heights Police Department acting under color of law and within the scope of their employment for the City of Chicago Heights.

11. Defendant Maureen Teed is or was employed by the Federal Bureau of Investigation. At all times relevant hereto, Defendant Teed was an agent with the FBI, acting under color of law and within the scope of her employment.

The Shooting

12. On December 15, 1993, Stacy Armstrong and Phillip Atkins were sitting in a parked car around two in the morning. After being abruptly awoken, Ms. Armstrong and Mr. Atkins were accosted by a group of men and led to an abandoned garage.

13. The garage was so dark that the offenders used a lighter to carry out the robbery and shooting that followed.

14. Mr. Atkins was killed and Ms. Armstrong was shot multiple times and left for dead. Ms. Armstrong blacked out after being shot. Once she regained consciousness, Ms. Armstrong sought help by going to a nearby house and was eventually taken to the hospital. Ms. Armstrong survived the shooting.

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Plaintiff's Innocence

15. Mr. Sanders had absolutely nothing to do with the crime.

16. At the time of the shooting, Mr. Sanders was nowhere nearby. Rather, Mr. Sanders was at his friend Vicky Ross's apartment. According to Ms. Ross and many others, Mr. Sanders was playing cards and hanging out with them at all relevant times on the night of December 14, 1993. The alibi witnesses recall that Mr. Sanders stayed at the apartment into the early morning hours of the following day.

Defendants' Misconduct

17. There was never any physical evidence linking Mr. Sanders to this crime. None of his fingerprints or DNA were found at the crime scene, nor was any incriminating evidence of any kind ever discovered in his possession.

18. Defendants Bohlen and Pinnow knew Mr. Sanders and bore a grudge against him. Despite the lack of evidence against Mr. Sanders, the Defendants unlawfully pinned the shootings on him.

17. The Defendants first spoke with Ms. Armstrong at the hospital on the night of the shooting. However, Ms. Armstrong was unable to describe the offenders at all at that time.

18. Two weeks later, Defendants Bohlen and Pinnow interviewed Ms. Armstrong again. During this subsequent interview, Ms. Armstrong gave the Defendants a detailed account

of the shooting.

19. According to the Defendants, Ms. Armstrong related that four people committed the crime. She could not identify the first and the fourth offenders, whom she described only as black men.

20. Ms. Armstrong, however, described the shooter and the individual who ordered the shooting.

21. As to the shooter, Ms. Armstrong informed Defendants Pinnow and Bohlen that he was a 16 year-old, short black male (between five feet, five inches and five feet, seven inches tall) with a medium build and medium complexion who was wearing a black shirt with a black hood and black pants.

22. Ms. Armstrong further told the Defendants that the man who ordered the shooting (who will be hereinafter referred to alternatively as Offender Number Three) was a six foot tall skinny black man who was wearing black and grey faded pants and an olive, knit ski cap in his thirties. Ms. Armstrong told the Defendants that Offender Number Three had a mustache and goatee.

23. At the time of the shooting, Mr. Sanders stood five feet eight inches tall and weighed close to 200 pounds, and was 29 years old. He did not match the description of Offender Number Three (a tall skinny guy) or that of the shooter (a sixteen year-old teenager). Nor did Mr. Sanders have anything whatsoever to do with this crime.

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24. Although the Defendants knew that Rodell Sanders was not Offender Number Three, the Defendants manipulated Ms. Armstrong into identifying Mr. Sanders as Offender Number Three.

25. To accomplish the task of having Ms. Armstrong misidentify Mr. Sanders, the Defendants concocted a flawed photographic line-up designed to improperly implicate Mr. Sanders. To begin, although Ms. Armstrong had described Offender Number Three as tall and skinny, the Defendants inserted Mr. Sanders into the photo array shown to Ms. Armstrong, despite the fact that Mr. Sanders was 5'8 and weighed close to 200 pounds. Among other misconduct, the Defendants manipulated Mr. Sanders' photograph to make him look taller and thinner than he truly was.

26. As a result of the Defendants' unlawful conduct, Ms. Armstrong also falsely identified Mr. Sanders in a subsequent live lineup.

27. The Defendants never disclosed to Mr. Sanders or his attorneys the means by which they manipulated Ms. Armstrong into identifying him.

28. Thereafter, according to Defendants, they arrested Germaine Haslett, an acquaintance of Mr. Sanders, in January 1994 on an unrelated crime. The Defendants were already well acquainted with Haslett. He had been cooperating with the Chicago Heights Police Department against a man named Bernard

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Ellis. Although the Ellis prosecution later fell apart when the courts learned that the police had been withholding exculpatory evidence from Ellis, at the time of the investigation into the Atkins and Armstrong shooting, Haslett was an important witness for the Defendants.

29. On the day of his arrest, Haslett confessed to Defendants his role in the Atkins murder - namely, that he was Offender Number Three.

30. To protect Haslett, their main witness against the Ellis, the Defendants sought to minimize Haslett's complicity in the crime by permitting him to claim he was simply a lookout in exchange for falsely pointing the finger at Mr. Sanders.

Haslett's Undisclosed Benefits

31. Mr. Haslett agreed to participate in the illicit scheme. In exchange for his false statement inculcating Mr. Sanders, Haslett received a deal on the Atkins and Armstrong case, allowing him to plead guilty to armed robbery instead of facing charges for murder and attempt murder.

32. That, however, was not the only benefit that Haslett received. Unbeknownst to Mr. Sanders, during the pendency of Mr. Sanders' case, Defendant Bohlen arranged for Haslett to continue his career as an FBI and Chicago Heights police informant, including by giving testimony against Mr. Sanders.

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In doing so, Haslett was able to curry multiple additional, undisclosed favors for himself.

33. First, in exchange for Haslett's testimony against Mr. Sanders, the Defendants agreed to terminate Haslett's probation in an unrelated drug case. That consideration was never disclosed to Mr. Sanders or his defense prior to his wrongful incarceration.

34. Second, the Defendants arranged for Haslett to receive a two-year reduction on the 12-year sentence he was given as part of his plea in the Atkins and Armstrong case. As a result, Haslett served just five and a half years in prison. In addition, the Defendants ensured that Haslett was housed during those five years in the witness quarters in the State's Attorney's Office, protective custody at the Cook County Jail or in the federal system. The reduction in Haslett's sentence and his preferred housing while incarcerated were both withheld from Mr. Sanders and his defense.

35. Third, the Defendants (including Maureen Teed) helped arrange for thousands of dollars to be paid to Haslett and his then girlfriend and the mother of his children in exchange for Haslett's testimony against Sanders. They also arranged for Haslett and his then-girlfriend to have unsupervised visits.

36. None of the payments to Haslett or his girlfriend or the visits they were permitted to have were disclosed to Mr.

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Sanders or his defense prior to his wrongful conviction.

The Wrongful Conviction

37. At his first trial, the only evidence introduced against Mr. Sanders were the false identifications by Ms. Armstrong and Mr. Haslett. All other evidence, including the physical evidence collected by the Defendants, exculpated Mr. Sanders.

38. Nevertheless, on the basis of the false identifications procured by Defendants, the jury convicted Mr. Sanders of attempt murder, armed robbery and murder.

39. Mr. Sanders was then sentenced to 80 years of incarceration for the murder attempt murder. In addition, Mr. Sanders was sentenced to a concurrent 20 years of imprisonment on the armed robbery charge.

Plaintiff's Exoneration

40. Mr. Sanders fought tirelessly to overturn his wrongful conviction. After almost two decades of incarceration, Rodell Sanders' unjust conviction was finally vacated on January 14, 2011.

41. Remarkably, Mr. Sanders spent years learning the law and obtaining evidence via Freedom of Information Act requests and ordering transcripts that directly led to his exoneration. Despite only a high school education, Mr. Sanders litigated his

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post-conviction claims *pro se* and convinced a court to overturn his conviction.

42. The Illinois Court of Appeals affirmed the Circuit Court's ruling overturning Mr. Sanders' conviction and vacating his sentence on May 30, 2012.

43. Mr. Sanders was then retried. On July 22, 2014, a jury acquitted Mr. Sanders of all the charges against him.

Chicago Heights' Pattern of Misconduct

44. The misconduct that caused Mr. Sanders' wrongful conviction was not an isolated event. Rather, the Chicago Heights Police Department has a storied history of police misconduct.

45. Most notably, in 1993, Defendant Mangialardi was arrested and charged with racketeering, witness tampering, and extortion. A year later he was convicted of those charges, and was sentenced to over a decade in prison.

46. The arrest, trial, and conviction of Defendant Mangialardi centered on Defendant Mangialardi's extortion of Otis Moore, the leader of a flourishing drug ring.

47. For a number of years, Defendant Mangialardi demanded that Moore pay him \$10,000 per month. In exchange, Defendant Mangialardi diverted officers from Moore's drug turf and directed those officers to investigate Moore's competitors.

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48. Yet, the corruption did not stop with Defendant Mangialardi's conviction. Rather, the misconduct in Chicago Heights was so widespread that a total of six police officers, and 15 public officials, including the former mayor, Charles Pinici, were convicted and sentenced to lengthy prison sentences and large fines.

49. The corruption was so widespread among the City of Chicago Heights police department that the Mayor enlisted a retired Illinois Supreme Court Justice to investigate the entire police department.

50. For instance, around the same time as Mr. Sanders was facing false charges for murder, Bernard Ellis was facing trial for murder. Ellis was eventually found guilty, but his conviction was reversed when the appellate court found that the very Defendants involved in Mr. Sanders' case had not disclosed benefits that were provided to two of the eyewitnesses to the shooting. Even more, the appellate court also found that the various Defendants coached, threatened, and bribed witnesses in exchange for false identifications of Ellis.

Plaintiff's Injuries

51. In serving two decades behind bars, Mr. Sanders was wrongfully deprived of much of his adult life. Mr. Sanders has been stripped of the various pleasures of basic human experience, from the simplest to the most important, which all

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free people enjoy as a matter of right. He missed out on the ability to raise his daughters, share holidays, births, funerals, and other life events with loved ones, and the fundamental freedom to live one's life as an autonomous human being.

52. As a result of his wrongful incarceration, Mr. Sanders must now attempt to rebuild his life, all without the benefit of the life experiences that ordinarily equip adults for that task.

Count I - Due Process

42 U.S.C. § 1983

53. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

54. As described more fully above, the Defendant Officers, while acting individually, jointly, and in conspiracy with other named and unnamed individuals, as well as under color of law and within the scope of their employment, deprived Plaintiff of his constitutional right to a fair trial.

55. In the manner described more fully above, the Defendant Officers deliberately withheld exculpatory evidence, and fabricated false reports and other evidence, thereby misleading and misdirecting the criminal prosecution of Plaintiff. Absent this misconduct, the prosecution of Plaintiff could not and would not have been pursued.

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56. The Defendant Officers' misconduct also directly resulted in the unjust criminal conviction of Plaintiff, thereby denying him his constitutional right to a fair trial, and a fair appeal thereof, in violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

57. As a result of this violation of his constitutional right to a fair trial, Plaintiff suffered injuries, including, but not limited to, physical sickness and injury, and emotional distress, as is more fully alleged above.

58. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiff's constitutional rights.

59. The misconduct by the Defendant Officers described in this Count was undertaken pursuant to the policy and practice of the Chicago Heights Police Department, which Mr. Sanders was the victim of, and his injuries were proximately caused by a policy and practice on the part of the City of Chicago Heights to pursue and secure false convictions through profoundly flawed investigations.

60. Specifically, throughout the 1990s, a group of Chicago Police Heights Officers, including some or all of the Defendant Officers herein, engaged in a systematic pattern of coercion, fabrication of evidence, withholding of exculpatory information,

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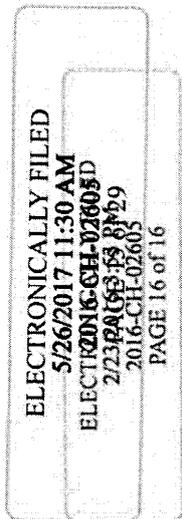
and other illegal tactics, the sum total of which completely corrupted the investigative process.

61. This institutional desire to close cases through unconstitutional tactics regardless of actual guilt or innocence, in order to enhance police officers' personal standing in the Department, was known to the command personnel, who themselves participated in the practice.

62. The above-described widespread practices, so well-settled as to constitute *de facto* policy in the Chicago Heights Police Department during the time period at issue, were able to exist and thrive because municipal policymakers with authority over the same either concurred with the practices or exhibited deliberate indifference to the problem.

63. The widespread practices described in the preceding paragraphs were allowed to take place because the City declined to implement sufficient training and/or any legitimate mechanism for oversight or punishment. Indeed, the Department's system for investigating and disciplining police officers accused of the type of misconduct that befell Plaintiff was, and is, for all practical purposes, nonexistent.

64. Chicago Heights police officers who manufactured criminal cases against individuals such as Plaintiff had every reason to know that they not only enjoyed *de facto* immunity from criminal prosecution and/or Departmental discipline, but that



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they also stood to be rewarded for closing cases no matter how high the costs. In this way, this system proximately caused abuses, such as the Defendant Officers' misconduct at issue in this case.

Count II Due Process

***Bivens v. Six Unknown Named Agents
of the FBI, 403 U.S. 388 (1971)***

65. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

66. As described more fully above, Defendant Teed, while acting individually, jointly, and in conspiracy with other named and unnamed individuals, as well as under color of law and within the scope of her employment, deprived Plaintiff of his constitutional right to a fair trial.

67. In the manner described more fully above, Defendant Teed deliberately withheld exculpatory evidence, and fabricated false reports and other evidence, thereby misleading and misdirecting the criminal prosecution of Plaintiff. Absent this misconduct, the prosecution of Plaintiff could not and would not have been pursued.

68. Defendant Teed's misconduct also directly resulted in the unjust criminal conviction of Plaintiff, thereby denying him his constitutional right to a fair trial, and a fair appeal

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thereof, in violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

69. As a result of this violation of his constitutional right to a fair trial, Plaintiff was injured, including, but not limited to, physical injury and sickness, and emotional distress, as is more fully alleged above.

70. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiff's constitutional rights.

Count III - Conspiracy

42 U.S.C. § 1983

71. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

72. Prior to arresting Plaintiff, the Defendant Officers reached an agreement amongst themselves to frame Plaintiff for the crime, and to thereby deprive Plaintiff of his constitutional rights, all as described in the various Paragraphs of this Complaint.

73. In addition, before and after Plaintiff's conviction, each of the Defendant Officers further conspired, and continue to conspire, to deprive Plaintiff of exculpatory materials to which he was lawfully entitled and which would have led to his more timely exoneration of the false charges as described in the various Paragraphs of this Complaint.

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74. In this manner, the Defendant Officers, acting in concert with each other and with Defendant Teed and other unknown co-conspirators, including persons who are and who are not members of the Chicago Heights Police Department or FBI, have conspired by concerted action to accomplish an unlawful purpose by an unlawful means.

75. In furtherance of the conspiracy, each of the co-conspirators committed overt acts and was an otherwise willful participant in joint activity.

76. As a direct and proximate result of the illicit prior agreement referenced above, Plaintiff's rights were violated, and he suffered financial damages, as well as physical injury and sickness, and severe emotional distress and anguish, as is more fully alleged above.

77. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

78. The Defendant Officers' misconduct described in this Count was undertaken pursuant to the policy and practice of the Chicago Heights Police Department in the manner described more fully in preceding paragraphs, and was tacitly ratified by policy-makers for the City of Chicago Heights with final policymaking authority.

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Count IV - Conspiracy

*Bivens v. Six Unknown Named Agents
of the FBI, 403 U.S. 388 (1971)*

79. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

80. Prior to arresting Plaintiff, Defendant Teed reached an agreement with the other Defendants to frame Plaintiff for the crime, and to thereby deprive Plaintiff of his constitutional rights, all as described in the various Paragraphs of this Complaint.

81. In addition, before and after Plaintiff's conviction, Defendant Teed further conspired, and continues to conspire, to deprive Plaintiff of exculpatory materials to which he was lawfully entitled and which would have led to his more timely exoneration of the false charges as described in the various Paragraphs of this Complaint.

82. In this manner, Defendant Teed, acting in concert with the other Defendants and other unknown co-conspirators, including persons who are and who are not members of the Chicago Heights Police Department or FBI, has conspired by concerted action to accomplish an unlawful purpose by an unlawful means.

83. In furtherance of the conspiracy, Defendant Teed committed overt acts and was an otherwise willful participant in joint activity.

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84. As a direct and proximate result of the illicit prior agreement referenced above, Plaintiff's rights were violated, and he suffered financial damages, physical injury and sickness, as well as severe emotional distress and anguish, as is more fully alleged above.

85. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

Count V - Failure to Intervene

42 U.S.C. § 1983

86. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

87. In the manner described above, during the Constitutional violations described above, one or more of the Defendant Officers (including as-yet-unknown Police Officers) stood by without intervening to prevent the misconduct.

88. As a result of the Defendant Officers' failure to intervene to prevent the violation of Plaintiff's constitutional rights, Plaintiff suffered damages, including physical sickness and injury, as well as emotional distress. These Defendants had a reasonable opportunity to prevent this harm, but failed to do so.

89. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful

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indifference to Plaintiff's constitutional rights.

90. The Defendant Officers' misconduct described in this Count was undertaken pursuant to Chicago Height's policy and practice in the manner described in preceding paragraphs.

Count VI - Failure to Intervene

***Bivens v. Six Unknown Named Agents
of the FBI, 403 U.S. 388 (1971)***

91. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

92. In the manner described above, during the constitutional violations described above, Defendant Teed stood by without intervening to prevent the misconduct.

93. As a result of Defendant Teed's failure to intervene to prevent the violation of Plaintiff's constitutional rights, Plaintiff suffered damages, including physical sickness and injury, as well as emotional distress. Defendant Teed had a reasonable opportunity to prevent this harm, but failed to do so.

94. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiff's constitutional rights.

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Count VII - Supervisor Liability

42 U.S.C. § 1983

95. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

96. The constitutional injuries complained of herein were proximately caused by a pattern and practice of misconduct, which occurred with the knowledge and consent of those of the Defendant Officers who acted in a supervisory capacity, including Defendants Mangialardi, Nardoni, Murphy, and Rubestelli, such that these officers personally knew about, facilitated, approved, and/or condoned this pattern and practice of misconduct, or least recklessly caused the alleged deprivation by their actions or by their deliberately indifferent failure to act.

97. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

98. The misconduct described in this Count was undertaken pursuant to the City's policy and practice in the manner more fully described above.

99. As a result of this violation, Plaintiff suffered injuries, including but not limited to physical sickness and injuries, and emotional distress, as is more fully alleged above.

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100. Absent knowing participation by the command personnel responsible for supervising the Defendant Officers, the misconduct alleged in this Complaint could not have occurred.

Count VIII - Malicious Prosecution

42 U.S.C. § 1983¹

101. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

102. Defendant Officers caused Plaintiff to be improperly subjected to judicial proceedings for which there was no legitimate probable cause. These judicial proceedings were instituted and continued maliciously, resulting in injury, and all such proceedings were ultimately terminated in Plaintiff's favor in a manner indicative of his innocence.

103. The Defendant Officers accused Plaintiff of criminal activity knowing those accusations to be without genuine probable cause, and they made statements to prosecutors with the intent of exerting influence to institute and continue the judicial proceedings.

104. Statements of the Defendant Officers regarding Plaintiff's alleged culpability were made with knowledge that said statements were false and perjured. In so doing, the

¹ Plaintiff is including this claim in his First Amended Complaint to preserve it in the event that the Seventh Circuit overturns its ruling in *Newsome v. McCabe*, 256 F.3d 747 (7th Cir. 2001).

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Defendant Officers fabricated evidence and withheld exculpatory information.

105. The misconduct in this Count violated Plaintiff's rights under the Fourth Amendment and the procedural and substantive due process components of the Fourteenth Amendment.

106. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

107. The misconduct described in this Count was undertaken pursuant to the City's policy and practice in the manner more fully described above.

108. As a result of this misconduct, Plaintiff sustained, and continues to sustain, injuries including physical injury and sickness, and emotional pain and suffering.

Count IX - Malicious Prosecution

***Bivens v. Six Unknown Named Agents
of the FBI, 403 U.S. 388 (1971)***

109. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

110. Defendant Teed caused Plaintiff to be improperly subjected to judicial proceedings for which there was no legitimate probable cause. These judicial proceedings were instituted and continued maliciously, resulting in injury, and

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all such proceedings were ultimately terminated in Plaintiff's favor in a manner indicative of his innocence.

111. Defendant Teed accused Plaintiff of criminal activity knowing those accusations to be without genuine probable cause, and made statements to prosecutors with the intent of exerting influence to institute and continue the judicial proceedings.

112. Statements of Defendant Teed regarding Plaintiff's alleged culpability were made with knowledge that said statements were false and perjured. In so doing, the Defendant fabricated evidence and withheld exculpatory information.

113. The misconduct in this Court violated Plaintiff's rights under the Fourth Amendment and the procedural and substantive due process component of the Fourteenth Amendment.

114. The misconduct described in this Court was undertaken with malice, willfulness, and reckless indifference to the rights of others.

115. As a result of this misconduct, Plaintiff sustained, and continues to sustain, injuries including physical injury and sickness, and emotional pain and suffering.

Count X - State Law Claim

Malicious Prosecution

116. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

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117. Defendant Officers caused Plaintiff to be improperly subjected to judicial proceedings for which there was no legitimate probable cause. These judicial proceedings were instituted and continued maliciously, resulting in injury, and all such proceedings were ultimately terminated in Plaintiff's favor in a manner indicative of innocence.

118. Defendant Officers accused Plaintiff of criminal activities knowing those accusations to be without genuine probable cause, and made statements to the police and/or prosecutors with the intent of exerting influence to institute and continue the judicial proceedings.

119. Defendant Officers also fabricated evidence and failed to disclose the manner in which that evidence was fabricated. Additionally, the Defendant Officers withheld evidence that would have proven Plaintiff's innocence.

120. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

121. As a result of this misconduct, Plaintiff sustained injuries, including physical injury and sickness, and emotional pain and suffering, as more fully alleged above.

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Count XI -- State Law Claim

Intentional Infliction of Emotional Distress

122. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

123. In the manner described more fully above, by wrongfully inculcating Plaintiff in a crime he did not commit, Defendant Officers intended to cause emotional distress.

124. In doing so, Defendant Officers' conduct was extreme and outrageous and caused Plaintiff severe, disabling emotional distress.

125. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

126. As a result of this misconduct, Plaintiff sustained injuries, including physical injury and sickness, and emotional pain and suffering, as is more fully alleged above.

Count XII -- State Law Claim

Respondeat Superior

127. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

128. In committing the acts alleged in the preceding paragraphs, Defendant Officers were members of the Chicago Police Department, acting at all relevant times within the scope of their employment.

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129. Defendant City of Chicago is liable as the principal for all torts committed by its agents.

Count XIII -- State Law Claim

Indemnification

130. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

131. Illinois law provides that public entities are directed to pay any tort judgment for compensatory damages for which employees are liable within the scope of their employment activities.

132. The Defendant Officers are or were employees of the Chicago Police Department, and acted within the scope of their employment in committing the misconduct described herein.

WHEREFORE, Plaintiff, RODELL SANDERS, respectfully requests that this Court enter judgment in his favor and against Defendants, CITY OF CHICAGO HEIGHTS, MAUREEN TEED, JEFFREY BOHLEN, ROBERT PINNOW, SAM MANGIALARDI, Det. J. CHARLES NARDONI, ANTHONY MURPHY, JOSEPH RUBESTELLI, JEFFREY GOSS, and UNIDENTIFIED EMPLOYEES of the CITY OF CHICAGO HEIGHTS, awarding compensatory damages, costs, and attorneys' fees, as well as punitive damages against all individual defendants, and any other relief this Court deems just and appropriate.

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JURY DEMAND

Plaintiff, **RODELL SANDERS**, hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

RESPECTFULLY SUBMITTED:

s/ Elliot Slosar
Attorneys for Rodell Sanders

Arthur Loevy
Jon Loevy
Michael Kanovitz
Russell Ainsworth
Gayle Horn
Elliot Slosar
LOEVY & LOEVY
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COOK COUNTY, ILLINOIS
CHANCERY DIVISION
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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

CITY OF CHICAGO HEIGHTS, an Illinois)
Municipal Corporation, JEFFREY BOHLEN,)
SAM MANGIALARDI, ROBERT PINNOW,)
GERALDINE NARDONI, AS PERSONAL)
REPRESENTATIVE FOR NOW DECEASED)
CHARLES NARDONI, ANTHONY)
MURPHY, JOSEPH ROBUSTELLI and)
JEFFREY GOSS,)

Plaintiffs,)

v.)

ILLINOIS UNION INSURANCE COMPANY,)
STARR INDEMNITY & LIABILITY)
COMPANY and RODELL SANDERS,)

Defendants.)

Case No. _____

Judge _____

Jury Demanded _____

ATTACHMENT TO COMPLAINT FOR DECLARATORY JUDGMENT,
LEGAL RELIEF AND MONETARY DAMAGES

Exhibit 2

Illinois Union Insurance Company
Primary Policy No. PEP G24891562 003
November 1, 2012 – November 1, 2013

EXHIBIT B



Illinois Union Insurance Company
525 W. Monroe Street
Chicago, IL 60661

**ACE Advantage[®]
Public Entity
Retained Limits Policy
Declarations**

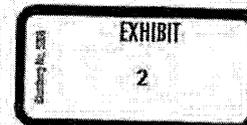
This Policy is issued by the stock insurance company shown above.

SOME COVERAGE PARTS IN THIS POLICY PROVIDE COVERAGE ON A CLAIMS MADE AND REPORTED BASIS. IF COVERAGE IS PROVIDED ON A CLAIMS MADE AND REPORTED BASIS, IT IS SUBJECT TO THE TERMS AND CONDITIONS OF THAT COVERAGE PART. PLEASE READ IT CAREFULLY.

THE LIMITS OF INSURANCE AVAILABLE TO PAY INSURED DAMAGES SHALL BE REDUCED BY AMOUNTS INCURRED FOR CLAIMS EXPENSES. FURTHER NOTE THAT AMOUNTS INCURRED FOR DAMAGES AND CLAIMS EXPENSES SHALL ALSO BE APPLIED AGAINST THE RETAINED LIMIT AMOUNTS.

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Policy No. PEP G24891562 003	Renewal of: PEP G24891562 002
Item 1. Named Insured and Principal Address City of Chicago Heights 1601 Chicago Road Chicago Heights, IL 60411	Producer Name and Address Boyle Flagg & Seaman Inc. 7941 West 171 st Street Tinley Park, IL 60477-3244
Item 2. Policy Period: From: November 1, 2012 12:01 a.m. To November 1, 2013 12:01 a.m. (Local time at the address shown in Item 1)	
Item 3. Coverage(s) Purchased (☒): A. <input checked="" type="checkbox"/> General Liability Coverage Part B. <input checked="" type="checkbox"/> Automobile Liability Coverage Part C. <input checked="" type="checkbox"/> Public Officials & Employment Practices Liability Coverage Part D. <input type="checkbox"/> Miscellaneous Professional Liability Coverage Part E. <input checked="" type="checkbox"/> Limited Automobile Physical Damage Coverage Part F. <input type="checkbox"/> G. <input type="checkbox"/>	
TOTAL PREMIUM \$ <u>325,445</u>	



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Item 4. Retained Limit:		
A. General Liability Coverage Part	Each Occurrence	\$ <u>50,000</u>
Law Enforcement Liability	Each Occurrence	\$ <u>100,000</u>
B. Automobile Liability Coverage Part	Each Accident	\$ <u>50,000</u>
C. Public Officials & Employment Practices Liability Coverage Part	Each Claim	\$ <u>100,000</u>
		\$ <u>50,000</u>
D. Miscellaneous Professional Liability Coverage Part	Each Claim	<u>Not Covered</u>
The applicable Retained Limit is shown in the individual Coverage Part if not listed above.		
Item 5. Limits of Insurance:		
A. General Liability Coverage Part	Each Occurrence	\$ <u>1,000,000</u>
General Liability Coverage Part Aggregate	Aggregate	\$ <u>2,000,000</u>
B. Automobile Liability Coverage Part	Each Accident	\$ <u>1,000,000</u>
C. Public Officials & Employment Practices Liability Coverage Part	Each Claim	\$ <u>1,000,000</u>
Public Officials & Employment Practices Liability Coverage Part	Aggregate	\$ <u>2,000,000</u>
D. Miscellaneous Professional Liability Coverage Part	Each Claim	<u>Not Covered</u>
Miscellaneous Professional Liability Coverage Part	Aggregate	<u>Not Covered</u>
The applicable Limits of Insurance are shown in the individual Coverage Part if not listed above.		
Item 6. Retroactive Date: (Enter Date or enter "None" if no Retroactive Date Applies)		
A. Public Officials & Employment Practices Liability Coverage Part		<u>None</u>
B. Miscellaneous Professional Liability Coverage Part		<u>Not covered</u>
The applicable Retroactive Date is shown in the individual Coverage Part if not listed above.		
Item 7. Optional Extended Reporting Period:		
A. Public Officials & Employment Practices Liability Coverage Part	Additional Premium:	<u>100% of Annual Premium</u>
	Additional Period:	<u>12 months</u>
B. Miscellaneous Professional Liability Coverage Part	Additional Premium:	<u>Not covered</u> % of Annual Premium
	Additional Period:	<u>Not covered</u>
Terms of the applicable Optional Extended Reporting Period are shown in the individual Coverage Part if not listed above.		

SCHEDULE OF FORMS AND ENDORSEMENTS

Named Insured City of Chicago Heights			Endorsement Number Part 1 of 1
Policy Symbol PEP	Policy Number G24891562 003	Policy Period November 1, 2012 to November 1, 2013	Effective Date of Endorsement November 1, 2012
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

SCHEDULE OF FORMS

Policy Forms	Title
PE-19611c	ACE Advantage Public Entity Retained Limits Policy Declarations
PE-19610i	Common Conditions, Definitions And Exclusions
PE-19609d	General Liability Coverage Part
PE-19608a	Automobile Liability Coverage Part
PE-19607f	Public Officials & Employment Practices Liability Coverage Part
CC-1E15	Limited Automobile Physical Damage Coverage Part
PE-31091	Limited Sexual Abuse Coverage Part

SCHEDULE OF ENDORSEMENTS

Endorsement Number	Form Number	Title
1	ALL 21101	Trade or Economic Sanctions Endorsement
2	PE-23667	Exclusion of Certified Acts of Terrorism
3	XS-2X35b	Illinois Service of Suit
4	CC-1E15	Modification of Underinsured Motorists Coverage - Illinois
5	LD-5S23i	Signature Endorsement
6	LD-2S61a	Illinois Changes - Cancellation And Nonrenewal
7	CC-1E15	Corridor Retention Endorsement
8	PE-27172	Separate Retained Limits Endorsement - Law Enforcement Activities And Other General Liability
	SL-24684	Illinois Surplus Lines Notification
	TRIA 15c	Policyholder Disclosure Notice of Terrorism Insurance Coverage
	ALL 20887	ACE Producer Compensation Practices & Policies
	IL P 0001	U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") Advisory Notice to Policyholders

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ACE Advantage[®] Public Entity Retained Limits Policy

COMMON CONDITIONS, DEFINITIONS AND EXCLUSIONS

Throughout this Policy the words **You** and **Your** refer to the **Named Insured**. The words **We**, **Us**, and **Our** refer to the company providing this insurance.

Certain words and phrases that appear in bold print have special meanings found either in the Common Conditions, Definitions and Exclusions section of the Policy, or in the Definitions sections of the Coverage Parts.

A. Policy Conditions

All Coverage Parts included in this Policy are subject to the following conditions except as otherwise expressly indicated.

1. Alteration, Assignment and Headings

- a. Notice to any agent or knowledge possessed by any agent or by any other person shall not affect a waiver or a change in any part of this Policy nor prevent the **Insurer** from asserting any right under the terms of this Policy.
- b. No change in, modification of, or assignment of interest under this Policy shall be effective except when made by a written endorsement to the Policy signed by an authorized representative of the **Insurer**.
- c. The titles and headings to the various parts, sections, subsections and endorsements of the Policy are included solely for ease of reference and do not in any way limit, expand or otherwise affect the provisions of such parts, sections, subsections or endorsements.

2. Alternative Dispute Resolution

The **Insured** and the **Insurer** shall submit any dispute or controversy arising out of or relating to this Policy or the breach, termination or invalidity thereof, including disputes as to the scope or applicability of coverage, to the alternative dispute resolution ("ADR") process set forth in this section.

Either an **Insured** or the **Insurer** may elect the type of ADR process discussed below, provided, however, that the **Insured** shall have the right to reject the choice by the **Insurer** of the type of ADR process at any time prior to its commencement, in which case the choice by the **Insured** of ADR process shall control.

There shall be two choices of ADR process: (1) non-binding mediation administered by any mediation facility to which the **Insurer** and the **Insured** mutually agree, in which the **Insured** and the **Insurer** shall try in good faith to settle the dispute by mediation in accordance with the then-prevailing commercial mediation rules of the mediation facility; or (2) arbitration submitted to any arbitration facility to which the **Insured** and the **Insurer** mutually agree, in which the arbitration panel shall consist of three disinterested individuals. In either mediation or arbitration, the mediator or arbitrators shall have expertise in the legal, or the insurance issues relevant to the matters in dispute. In the event of arbitration, the decision of the arbitrators shall be final and binding and provided to both parties. No award of the arbitrators shall include attorneys' fees or other costs. In the event of mediation, either party shall have the right to commence arbitration in accordance with this section; provided, however, that no such arbitration shall be commenced until at least 60 days after the date the mediation is concluded or terminated. In all events, each party shall bear its own expenses in the ADR process.

Either ADR process may be commenced in New York, New York or in the state indicated in Item 1 of the Declarations as the principal address of the **Named Insured**. The **Named Insured** shall act on behalf of each and every **Insured** in connection with any ADR process under this section.

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3. Appeals

We can appeal a judgment against an Insured under this agreement if:

- a. The judgment is for more than the amount of the Retained Limit, and
- b. An Insured does not appeal it.

If We appeal a judgment, We will pay the costs of the appeal and any interest on those costs. Those payments will be in addition to any Limit of Insurance of this Policy.

4. Audit of Books and Records

We may audit Your books and records at any time during the Policy Period or within five years after the Policy Period. There is no time limit on auditing Your books and records with respect to Claims under this Policy.

5. Authorization Clause

By the acceptance of this Policy, the Named Insured agrees to act on behalf of all Insureds with respect to the giving and receiving of notice of Claim, the giving or receiving of notice of cancellation or non renewal, the payment of premiums and the receiving of any premiums that may become due under this Policy, the agreement to and acceptance of endorsements, consenting to any settlement, exercising the right to the Extended Reporting Period, and the giving or receiving of any other notice provided for in this Policy, and all Insureds agree that the Named Insured shall so act on their behalf.

6. Conflicting State Law or Regulation

In the event that provisions of this Policy conflict with any state law or regulation, then such law or regulation shall prevail and this Policy is amended to conform with such law or regulation.

7. Defense and Settlement

- a. We have no duty to defend a Claim against an Insured seeking Damages.
- b. We shall have no obligation to pay or indemnify an Insured for any amount if an Insured's obligation to pay Damages and Claim Expenses is within or equal to the Retained Limit.
- c. You have the duty to defend any Claim to which this insurance applies and shall be responsible for the Damages and Claim Expenses up to the Retained Limit.
- d. When the Damages and Claim Expenses for which You become legally obligated to pay exceed the Retained Limit, You will be entitled to indemnification by Us. You shall submit any request for indemnification to Us as soon as practicable after the Damages and Claim Expenses exceed the Retained Limit. We will promptly indemnify You in excess of the Retained Limit subject to the Limit of Insurance for the applicable Coverage Part as shown on the Declarations. The Retained Limit must be satisfied by actual payment by You. The Retained Limit may not be satisfied by payment by the Insured of any deductible of any other Policy or payments made on behalf of the Insured by any other insurer, person or entity. The Insured must make actual payment of the Retained Limit under this Policy without regard to whether the Insured must pay other amounts under any other Policy, even if the claimed amounts are deemed to have been caused by one Occurrence, Accident or Wrongful Act. The Retained Limit shall not be impaired by any Claim brought against an Insured which is not covered under the applicable Coverage Part.
- e. Your legal obligation to pay the Damages and Claim Expenses must be evidenced either by a judgment against any Insured after final adjudication, or by an arbitration award entered as a judgment, or by a written settlement executed by You and the settling claimants.
- f. You must obtain Our prior written approval before offering or agreeing to pay an amount which is in excess of the Retained Limit in order to settle any Claim.
- g. We shall have the right and You shall avail Us of the opportunity to associate with You in the defense of any Claim that in Our sole opinion may create indemnification obligations for Us.

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h. We shall have the right to settle any Claim that in Our sole opinion may create indemnification obligations for Us.

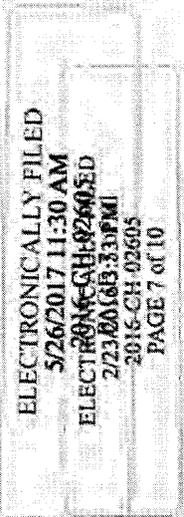
8. Duties In the Event of Accident, Occurrence, Wrongful Act, or Claim

a. You must see to it that:

- i. We are notified in writing as soon as practicable once You have knowledge of any Accident or Occurrence which may reasonably and subsequently give rise to a Claim being made against an Insured that is likely to result in liability for Us under this Policy. Notice shall be deemed given as soon as practicable if it is given to Us by the department or person to whom You have delegated such claims reporting responsibility as soon as practicable after they have knowledge of such Accident or Occurrence. Further, for any Claim arising from a Wrongful Act, notification to Us may be given no later than sixty (60) days after the end of the Policy Period.
- ii. You immediately make a written record of specific information about any Claim which appears reasonably likely to involve indemnification under this Policy, including but not limited to:
 1. The identity of any potential claimants;
 2. A description of any anticipated Wrongful Act allegations;
 3. The identity of the Insured allegedly involved;
 4. The circumstances by which the Insured first became aware of the Accident, Occurrence or alleged Wrongful Act;
 5. The consequences which have resulted or may result;
 6. The nature of the potential monetary damages; and
 7. The date the Claim was received;
- iii. You notify Us in writing as soon as practicable and provide Us with all the information required under section ii above. Notice shall be deemed given as soon as practicable if it is given to Us by the department or person to whom You have delegated such responsibility as soon as practicable after they have knowledge of such Claim;
- iv. Notice will be made to:

MAIL	ACE North American Claims P.O. Box 5122 Scranton, PA 18505-0554
EMAIL	ACEClaimsFirstNotice@acegroup.com
FAX	(877) 395-0131 (Toll Free) (302) 476-7254 (Local)
PHONE	(800) 433-0385 – Business Hours (800) 523-9254 – After Hours

- v. We receive any assistance We reasonably request in the enforcement of any right against any person or organization which may be liable;
 - vi. We receive Your full cooperation as stated in this Policy; and
 - vii. We receive Your full cooperation in the investigation, settlement or defense of any Claim.
- b. You must notify Us and provide information in the manner specified above of any Accident, Occurrence, Wrongful Act or Claim, regardless of the coverage or liability, which:
- i. Results in the establishment of a reserve, or would reasonably require the establishment of a reserve, for Damages which equals or exceeds 50% of the Retained Limit; or



- ii. Involves a notice of **Claim** for a **Wrongful Act** which is reasonably likely to equal or exceed 25% of the **Retained Limit**; or
- iii. Involves any of the following:
 1. Any injury to the spinal cord or vertebrate, including paraplegia, quadriplegia and partial paralysis;
 2. Any serious head injury including skull fracture;
 3. A brain or brain stem injury;
 4. Any burn to 25% or more of the body;
 5. A fatality;
 6. Any amputation or loss of use of a major extremity or multiple minor extremities;
 7. Sensory Loss (such as sight, hearing, smell, touch or taste);
 8. Multiple Fractures or serious disfigurement or scarring;
 9. **Bodily Injury** resulting from use of a weapon or restraining device by law enforcement which results in the establishment of a reserve, or would reasonably require the establishment of a reserve, for **Damages** which equal or exceed 25% of the **Retained Limit**; or
 10. Any **Suit** filed as a class action, whether any such class action or class is certified; or
- iv. Is an actual or anticipated **Crisis Event** as soon as practicable, but in no event later than thirty (30) days after You first incur **Crisis Management Expenses** for which coverage will be requested under this **Policy**.

Knowledge of an **Accident**, **Occurrence**, **Wrongful Act**, or **Claim** by an agent or **Employee** of any **Insured** shall not in itself constitute Your knowledge unless any of the persons with such knowledge is an executive officer or director; or other persons in a supervisory or managerial capacity, or acting as a risk manager or insurance manager; or a person to whom You have delegated such responsibility, have such knowledge.

- c. If, during the **Policy Period**, You have knowledge of any **Wrongful Act** which may reasonably give rise to a future **Claim** covered under this **Policy**, and if You give written notice to Us during the **Policy Period** or any applicable **Extended Reporting Period** of the details of such **Wrongful Act** referenced in 1 - 6 of section 8.b.ii above, then any **Claim** which arises out of such **Wrongful Act** shall be deemed to have been first made at the time such written notice was received by Us. No coverage is provided for fees, expenses and other costs incurred prior to the time such **Wrongful Act** results in a **Claim**.

9. Estates, Legal Representatives and Spouses

The estates, heirs, legal representatives, assigns, spouses and legally recognized domestic partners of an **Insured** and any natural person qualifying as a domestic partner of an **Insured** under the provisions of any applicable federal, state or local law or under the provisions of any formal program established by the **Named Insured** shall be considered an **Insured** under this **Policy**; but coverage is afforded to such estates, heirs, legal representatives, assigns, spouses and legally recognized domestic partners only for a **Claim** arising solely out of their status as such and, in the case of a spouse or legally recognized domestic partner, where the **Claim** seeks **Damages** from marital community property, jointly held property or property transferred from a natural person **Insured** to the spouse or legally recognized domestic partner. No coverage is provided for any act of an estate, heir, legal representative, assign, spouse or legally recognized domestic partner. All of the terms and conditions of this **Policy** including, without limitation, the **Retained Limit** applicable to **Damages** and **Claim Expenses** claimed against an **Insured** shown in Item 4 of the **Declarations**, shall also apply to such estates, heirs, legal representatives, assigns, spouses and legally recognized domestic partners.

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10. Rights of Third Parties/Financial Impairment

- a. Other than (a) provided to You in Condition A.2. above (Alternative Dispute Resolution) or (b) expressly provided for by law, this Policy grants no rights whatsoever to any person or organization to sue Us or join Us as a party to any action against any Insured to determine the liability of any Insured nor shall We be impleaded by any Insured or its legal representatives. Bankruptcy or insolvency of any Insured or of the estate of any Insured (or any insurer providing underlying insurance or an Insured's inability to pay any part of the Retained Limit) shall not relieve Us of Our obligations nor deprive Us of any rights or defenses under this Policy.
- b. In the event there is a reduced recovery or no recovery available to an Insured as a result of such financial impairment of any Insurer providing other insurance, the coverage under this Policy shall apply only in excess of the Retained Limit. Under no circumstances shall We be required to drop down and replace any underlying Limit of Insurance, or assume any other obligations of any financially impaired Insurer or an Insured.

11. Inspection

We have the right, but are not obligated to inspect any Insured's premises and operations at any time. Our inspections are not safety inspections. They relate only to the insurability of the premises and operations and the premium to be charged. We may give You reports on the conditions We find. We may also recommend changes to make the premises or operation a better insurance risk. While they may help reduce losses, We do not undertake the duty of any person or organization to provide for or advise on the health or safety of workers, third parties or the public. We do not warrant or represent that the premises or operations are safe or healthful, or that they comply with laws, regulations, codes or standards.

12. Interpretation

The terms and conditions of this Policy shall be interpreted and construed as a commercial contract in an evenhanded fashion as between the parties. If the language of this Policy is to be interpreted in any suit, arbitration, mediation or appeal, any dispute regarding such interpretation shall be resolved in the manner most consistent with the relevant terms and conditions, without regard to authorship of the language, without any presumption or arbitrary interpretation or construction in favor of either the Insured or the Insurer and without reference to the reasonable expectations of either the Insured or the Insurer.

13. Other Insurance

If insurance with any other Insurer is available to cover a Claim for an Insured for any coverage under this Policy whether on a primary, excess, or contingent basis, the insurance under this Policy is excess of and does not contribute with such other insurance.

It is also agreed that such other insurance is excess over the Retained Limit and we will not make any payments until the other insurance and the Retained Limit have been exhausted.

The insurance under this Policy is not subject to the terms, conditions, or limitations of any other insurance.

This condition does not apply with respect to excess insurance purchased specifically to be in excess of this Policy.

14. Premium

- a. The Named Insured shown in the Declarations:
 - i. Is responsible for the payment of all premiums; and
 - ii. Will be the payee for any return premiums We pay.
- b. We will compute all premiums for this Policy in accordance with Our rules and rates.
- c. The Named Insured must keep records of the information needed for premium computation, and send copies at such times as We may request.

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15. Representations

- a. The **Insured** represents and acknowledges that the statements and information contained in the **Application** are true and accurate and:
- are the basis of this **Policy** and are to be considered as incorporated into and constituting a part of this **Policy**; and
 - shall be deemed material to the acceptance of this risk or the hazard assumed by the **Insurer** under this **Policy**; and
- b. It is understood and agreed that:
- this **Policy** is issued in reliance upon the truth and accuracy of such representations;
 - if such representations or such information are not true, accurate and complete, this **Policy** shall be null and void in its entirety and the **Insurer** shall have no liability hereunder;
- c. Any **Insured's** failure to disclose all hazards as of the inception date of this **Policy** shall not prejudice the **Insured** with respect to the coverage afforded by this **Policy**, provided such failure or omission is not intentional and any **Insured** did not know about such hazard prior to the commencement of the **Policy Period**.

16. Right to Recover Payment

Any persons or organizations for whom **We** make a payment under this insurance must transfer to **Us** their right of recovery against any other party. After a **Claim** they must do everything necessary to secure, and nothing to impair, these rights. However, **We** will waive **Our** right of recovery against any person or organization with respect to which the **Insured** has waived its right of recovery prior to the **Occurrence, Accident, or Wrongful Act** in an **Insured Contract**.

17. Territory

Coverage under this **Policy** shall extend to **Accidents, Occurrences or Wrongful Acts** taking place or sustained anywhere in the world, provided the **Claim** is made within the jurisdiction of and subject to the laws of the United States of America, Canada or their respective territories or possessions.

18. Termination of the Policy

- a. The **Named Insured** may cancel this **Policy** at any time by sending **Us** a written request or by returning the **Policy** stating the date of cancellation.
- b. **We** may cancel this **Policy** at any time by mailing to the **Named Insured** a notice of cancellation 60 days (10 days in the event of non-payment of premium) in advance of the cancellation date. **Our** notice of cancellation will be mailed to the **Named Insured's** last known address, and will indicate the date on which coverage is terminated.
- c. If cancellation is requested by the **Named Insured**, return premium will be computed at 90% of the pro rata premium.
- If **We** cancel, return premium will be computed pro rata. If this **Policy** insures more than one **Named Insured**, cancellation may be effected by the **Named Insured** as shown on the **Declarations Page** for the account of all the **Named Insureds**. Notice of cancellation by **Us** to the **Named Insured** will be deemed notice to all **Insureds** and payment of any return premium to such **Named Insured** will be for the account of all interests.
- d. This **Policy** shall also terminate at the earliest of the following times:
- Upon expiration of the **Policy Period** as set forth in Item 2 of the **Declarations**; or
 - At such other time as may be agreed upon by the **Insurer** and the **Named Insured**.
- e. Either party may elect to non-renew the **Policy** at its expiration date for any reason.

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COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK DOROTHY BROWN

19. Transfer of Rights and Duties

Your rights and duties under this insurance may not be transferred without Our written consent except in the case of death of an individual Insured.

If You die, Your rights and duties will be transferred to Your legal representative but only while acting within the scope of duties as Your legal representative. Until Your legal representative is appointed, anyone having proper temporary custody of Your property will have Your rights and duties but only with respect to that property.

20. Valuation

All premiums, limits, retentions, Damages, Claim Expenses and other amounts under this Policy are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is denominated or another element of Damages and Claim Expenses under this Policy is stated in a currency other than United States of America dollars, payment under this Policy shall be made in United States dollars at the applicable rate of exchange as published in *The Wall Street Journal* as of the date the final judgment is reached. If the amount of the settlement is agreed upon or the other element of Damages or Claim Expenses is due, respectively, or if it is not published on such date, the rate as published on the next date of publication of *The Wall Street Journal* shall apply.

21. When a Claim is Payable

With respect to payment of Claims, this Policy will not apply until You are obligated to pay the amount of the Retained Limit covered under this Policy. When the amount of Damages and Claim Expenses has finally been determined as provided in Condition A. 7. Defense and Settlement, We will promptly indemnify You the amount of the Damages and Claim Expenses covered under this Policy.

If We are required or at Our sole discretion, elect to pay any amounts on behalf of an Insured within the Retained Limit, You will promptly reimburse Us for any such amounts.

B. Definitions

1. **Accident** means an unintended and unexpected harmful event, including continuous or repeated exposure to substantially the same general harmful conditions which results in **Bodily Injury** or **Property Damages**. All such exposure to substantially the same general conditions will be considered as arising out of one **Accident**.

2. **Administration** means:

- a. Giving counsel to employees with respect to an **Employee Benefits Program**;
- b. Interpreting an **Employee Benefits Program**;
- c. Handling of records in connection with an **Employee Benefits Program**; or
- d. Effecting enrollment, termination, or cancellation of employees under an **Employee Benefits Program**;

provided such acts are authorized by You.

3. **Advertising Injury** means one or more of the following offenses:

- a. Libel, slander or defamation;
- b. Any infringement of copyright, title or slogan;
- c. Misappropriation of advertising ideas or style of doing business;
- d. Oral or written publication of material that violates a person's right of privacy;

committed or alleged to have been committed in any advertisement, publicity article, broadcast, or telecast and arising out of Your advertising activities except if arising out of electronic chat rooms or bulletin boards.

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4. **Application** means all applications, including any attachments thereto, and all other information and materials submitted by or on behalf of the **Insured** to the **Insurer** in connection with the **Insurer** underwriting this **Policy** or any **Policy** of which this **Policy** is a direct or indirect renewal or replacement. All such applications, attachments, information and materials are deemed attached to and incorporated in this **Policy**.
5. **Automobile** means a land motor vehicle, trailer, or semi-trailer designed for travel on public roads, including any attached machinery or equipment; but, does not include **Mobile Equipment**.
6. **Bodily Injury** means physical injury to the body, sickness or disease, including death resulting from any of these at any time, and if arising out of the foregoing, mental anguish, mental injury, mental tension, emotional distress, disability, pain and suffering, shock or fright.
7. **Claim** means:

- a. A written demand against any **Insured** for monetary damages or non-monetary or injunctive relief;
- b. A civil, administrative or regulatory proceeding against any **Insured** commenced by
- i. The service of a complaint or similar pleading against any **Insured** seeking monetary damages or non-monetary or injunctive relief;
 - ii. The issuance of a notice of charge or formal investigative order, including without limitation any such proceeding by or in association with any federal, state or local governmental authority located anywhere in the world; or
 - iii. The service upon or other receipt by any **Insured** of a written notice or subpoena from the investigating authority identifying any **Insured** as an individual against whom a civil, administrative or regulatory investigation or proceeding is to be commenced.

However, any complaint filed with the Equal Employment Opportunity Commission ("EEOC") shall not constitute a **Claim** until the EEOC has issued a "right to sue" letter or notice to the claimant;

- c. A criminal proceeding against any **Insured** commenced by a return of an indictment, information, or similar document, or receipt or filing of a notice of charges;
- d. An arbitration proceeding against any **Insured** seeking monetary damages or non-monetary or injunctive relief;
- e. Solely with respect to Insuring Agreement A.2, a written request of the **Insured** to toll or waive a statute of limitations applicable to a **Claim** described in paragraphs a through d above; including any appeal therefrom.

Claim does not mean a labor union grievance or complaint filed with a labor union.

8. **Claim Expenses** means:
- a. Reasonable and necessary attorneys' fees, expert witness fees and other fees and costs incurred by Us, or by an **Insured** with Our prior written consent, in the investigation and defense of covered **Claims**;
 - b. Reasonable and necessary premiums for any appeal bond, attachment bond or similar bond, provided that We shall have no obligation to apply for or furnish such bond; and
 - c. Pre-judgment and post-judgment interest awarded in any **Claim**.

Claim Expenses shall not include wages, salaries, fees or costs of directors, officers or **Employees** of the **Insurer** or the **Insured**. **Claim Expenses** shall be reduced by any recoveries or salvages which have been paid or will be collected. **Claim Expenses** does not include **Crisis Management Expense**.

9. **Damages** means compensatory damages, judgments and settlements which the **Insured** becomes legally obligated to pay on account of any **Claim**. **Damages** shall be reduced by any recoveries or salvages which have been paid or will be collected.

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Damages does not include:

- a. Any amount for which the Insured is not financially liable or legally obligated to pay;
- b. Taxes, fines, penalties, or assessments;
- c. Punitive or exemplary damages, or the multiple portion of any multiplied damage award;
- d. Matters uninsurable under the laws pursuant to which this Policy is construed;
- e. The cost to comply with any injunctive or other non-monetary or declaratory relief, including specific performance, or any agreement to provide such relief including any liability or costs incurred to modify any building or property to make it more accessible or accommodating to any person or any liability or costs in connection with any educational, sensitivity or other corporate program, policy or seminar;
- f. **Crisis Management Expense;**
- g. Liquidated damages, except to the extent specifically included as Damages below.

Solely with respect to the Public Officials & Employment Practices Liability and Miscellaneous Professional Liability coverage parts:

- a. With respect to any Claim arising out of a **Employment Practices Violation**, Damages shall also mean:
 - i. Front-pay and back-pay, except as otherwise stated below; and
 - ii. Liquidated damages awarded pursuant to the Age Discrimination in Employment Act or the Equal Pay Act.
- b. Damages does not include employment-related benefits, retirement benefits, perquisites, vacation and sick days, medical and insurance benefits, deferred cash incentive compensation or any other type of compensation; provided, however, this limitation:
 - i. Does not include salary, wages, bonuses, commissions and non-deferred cash incentive compensation in a settlement or judgment for a **Employment Practices Violation**; and
 - ii. Does not apply to a **Wrongful Act in the Administration of Your Employee Benefits Program**.

10. Employee Benefit Program means:

- a. Group life insurance, group accident or health insurance, investment plans or savings plans, profit sharing plans, pension plans and stock subscription plans; or
- b. Unemployment insurance, social security benefits, workers' compensation and disability benefits; provided for **Your Employees**.

11. Employee means any past or present full-time, part-time, temporary, or leased Employee(s) of the Named Insured.

For the purposes of **Employment Practices Violations**, this definition includes:

- a. Applicants for employment with the **Named Insured**; and
- b. Leased **Employees** but only to the extent of the **Named Insured's** obligation to provide indemnification to such leased **Employee**, not to exceed such obligation applicable to non-leased **Employees**.

12. Employment Practices Violation means any actual or alleged:

- a. Wrongful dismissal or discharge or termination of employment, whether actual or constructive;
- b. Employment related misrepresentation;
- c. Violation of any federal, state, or local laws (whether common or statutory) concerning employment or discrimination in employment;

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- d. **Sexual Harassment** or other unlawful workplace harassment;
 - e. Wrongful deprivation of a career opportunity or failure to employ, promote or grant tenure;
 - f. Wrongful discipline of **Employees**;
 - g. Negligent evaluation of **Employees**;
 - h. Failure to adopt adequate workplace or employment policies and procedures;
 - i. Employment related libel, slander, defamation or invasion of privacy;
 - j. **Retaliation**.
13. **Extended Reporting Period** means the period described in the section of any Coverage Part entitled **Extended Reporting Period** which period shall apply solely to such Coverage Part.
14. **Fungi** means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by **Fungi**.
15. **Impaired Property** means tangible property, other than **Your Product** or **Your Work** that cannot be used or is less useful because:
- a. It incorporates **Your Product** or **Your Work** that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill terms of a contract or agreement,
- if such property can be restored to use by:
- a. The repair, replacement, adjustment or removal of **Your Product** or **Your Work**, or
 - b. Your fulfilling the terms of the contract or agreement.
16. **Incidental Medical Malpractice** means injury arising out of: (1) emergency medical services rendered or which should have been rendered to any person or persons during the **Policy Period** by any duly certified emergency medical technician or paramedic; or (2) medical services rendered or which should have been rendered to any person or persons during the **Policy Period** by any nurse who is employed by or acting on behalf of an **Insured** to provide such services, but is not employed at a hospital, clinic or nursing home facility.
17. **Insured** means each of the following to the extent set forth below:
- a. **The Named Insured**;
 - b. While acting within the scope of their duties for the **Named Insured**:
 - i. All persons who were, are now, or shall be **Your** lawfully elected or appointed officials;
 - ii. Current or former members of commissions, boards or other units operated by **You** and under **Your** jurisdiction, provided such units are within the total operating budget included in the **Application**;
 - iii. All of **Your** current or former **Employees**;
 - iv. All persons who perform a service on a volunteer basis for **You**, provided such performance is under **Your** direction and control. This does not include any person working on retainer or as an independent contractor;
 - v. All persons or organizations providing service to **You** under any mutual aid or similar agreement, or
 - vi. The estate of any person in (i.) through (iv.) above;
 - c. Any person or organization while acting as **Your** real estate manager;

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- d. With respect to **Mobile Equipment**, any person is an **Insured** under the General Liability Coverage Part while operating such equipment with **Your** permission;
- e. With respect to a **Covered Automobile**, any person is an **Insured** under the Automobile Liability Coverage Part while operating the **Covered Automobile** with **Your** permission.
- f. No person or organization is an **Insured** with respect to the conduct of any current or past partnership or joint venture that is shown as a **Named Insured** in the Declarations.
- g. Solely with respect to the Public Officials & Employment Practices Liability Coverage Part, **Insured** also means:
 - i. Elected or duly appointed officials and **Employees** of the **Named Insured** serving as a director or officer of a non-profit organization created and operated under Section 501c(3) of the Internal Revenue code of 1988, or as amended, for any **Wrongful Acts** they have committed in their respective capacities as a director or officer of such non-profit organization, provided that: (1) the appointment of such officials and **Employees** to serve as a director or officer of such non-profit organization is based solely upon such person's status as an official or **Employee** of the **Named Insured**; and (2) such official or **Employee** is directed in writing by the **Named Insured** to serve as a director or officer of such non-profit organization prior to beginning such service;
 - ii. Elected or duly appointed officials and **Employees** of the **Named Insured** while acting at the written request of the **Named Insured** in their capacity as a duly appointed official of an outside entity which is recognized by the government as being tax-exempt;

provided however, coverage for such individuals referenced in f.i. and f.ii above shall be specifically excess over: (1) any indemnification provided by such outside entity to such individuals; or (2) any insurance purchased by such outside entity covering such individual, whether such insurance is primary, contributory, excess, or contingent, and notwithstanding any similar "other Insurance" clause contained in such policy.

- 18. **Insurer** means the insurance company providing this insurance.
- 19. **Interrelated Wrongful Acts** means all **Wrongful Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of related facts, circumstances, situations, events, transactions or causes.
- 20. **Law Enforcement Activities** means any of the official activities or operations of **Your** police force or any other public safety organization, including their agents or employees, which enforces the law and protects persons or property.
- 21. **Mobile Equipment** means any land vehicles including attached machinery or equipment that is not licensed for road use. However, this does not apply to equipment that is permanently attached to vehicles that are licensed for road use.
- 22. **Named Insured** means the person or organization first named in Item 1 of the Declarations.
- 23. **Occurrence** means:
 - a. With respect to **Bodily Injury** and **Property Damage**, an accidental happening including continuous or repeated exposure to substantially the same general harmful conditions which results in **Bodily Injury** or **Property Damage**. All such exposure to substantially the same general conditions will be considered as arising out of one **Occurrence**;
 - b. With respect to **Personal Injury**, only those offenses specified in the **Personal Injury** Definition. All damages arising out of substantially the same **Personal Injury** regardless of frequency, repetition, the number or kind of offenses, or number of claimants, will be considered as arising out of one **Occurrence**;
 - c. With respect to **Advertising Injury**, only the offenses listed in the **Advertising Injury** Definition. All damages arising out of substantially the same **Advertising Injury** regardless of frequency, repetition,

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the number or kind of media used, the number or kind of offenses, or the number of claimants, will be considered as arising out of one Occurrence.

24. **Personal Injury** means one or more of the following offenses:
- False arrest, false imprisonment, wrongful detention or malicious prosecution;
 - Libel, slander, defamation of character, or oral or written publication of material that violates a person's right of privacy, unless arising out of advertising activities in electronic chat rooms or bulletin boards;
 - Wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of the owner, landlord or lessor, or by a person claiming to be acting on behalf of the owner, landlord or lessor.
25. **Policy** means, collectively, the Declarations, the Application, this coverage form, Coverage Parts and any endorsements.
26. **Policy Period** means the period of time specified in Item 2 of the Declarations, subject to prior termination pursuant to Condition 18, Termination of the Policy.
27. **Pollutant(s)** means (a) any substance exhibiting any hazardous characteristics as defined by or identified on a list of hazardous substances issued by the United States Environmental Protection Agency or any federal, state, county, municipal or local counterpart thereof or any foreign equivalent; (b) any solid, liquid, gaseous or thermal irritant, contaminant or smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials, including materials to be recycled, reconditioned, or reclaimed; and also (c) any other air emission, odor, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products, noise, Fungi or bacteria (not including to any Fungi or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption), lead or lead compounds or lead contained in any materials, and electric or magnetic or electromagnetic field radiation.
28. **Post-judgment Interest** means interest on the full amount of any judgment that accrues after entry of the judgment and before We have paid, offered to pay, or deposited in court, the part of the judgment that is within the applicable Limit of Insurance.
29. **Pre-judgment Interest** means interest added to settlements, verdicts, awards, or judgments that are within the applicable Limit of Insurance, based on the amount of time prior to the settlements, verdicts, awards or judgments, whether or not made part of the judgments.
30. **Professional Services** means services that may be legally performed only by a person holding a professional license to render such services.
31. **Property Damage** means physical injury to tangible property, including all resulting loss of use of such property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it.
32. **Retained Limit** means the applicable amounts shown in the Declarations or any applicable endorsement for **Retained Limit**.
33. **Retaliation** means a **Wrongful Act** of an **Insured** relating to or alleged to be in response to:
- Disclosure or threat of disclosure by an **Employee** of the **Named Insured** to a superior or to any governmental agency of any act by an **Insured** which act is alleged to be a violation of any federal, state, local or foreign law, common or statutory, or any rule or regulation promulgated thereunder;
 - Actual or attempted exercise by an **Employee** of the **Named Insured** of any right that such **Employee** has under law, including rights under workers' compensation laws, the Family and Medical Leave Act, The Americans with Disabilities Act or any similar state or local law;
 - An **Employee** of the **Named Insured** filing a **Claim** under the Federal False Claims Act or any other federal, state, local or foreign whistle-blower law;
 - Strikes by **Employees** of the **Named Insured**; or

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e. Political affiliation of an Employee of the Named Insured.

34. **Sexual Abuse** means any actual, attempted or alleged criminal sexual conduct of a person by another person, or persons acting in concert, which causes physical and/or mental injuries. **Sexual Abuse** includes: sexual molestation, sexual assault, sexual exploitation or sexual injury.

Sexual Abuse does not include **Sexual Harassment**.

35. **Sexual Harassment** means any actual or alleged unwelcome sexual advances, requests for sexual favors or other conduct of a sexual nature, of a person by another person, or persons acting in concert, which causes physical and/or mental injuries. **Sexual Harassment** includes:

- The above conduct when submission to or rejection of such conduct is made either explicitly or implicitly a condition of a person's employment, or a basis for employment decisions affecting a person; or
- The above conduct when such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual Harassment does not include **Sexual Abuse**.

36. **Suit** means a civil proceeding in which **Damages** because of **Bodily Injury**, **Property Damage**, **Personal Injury**, **Advertising Injury** or **Wrongful Act** to which the applicable Coverage Part applies, are alleged, including:

- An arbitration proceeding in which such damages are alleged, or
- Any other Alternative Dispute Resolution proceeding in which such damages are alleged.

37. **Wrongful Act** means:

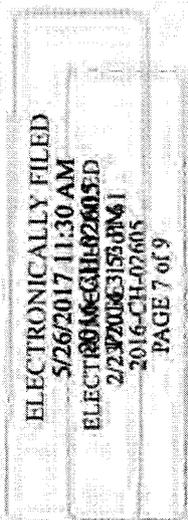
- With respect to Insuring Agreement A.1 of the Public Officials & Employment Practices Liability Coverage Part, any negligent act, error, misstatement, misleading statement, or omission committed or attempted by the Named Insured, including Administration of Your Employee Benefit Program, or by any other Insured solely in the performance of duties for the Named Insured.
- With respect to Insuring Agreement A.2 of the Public Officials & Employment Practices Liability Coverage Part, any Employment Practices Violation actually or allegedly committed by the Named Insured, or by any other Insured solely in the performance of duties for the Named Insured.
- With respect to the Miscellaneous Professional Liability Coverage Part, any actual or alleged negligent act, error, omission, misstatement or misleading statement, **Personal Injury**, or **Advertising Injury** committed by the Insured in the Insured's performance or failure to perform **Miscellaneous Professional Services**.

However, **Wrongful Act** does not include any actual or alleged network security or privacy breach, including but not limited to:

- The failure or inability of the security of any computer system to prevent a computer attack or mitigate loss arising in whole or in part from a computer attack;
- Physical theft, loss or mysterious disappearance of firmware, hardware (including components thereof) or hard copy files; or
- The disclosure of an individual's name; address; telephone number; medical, healthcare or other health information; social security, drivers license or other government identification number; credit or debit card number; account numbers or histories; passwords or other personal information not lawfully available to the general public.

38. **Your Product** means:

- Any goods or products (other than real property) manufactured, sold, handled, distributed or disposed of by:



- i. You;
 - ii. Others trading under Your name; or
 - iii. A person or organization whose business or assets You have acquired;
- b. Containers (other than vehicles), materials, parts, or equipment furnished in connection with such goods or products.

39. Your Work means:

- a. Work or operations performed by You or on Your behalf;
- b. Materials, parts or equipment furnished in connection with such work or operations.

Your Work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of a. and b. above. Your Work also includes the providing of or failure to provide warnings or instructions.

The foregoing definitions shall apply equally to the singular and plural forms of the respective words.

C Exclusions

All Coverage Parts included in this Policy also contain their own exclusions and are subject to any applicable exclusions in the Coverage Part and the following Exclusions that apply to all Coverage Parts except as otherwise expressly indicated:

The insurance under any Coverage Part in this Policy does not apply to:

1. Any liability arising out of the operation of the principles of eminent domain, condemnation, inverse condemnation, adverse possession, temporary or permanent taking.
2. Any Claim alleging, based upon, arising out of, or attributable to:
 - a. The violation of any price fixing, restraint of trade, monopolization, unfair trade practices or other violation of the Federal Trade Commission Act, the Sherman Anti-Trust Act, the Clayton Act or any other statutory provision regulating antitrust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade activities, and any amendments thereto, or any rules or regulations promulgated thereunder, or any similar provision of any federal, state, or local statutory law or common law anywhere in the world;
 - b. Any (1) purchase, sale, offer of or solicitation of an offer to purchase or sell securities, or violation of any securities law, including provisions of the Securities Act of 1933, or the Securities Exchange Act of 1934, as amended; (2) violation of the Organized Crime Control Act of 1970 (commonly known as "Racketeer Influenced And Corrupt Organizations Act" or "RICO"), as amended; (3) any regulation promulgated under the foregoing laws; or (4) any federal, state, local or foreign laws similar to the foregoing laws (including "Blue Sky" laws), or regulating the same or similar conduct or services, whether such law is statutory, regulatory or common law;
 - c. The failure to pay any bond, interest on any bond, any debt, financial guarantee or debenture;
 - d. Alleging, based upon, arising out of or attributable to the failure to effect or maintain any insurance or bond, which shall include, but not be limited to, insurance provided by self-insurance arrangements, pools, self-insurance trusts, captive insurance companies, retention groups, reciprocal exchanges or any other plan or agreement of risk transfer or assumption. However, this exclusion shall not apply to Claim Expenses; or
 - e. Whether directly or indirectly, the performance of assets or invested funds or the failure to invest any funds.
3. Any Claim alleging, based upon, arising out of or attributable to any dishonest, fraudulent, criminal or malicious act, error or omission, or any intentional or knowing violation of the law by an Insured;

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however, the **Insured** shall be reimbursed for the reasonable **Claim Expenses** incurred in such **Claim** if the **Insured** is not found liable for such act, error, omission or violation.

However, this exclusion does not apply to the Automobile Liability Coverage Part or to that part of any **Claim** for an **Employment Practices Violation**.

4. Any **Insured's** activities in an investing or fiduciary capacity including but not limited to, any **Employee Benefit Programs**, including any pension, savings or profit sharing plan or to any amounts or benefits due under any fringe benefit program, retirement program, incentive program, perquisite program, entitlement program or other benefits owed to any **Employee**, the **Administration** of any self-insurance fund or any obligations under the Employees' Retirement Income Security Act (ERISA) of 1974 or any amendments thereto or similar subsequent federal acts or any similar provisions of statutory or common law.

This exclusion does not pertain to failure to execute required actions or mistaken actions committed in the **Administration of Your Employee Benefit Program**.

5. Any **Damages** for any costs, civil fines, penalties or expenses levied or imposed against an **Insured** arising from any complaint or enforcement action from any federal, state, or local government regulatory agency.
6. Any liability arising out of or attributable to:

- a. The rendering or failure to render:
Medical, surgical, dental, x-ray, or nursing service or treatment or the furnishing of food or beverages in connection therewith; or
Any service or treatment related or conducive to health or of a professional nature;
- b. The furnishing or dispensing of drugs, medical, dental, or surgical supplies or appliances;
- c. Any service by a person as a member of a formal accreditation or similar professional board or committee, or as a person charged with the duty of executing directives of any such board or committee; or
- d. Any blood product handled or distributed by an **Insured** or any service related thereto, including any allegation of reliance upon any representation or warranty made at any time with respect to blood products.

However, with respect to the General Liability Coverage Part, this exclusion does not apply to **Incidental Medical Malpractice**.

7. The rendering or failure to render any **Professional Services**, provided, however, this exclusion shall not apply to:
- a. **Professional Services** provided by any full-time or part-time **Employee** acting as a lawyer or accountant and providing such services solely to the **Named Insured**; and
- b. The Miscellaneous Professional Services Liability Coverage Part.
8. With respect to **Law Enforcement Activities**, any **Claims**, **Damages** or **Suits** directly or indirectly arising out of:
- a. Any willful violation, or any violation in which any **Insured** had knowledge of or consented to the violation, of any federal, state or local ordinance, rule, or regulation, or any willful violation of a penal statute;
- b. The failure to arrest or detain any person;
- c. Any part of any **Claim** or **Suit** seeking relief or redress in any form other than money damages including but not limited to, injunctive relief, declaratory relief, any other equitable remedies, including actions brought:

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CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK DOROTHY BROWN

- i. To improve the physical conditions of any facility; or
 - ii. To improve the living conditions of any person being held in any facility.
- d. The providing or failing to provide any form of health care services, except for (i) first aid which is limited to the rendering of emergency medical treatment at the time of an **Accident** or (ii) actual or alleged denial of access to health care services.
- e. Any injury to any volunteer who is injured in the conduct of **Your Law Enforcement Activities** within the scope of their duties for **You**.
9. Any premium, assessment, penalty, fine, benefit or other obligation imposed by any Workers' Compensation Law, unemployment compensation or disability benefits law, the Jones Act, General Maritime Law, the Federal Employers' Liability Act, Federal Employee Compensation Act, the Defense Base Act, U.S. Longshoremen's and Harbor Workers' Compensation Act, Federal Coal Mine Health and Safety Act, any federal occupational disease law; any amendments to such laws or under any similar law for which **You**, or any insurance company as **Your** insurer, may be held liable; or for which an **Insured** is a qualified self-insurer.
10. Any liability, whether direct or indirect, arising out of **Sexual Abuse** by an **Insured**.
11. Any liability for which any **Insured** may be held liable by reason of:
- a. Causing or contributing to the intoxication of any person;
 - b. The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
 - c. Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.
- However, this exclusion only applies if **You** are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. This exclusion does not apply to the Automobile Liability Coverage Part.
12. Any:
- a. Liability arising from the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **Pollutants**; or
 - b. Loss, cost or expense arising out of any:
 - i. Request, demand or order that an **Insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of **Pollutants**; or
 - ii. Any **Claim** by or on behalf of governmental authority or others for **Damages** because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **Pollutants**.

With respect to the General Liability Coverage Part, this exclusion does not apply to:

- 1. **Bodily Injury** or **Property Damage** caused by heat, smoke or fumes from a **Hostile Fire**. As used herein, **Hostile Fire** means a fire which becomes uncontrollable or breaks out from where it was intended to be;
- 2. **Bodily Injury** if sustained within a building owned or occupied by, or rented or loaned to, any **Insured** and caused by smoke, fumes, vapor, or soot from equipment used to heat that building.

With respect to the Automobile Liability Coverage Part, this exclusion does not apply to **Accidents** that occur away from premises owned or rented to an **Insured** with respect to **Pollutants**, but only if:

- 1. The **Pollutants** or any property in which the **Pollutants** are contained are upset, overturned or damaged as a result of the maintenance or use of a **Covered Automobile**; and

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2. The discharge, dispersal, seepage, migration, release or escape of the **Pollutants** is caused directly by such upset, overturn or damage; and
3. The **Pollutants** were not in, upon or released from the **Covered Automobile**.

Paragraph 3. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar **Pollutants** that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the **Covered Automobile** or its parts, if:

- a. The **Pollutants** escape, seep, migrate, or are discharged, dispersed or released directly from an **Automobile** part designed by its manufacturer to hold, store, receive or dispose of such **Pollutants**; and
- b. The **Bodily Injury or Property Damage** does not arise out of the operation of **Mobile Equipment**.

13. Any liability arising out of:

- a. Inhaling, ingesting or physical exposure to asbestos or goods or products containing asbestos;
- b. The use of asbestos in constructing or manufacturing of, or presence of asbestos in any good, product, or structure;
- c. The manufacture, transportation, storage or disposal of asbestos or goods or products containing asbestos; or
- d. Payment for investigation or defense of any loss, fine or penalty; or for any expense or **Claim**, related to a., b. or c. above.

14. Any loss, cost or expense arising out of, resulting from, caused by or contributed to by:

- a. The toxic or pathological properties of lead, lead compounds or lead contained in any materials;
- b. The abatement, mitigation, removal, or disposal of lead, lead compounds or lead contained in any materials;
- c. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with a. and b. above; or
- d. Any obligation to share **Damages**, remediation or other relief or compensation of any kind with, or to repay someone else who must pay such **Damages** in connection with a., b. or c. above.

15. Any liability arising out of the complete or partial failure to adequately supply gas, oil, water, electricity, steam or sewerage service.

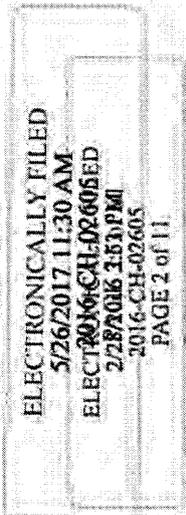
16. Any liability, whether direct or indirect, arising out of, caused by, resulting from, contributed to, or aggravated by the subsidence, expansion, settling, sinking, slipping, falling away, caving in, shifting, eroding, mudflow, rising, tilting or any other land or earth movement.

17. Any liability arising out of the ownership, maintenance, loading or unloading, control, use or operations of any aircraft, airfields, runways, hangars, buildings, or other properties in connection with aviation activities.

This exclusion applies even if the **Claims** against any **Insured** allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that **Insured**.

However, with respect to the General Liability Coverage Part, this exclusion does not apply to liability for the premises of buildings or other properties to which the general public is admitted.

18. Any liability arising out of the ownership, maintenance, operation, use loading or unloading or entrustment to others of any watercraft owned or operated by an **Insured** or rented, loaded, or chartered by or on behalf of an **Insured**.



This exclusion applies even if the Claims against any Insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that Insured.

However, with respect to the General Liability Coverage Part, this exclusion does not apply to:

- a. Watercraft while ashore on premises an Insured owns or rents;
 - b. Watercraft not owned by an Insured that is less than 51 feet long and not being used to carry persons or property for a charge.
19. Any liability arising out of the ownership, maintenance, operation, control, use or operations of any landfill or disposal site or other properties in conjunction with landfill or disposal site activities.

However, with respect to the General Liability Coverage Part, and subject to the Pollution Exclusion (Exclusion 12), which does apply in all cases, this exclusion does not apply to liability arising out of the use or maintenance of the premises, buildings or other areas of such properties to which the general public is admitted.

20. Any liability arising out of collapse, flooding, cracking, settling, seepage, underseepage, spillage, subsidence, landslide or earth movement of any dam, spillway, levee or reservoir.
21. Any:

- a. Claim by an Insured against any other Insured; and
- b. Injury or Damage to the spouse, child, parent, brother and sister of the Insured as a consequence of a. above.

However, this exclusion does not apply: (1) with respect to Claims against the Named Insured to the extent coverage is provided for Employment Practices Violations for a Claim by an Employee; or (2) to any Claim brought or maintained by any natural person Insured in the form of a cross-claim or a third-party claim for contribution or indemnity which is part of, and results directly from, a Claim that is covered by this Policy.

22. Any liability arising from the use of trampolines or other rebounding equipment.
23. Any liability, cost or expense arising out of, resulting from, or in any way related to, in whole or in part, the respiration, inspiration, inhalation or breathing in of dust or particulate matter. Dust or particulate matter may include, but is not limited to: dust, particulate matter, inspirable dust, respirable dust, smoke, mist, dirt, fibers, grit, soot, salt, acids, bases, metals, aerosols, crystals, minerals, sand, silicates, or silica.
24. Any liability an Insured may have, directly or indirectly, occasioned by, happening through, or in consequence of:
- a. War, including undeclared or civil war;
 - b. Warlike action by a military force including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents;
 - c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these; or
 - d. Confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority.
25. Any liability arising out of or allegedly arising out of exposure to or contact with electromagnetic field radiation.
26. Any:
- a. Injury, Damage, expense, cost, loss, liability or legal obligation which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any Fungi or bacteria on or within a building or structure,

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including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or **Damage**; or

- b. Loss, cost or expenses arising out of abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effect of **Fungi** or bacteria, by any **Insured** or by any other person or entity.

This exclusion does not apply to any **Fungi** or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.

27. Any liability for **Personal Injury** or **Advertising Injury** arising out of **Your** advertising activities in electronic chat rooms or bulletin boards.

28. Any liability:

With respect to which an **Insured** under this Policy is also an **Insured** under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada, or any of their successors, or would be an **Insured** under any such policy but for its termination upon exhaustion of its limit of liability; or

Resulting from the **Hazardous Properties of Nuclear Material** and with respect to which:

- i. Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
- ii. An **Insured** is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization;

For any expenses incurred with respect to **Bodily Injury** resulting from the **Hazardous Properties of Nuclear Material** and arising out of the operation of a **Nuclear Facility** by any person or organization.

Resulting from the **Hazardous Properties of Nuclear Material**, if:

- i. **The Nuclear Material:**
 1. Is at any **Nuclear Facility** owned by, or operated by or on behalf of, an **Insured**; or
 2. Has been discharged or dispersed therefrom;
- ii. **The Nuclear Material** is contained in **Spent Fuel** or **Waste** at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an **Insured**; or
- iii. Arising out of the furnishing by an **Insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **Nuclear Facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (iii.) applies only to **Property Damage** to such **Nuclear Facility** and any property at such **Nuclear Facility**.

As used in this exclusion:

- i. **Hazardous Properties** means radioactive, toxic or explosive properties.
- ii. **Nuclear Material** means **Source Material**, **Special Nuclear Material** or **By-product Material**. **Source Material**, **Special Nuclear Material**, and **By-product Material** have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.
- iii. **Spent Fuel** means any fuel component, solid or liquid, which has been used or exposed to radiation in a **Nuclear Reactor**.
- iv. **Waste** means any **Waste material**.

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Containing **By-product Material** other than the tailings or **Wastes** produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its **Source Material** content; and

Resulting from the operation by any person or organization of any **Nuclear Facility**.

v. **Nuclear Facility** means:

Any **Nuclear Reactor**.

Any equipment or device designed or used for:

- a. Separating the isotopes of uranium or plutonium,
- b. Processing or utilizing **Spent Fuel**, or
- c. Handling processing or packaging **Waste**;

Any equipment or device used for the processing, fabricating or alloying of **Special Nuclear Material** if at any time the total amount of such material in the custody of an **Insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **Waste**;

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premiums used for such operations.

vi. **Nuclear Reactor** means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

vii. **Property Damage** as defined in this exclusion only means physical injury to tangible property, including all resulting loss of use of such property; and includes all forms of radioactive contamination of property.

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ACE Advantage[®]
Public Entity
Retained Limits Policy

GENERAL LIABILITY COVERAGE PART

THE LIMITS OF INSURANCE AVAILABLE TO PAY INSURED DAMAGES SHALL BE REDUCED BY AMOUNTS INCURRED FOR CLAIMS EXPENSES. AMOUNTS INCURRED FOR DAMAGES AND CLAIMS EXPENSES SHALL ALSO BE APPLIED AGAINST THE RETAINED LIMIT AMOUNTS.

In consideration of the payment of the premium, in reliance upon the Application, and subject to the Declarations and the terms and conditions of this Policy, the Insureds and the Insurer agree as follows:

A. Insuring Agreement

The Insurer will indemnify the Insured for Damages and Claim Expenses in excess of the Retained Limit for which the Insured becomes legally obligated to pay because of a Claim first arising out of an Occurrence happening during the Policy Period in the Coverage Territory for Bodily Injury, Personal Injury, Advertising Injury, or Property Damage taking place during the Policy Period.

No other obligation to pay any additional sums, perform acts or provide services is covered.

B. Retained Limit

The Insurer's liability under this Policy applies only to Damages and Claims Expenses which are in excess of the Retained Limit applicable to this Coverage Part and specified in Item 4. A of the Declarations. The Retained Limit must be borne by the Insured as an uninsured amount and at its own risk. This will be true regardless of:

1. The number of persons and organizations who are Insureds under this Policy;
2. The number of Claims made against any or all Insureds; or
3. The number of persons or organizations making Claims.

C. Limits of Insurance

1. Subject to subsection 2 below, the Insurer's maximum liability for all Damages and Claim Expenses resulting from each Occurrence under this Coverage Part will not exceed the General Liability Coverage Part Each Occurrence Limit of Insurance specified in Item 5. A of the Declarations. This will be true regardless of:
 - a. The number of persons and organizations who are Insureds under this Policy;
 - b. The number of Claims made against any or all Insureds; or
 - c. The number of persons or organizations making Claims.
2. The Insurer's maximum liability for all Damages and Claim Expenses resulting from all Claims under this Coverage Part will not exceed the General Liability Coverage Part Aggregate Limit of Insurance specified in Item 5. A of the Declarations which is the most the Insurer will indemnify for Damages and Claim Expenses under this Coverage Part during the Policy Period.
3. Claim Expenses will be part of and not in addition to the Aggregate Limit of Insurance stated in Item 5. A of the Declarations, and shall reduce such Aggregate Limit of Insurance. If the Aggregate Limit of Insurance is exhausted by payment of Damages and Claim Expenses, the obligations of the Insurer under this Policy shall be completely fulfilled and extinguished. The Insurer will indemnify the Insured for Damages and Claim Expenses only as they become due and payable by the Insureds, without consideration of other future payment obligations.
4. All Claims arising out of the same Occurrence and all interrelated Occurrences shall be deemed to be one Claim, and such Claim shall be deemed to first occur on the date the earliest of such Claims first occurs, regardless of whether such date is before or during the Policy

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Period. All Damages and all Claim Expenses resulting from a single Claim shall be deemed a single Damage and Claim Expense.

D. Exclusions

The following exclusions apply to this Coverage Part in addition to the exclusions in the Common Conditions, Definitions and Exclusions section of this Policy.

The insurance under this Coverage Part does not apply to:

1. Any **Bodily Injury, Property Damage, Personal Injury, or Advertising Injury** for which coverage is provided under any other Coverage Part of this Policy.
2. **Bodily Injury or Property Damage** either expected or intended from the standpoint of an Insured. This exclusion does not apply:
 - a. To **Bodily Injury** resulting from the use of reasonable force to protect persons or property; or
 - b. To **Law Enforcement Activities**, subject to Exclusion 8 of Common Conditions, Definitions, and Exclusions.
3. **Advertising Injury or Personal Injury** caused by or at the direction of an Insured if the Insured knew or reasonably should have known that the act would violate the rights of another and would inflict **Advertising Injury or Personal Injury**.
4. An Insured's obligation to pay by reason of the assumption of liability in a contract or agreement. However, this exclusion does not apply to liability for Damages:
 - a. That an Insured would have in the absence of the contract or agreement; or
 - b. Assumed in a contract or agreement that is an **Insured Contract** provided the **Bodily Injury or Property Damage** occurs subsequent to the effective date of the **Insured Contract** and such **Insured Contract** was in effect at the inception of the **Policy Period** or becomes effective during the **Policy Period**.
5. **Bodily Injury to:**
 - a. An **Employee** of an Insured arising out of and in the course of:
 - i. Employment by an Insured; or
 - ii. Performing duties related to the conduct of an Insured's business; or
 - b. The spouse, child, parent, brother or sister of that **Employee** as a consequence of a. above.

This exclusion applies:

 - a. Whether an Insured may be liable as an employer or in any other capacity; and
 - b. To any obligation to share damages with or repay someone else who must pay damages because of the injury.

However, this exclusion does not apply to liability assumed by an Insured under an **Insured Contract**.
6. Any liability arising out of:
 - a. Any **Employment Practices Violation**;
 - b. The **Administration of Your Employee Benefit Program**;
 - c. Any form of **discrimination**; or
 - d. Any violation of **civil rights**.

However, this exclusion does not apply to **Law Enforcement Activities**, subject to Exclusion 8 of Common Conditions, Definitions and Exclusions.
7. Any **Property Damage to:**

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- a. Property owned, occupied or leased by an **Insured** or purchased by an **Insured** under an installment sales contract or property on consignment to an **Insured**;
- b. Property loaned to an **Insured**;
- c. **Personal Property** in the care, custody, or control of an **Insured**, provided however, this sub-paragraph c. does not apply to **Law Enforcement Activities**, subject to Exclusion 8 of Common Conditions, Definitions and Exclusions;
- d. Premises **You** sell, give away or abandon, if the **Property Damage** arises out of any part of those premises;
- e. That particular part of real property on which **You** or any of **Your** contractors or subcontractors working directly or indirectly on **Your** behalf are performing operations, if the **Property Damage** arises out of those operations; or
- f. That particular part of any property that must be restored, repaired or replaced because **Your Work** was incorrectly performed on it.

8. Any **Property Damage** to:

- a. **Your Work** arising out of the work or out of materials, parts or equipment that is furnished with such work;
- b. **Your Product** or arising out of **Your Product** or any part of it; or
- c. **Impaired Property** or property not physically injured, arising out of a defect, deficiency, inadequacy or dangerous condition in **Your Product** or **Your Work**, or a delay or failure by **You** or anyone acting on **Your** behalf to perform a contract or agreement in accordance with its terms.

However, this exclusion does not apply to the loss of use or use of property of another arising out of unexpected and unintended physical injury to **Your Product** or **Your Work** after it has been put to its intended use.

9. **Advertising Injury** resulting from:

- a. Failure of performance of contract, but this exclusion does not apply to **Claims** for misappropriation of ideas based upon alleged breach of an implied contract;
- b. Incorrect description of any article or commodity;
- c. Any mistake in advertised price; or
- d. Failure of goods, products or services to conform with advertised quality or performance.

10. **Personal Injury** arising out of:

- a. Oral or written publication of material, if done by or at the direction of an **Insured** with knowledge of its falsity;
- b. Oral or written publication of material whose first publication took place before the beginning of the **Policy Period**.

11. **Bodily Injury** or **Property Damage** arising out of:

- a. The ownership, entrustment, maintenance, operation, use, loading or unloading of **Automobiles**; or while **Automobiles** are being transported; or
- b. The transportation of **Mobile Equipment** by an **Automobile** owned or operated by or rented or loaned to any **Insured**.

This exclusion applies even if the **Claims** against any **Insured** allege negligence or other wrongdoing in the supervision, hiring, employment, training, or monitoring of others by that **Insured**.

This exclusion does not apply to liability for **Bodily Injury** or **Property Damage** arising from **Automobiles** not owned, leased, rented, or operated by an **Insured**.

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12. Damages arising out of the loss of, the loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

13. **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** arising directly or indirectly out of any action or omission that violates or is alleged to violate:
- The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
 - The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
 - The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
 - Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

E. Definitions

The following definitions apply to this Coverage Part in addition to the definitions in the Common Conditions, Definitions and Exclusions section of this Policy.

1. Insured Contract means:

- A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises rented to You or temporarily occupied by You with permission of the owner is not an **Insured Contract**;
- A sidetrack agreement;
- Any easement or license agreement except in connection with vehicle or pedestrian private railroad crossings at grade;
- Any other easement agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- A mutual aid assistance agreement or contract between political subdivisions;
- An elevator maintenance agreement;
- An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- That part of any other written contract or written agreement pertaining to Your business (including an indemnification of a municipality in connection with work performed for a municipality) under which You assume the tort liability of another party to pay for **Bodily Injury or Property Damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

An **Insured Contract** does not include that part of any contract or agreement:

- That indemnifies a railroad for **Bodily Injury or Property Damage** arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
- That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

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- b. Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
 - iii. Under which the **Insured**, if an architect, engineer, or surveyor, assumes liability for an injury or damage arising out of the **Insured's** rendering or failure to render professional services, including those listed in ii. above and supervisory, inspection, architectural or engineering activities.
2. **Personal Property** means any property other than real property or fixtures.

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ACE AdvantageSM
Public Entity
Retained Limits Policy

AUTOMOBILE LIABILITY COVERAGE PART

THE LIMITS OF INSURANCE AVAILABLE TO PAY INSURED DAMAGES SHALL BE REDUCED BY AMOUNTS INCURRED FOR CLAIMS EXPENSES. AMOUNTS INCURRED FOR DAMAGES AND CLAIMS EXPENSES SHALL ALSO BE APPLIED AGAINST THE RETAINED LIMIT AMOUNTS.

In consideration of the payment of the premium, in reliance upon the Application, and subject to the Declarations and the terms and conditions of this Policy, the Insured and the Insurer agree as follows:

A. Insuring Agreements

The Insurer will indemnify the Insured for Damages and Claim Expenses in excess of the Retained Limit for which the Insured become legally obligated to pay because of a Claim arising out of an Accident taking place during the Policy Period for Bodily Injury or Property Damage and resulting from the ownership, maintenance or use of a Covered Automobile in the Coverage Territory.

No other obligation to pay any additional sums or provide services is covered.

B. Retained Limit

The Insurer's liability under this Policy applies only to Damages and Claim Expenses which are in excess of the Retained Limit applicable to this Coverage Part and specified in Item 5.B of the Declarations. The Retained Limit must be borne by the Insured as an uninsured amount and at its own risk. This will be true regardless of:

1. The number of persons and organizations who are Insureds under this Policy;
2. The number of Claims made against any or all Insureds; or
3. The number of persons or organizations making Claims.

C. Limits of Insurance

1. Subject to subsection 2 below, the Insurer's maximum liability for all Damages and Claim Expenses resulting from each Claim under this Coverage Part will not exceed the Automobile Liability Coverage Part Each Accident Limit of Insurance specified in Item 5.B of the Declarations. This will be true regardless of:
 - a. The number of persons and organizations who are Insureds under this Policy;
 - b. The number of Claims made against any or all Insureds;
 - c. The number of persons or organizations making Claims;
 - d. The number of vehicles involved in the Accident; or
 - e. Premiums paid.
2. The Insurer will indemnify the Insured for Damages and Claim Expenses only as they become due and payable by the Insured, without consideration of other future payment obligations.
3. All Claims arising out of the same Accident and all interrelated accidents shall be deemed to be one Claim, and such Claim shall be deemed to first occur on the date the earliest of such Claims first occurs, regardless of whether such date is before or during the Policy Period. All Damages and all Claim Expenses resulting from a single Claim shall be deemed a single Damage and Claim Expense.

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D. Exclusions

The following exclusions apply to this Coverage Part in addition to the exclusions found in the Common Conditions, Definitions and Exclusions section of this Policy.

The insurance under this Coverage Part does not apply to:

1. Any **Bodily Injury** or **Property Damage** for which coverage is provided under another Coverage Part of this Policy.
2. **Covered Automobiles** while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply to any **Covered Automobile** while it is being prepared for such contest or activity.
3. **Bodily Injury** or **Property Damage** either expected or intended from the standpoint of an **Insured**. But this exclusion does not apply to **Law Enforcement Activities**, subject to Exclusion 8 of Common Conditions, Definitions and Exclusions.
4. An **Insured's** obligation to pay by reason of the assumption of liability in a contract or agreement. However, this exclusion does not apply to liability for **Damages**:
 - a. That an **Insured** would have in the absence of the contract or agreement; or
 - b. Assumed in a contract or agreement that is an **Insured Contract** provided the **Bodily Injury** or **Property Damage** first occurs subsequent to the effective date of the **Insured Contract**, and such **Insured Contract** was in effect at the inception of the **Policy Period** or becomes effective during the **Policy Period**.
5. **Bodily Injury** to:
 - a. An **Employee** of an **Insured** arising out of and in the course of:
 - i. Employment by an **Insured**; or
 - ii. Performing duties related to the conduct of an **Insured's** business; or
 - b. The spouse, child, parent, brother or sister of that **Employee** as a consequence of a. above.

This exclusion applies:

 - a. Whether an **Insured** may be liable as an employer or in any other capacity; or
 - b. To any obligation to share **Damages** with or repay someone else who must pay **Damages** because of the **Bodily Injury**.

This exclusion does not apply to liability assumed by an **Insured** under an **Insured Contract**.
6. Any **Property Damage** to or involving property owned or transported by an **Insured** or in an **Insured's** care, custody, or control. But this exclusion does not apply to liability assumed under a sidetrack agreement or to **Law Enforcement Activities** subject to Exclusion 8 of the Common Conditions, Definitions and Exclusions.
7. **Bodily Injury** or **Property Damage** resulting from the handling of property:
 - a. Before it is moved from the place where it is accepted by an **Insured** for the movement into or onto the **Covered Automobile**; or
 - b. After it is moved from the **Covered Automobile** to the place where it is finally delivered by an **Insured**.
8. Any liability incurred by or imposed on an **Insured** under any Uninsured/Underinsured Motorist law, No Fault law or Personal Injury Protection law.

E. Definitions

The following definitions apply in addition to the definitions found in the Common Conditions, Definitions and Exclusions section of this Policy.

1. **Covered Automobile** means an **Automobile**:
 - a. You own, or You acquire during the **Policy Period**;
 - b. You lease, hire, rent or borrow (this does not include an **Automobile** you lease, hire, rent or borrow from any of **Your Employees** or their domestic partners or any other member of their households);
 - c. You do not own, lease, hire, rent, or borrow that is used in conjunction with **Your business** (this includes an **Automobile** owned by any **Insured** or members of their household but only while used in conjunction with **Your business**).

2. **Insured Contract** means:
 - a. A lease of premises;
 - b. A sidetrack agreement;
 - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work on or within 50 feet of a railroad;
 - e. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - f. That part of any other written contract or written agreement pertaining to **Your business** (including an indemnification of a municipality in connection with work performed for a municipality) under which You assume the tort liability of another party to pay for **Bodily Injury** or **Property Damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
 - g. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by You or any of your **Employees**, of any **Automobile**. However, such contract or agreement shall not be considered an **Insured Contract** to the extent that it obligates you or any of **Your Employees** to pay for **Property Damage** to any **Automobile** rented or leased by You or any of **Your Employees**.

An **Insured Contract** does not include that part of any contract or agreement:

- i. That indemnifies any person or organization for **Bodily Injury** or **Property Damage** arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
- ii. That pertains to the loan, lease, or rental of an **Automobile** to You or any of **Your Employees**, if the **Automobile** is loaned, leased or rented with a driver; or
- iii. That indemnifies or holds harmless a person or organization engaged in the business of transporting property or persons by **Automobile** for hire harmless for Your use of a **Covered Automobile** over a route or territory that person or organization is authorized to serve by public authority.

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ACE Advantage[®] Public Entity Retained Limits Policy

PUBLIC OFFICIALS & EMPLOYMENT PRACTICES LIABILITY COVERAGE PART

THIS COVERAGE PART PROVIDES COVERAGE ON A CLAIMS MADE AND REPORTED BASIS. PLEASE READ THIS COVERAGE PART AND THE ENTIRE POLICY CAREFULLY.

CLAIM EXPENSES ARE SUBJECT TO A SEPARATE LIMIT. THE LIMITS OF INSURANCE AVAILABLE TO PAY INSURED DAMAGES SHALL BE REDUCED BY AMOUNTS INCURRED FOR CLAIM EXPENSES ONCE THE CLAIM EXPENSES LIMIT HAS BEEN EXHAUSTED. AMOUNTS INCURRED FOR DAMAGES AND CLAIM EXPENSES SHALL ALSO BE APPLIED AGAINST THE RETAINED LIMIT AMOUNT.

In consideration of the payment of the premium, in reliance upon the Application, and subject to the Declarations and the terms and conditions of this Policy, the Insured and the Insurer agree as follows:

A. Insuring Agreement

1. The Insurer will indemnify the Insured for Damages and Claim Expenses in excess of the Retained Limit for which the Insured becomes legally obligated to pay because of a Claim first made against the Insured and reported to the Insurer during the Policy Period, or if applicable, the Extended Reporting Period, for any Wrongful Act taking place on or subsequent to the Retroactive Date specified in Item 6 of the Declarations and prior to the end of the Policy Period.
2. The Insurer will indemnify the Insured for Damages and Claim Expenses in excess of the Retained Limit for which the Insured becomes legally obligated to pay because of a Claim first made against the Insured and reported to the Insurer during the Policy Period, or if applicable, the Extended Reporting Period, for any Wrongful Act taking place on or subsequent to the Retroactive Date specified in Item 6 of the Declarations and prior to the end of the Policy Period if such Claim is brought and maintained by or on behalf of any Employee(s) of the Named Insured.
3. The Insurer will pay on behalf of the Named Insured the Crisis Management Expense for which the Named Insured becomes legally obligated to pay by reason of a Crisis Event first occurring during the Policy Period, but only up to the limit of liability for the Crisis Management Fund.

B. Retained Limit

The Insurer's liability under this Policy applies only to Damages and Claim Expenses which are in excess of the Retained Limit applicable to this Coverage Part and specified in Item 4.C of the Declarations. This Retained Limit must be borne by the Insured as an uninsured amount and at its own risk.

Notwithstanding the above, there shall be no Retained Limit applicable to Damages or Claim Expenses and the Insurer shall pay such Damages or Claim Expenses from the first dollar for Claims against natural person Insureds and for which such Insureds are not indemnified by the Named Insured, subject to all other terms and conditions of this Policy, including the Limit of Insurance.

The Named Insured agrees to indemnify the aforementioned Insured to the fullest extent permitted by law, taking all steps necessary or advisable in furtherance thereof, including the making in good faith any application for court approval.

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Notwithstanding anything in this section to the contrary, the Named Insured's indemnification obligations under this section shall not apply in the event the Named Insured is neither permitted nor required to grant such indemnification either because of the appointment by any state or federal official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate the Named Insured, or because of the Named Insured becoming a debtor-in-possession.

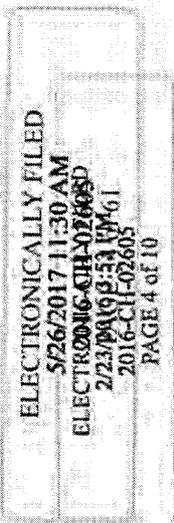
C. Limits of Insurance

1. Subject to subsection 2 below, the Insurer's maximum liability for all Damages resulting from each Claim under this Coverage Part will not exceed the Public Officials & Employment Practices Liability Coverage Part Each Claim Limit of Insurance specified in Item 5.C of the Declarations.
2. The Insurer's maximum liability for all Damages resulting from all Claims under this Coverage Part will not exceed the Public Officials & Employment Practices Liability Coverage Part Aggregate Limit of Insurance specified in Item 5.C of the Declarations, which is the most the Insurer will indemnify for Damages under this Coverage Part during the Policy Period.
3. The Insurer shall pay Claim Expenses in excess of the applicable Retained Limit and up to an aggregate amount equal to the Public Officials & Employment Practices Liability Coverage Part Aggregate Limit of Insurance stated in Item 5.C of the Declarations without reduction of the applicable Limit of Insurance. The total amount of such Claim Expense payments by the Insurer shall be capped at the amount of the Limit of Insurance, and is not on a per Claim basis.
4. Once the Insurer has paid the amount set forth in Item 5.C of the Declarations in aggregate Claim Expenses arising from or relating to any and all matters, all further payments by the Insurer of Claim Expenses shall reduce the applicable Limit of Insurance.
5. The Insurer will indemnify the Insured for Damages and Claim Expenses only as they become due and payable by the Insureds, without consideration of other future payment obligations.
6. All Claims arising out of the same Wrongful Act and all Interrelated Wrongful Acts of the Insureds shall be deemed to be one Claim, and such Claim shall be deemed to be first made on the date the earliest of such Claims is first made, regardless of whether such date is before or during the Policy Period. All Damages and all Claim Expenses resulting from a single Claim shall be deemed a single Damage and Claim Expense.
7. The Crisis Management Fund is the Insurer's maximum liability for all Crisis Management Expenses arising for any and all Crisis Events occurring during the Policy Period. This limit shall be the Insurer's maximum liability under this Policy regardless of the number of Crisis Events reported during the Policy Period. The Insurer's obligation to pay Crisis Management Expense terminates and ends upon the exhaustion of the Crisis Management Fund. The Crisis Management Fund shall be in addition to the aggregate Limit of Insurance set forth in Item 5.C of the Declarations.

D. Definitions

The following definitions apply to this Coverage Part in addition to the definitions in the Common Conditions, Definitions and Exclusions section of this Policy.

1. **Retroactive Date** means the date specified in Item 6.A of the Declarations for this Coverage Part.
2. **Adverse Publicity** means the publication of unfavorable information regarding the Named Insured which can reasonably be considered to materially reduce public confidence in the competence, integrity or viability of the Named Insured to conduct business. Such publication must occur in a report about an Insured appearing in:
 - a. A daily newspaper of general circulation;
 - b. A magazine or other published periodical; or



- c. A radio or television news program.
3. **Crisis Event** means one of the following, except where coverage is otherwise excluded under the Common Conditions, Definitions and Exclusions or any Coverage Part of this Policy:
- Management Event: The incapacity, death or state or federal criminal indictment of a natural person **Insured** for whom the **Named Insured** has purchased and continues to maintain key individual life insurance;
 - Funding Cancellation: The cancellation, withdrawal or revocation of \$500,000 or more in funding, donations(s), grant(s) or bequest(s) by a non-government entity or person to the **Named Insured**;
 - Bankruptcy: The disclosure by the **Named Insured** of (i) its intention to file or its actual filing for protection under federal bankruptcy laws, or (ii) a third-party's intention to file or its actual filing of an involuntary bankruptcy petition under federal bankruptcy laws with respect to the **Named Insured**;
 - Employment Event: The disclosure by the **Named Insured** of the threatened or actual commencement by a third-party of an action, audit or investigation alleging an **Employment Practices Violation** by the **Named Insured** which has caused or is reasonably likely to cause **Adverse Publicity**; and
 - Material Event: Any other material event which, in the good faith opinion of the **Named Insured**, has caused or is reasonably likely to result in **Adverse Publicity**, but only if such material event is scheduled for coverage by written endorsement to this Policy.
4. **Crisis Management Expense** means the following expenses incurred by the **Named Insured** during a period beginning ninety (90) days prior to and in reasonable anticipation of a **Crisis Event** and ending ninety (90) days after an actual or reasonably anticipated **Crisis Event**, irrespective of whether a **Claim** is actually made with respect to the subject **Crisis Event**; provided, however, that the **Insurer** must have been notified of the **Crisis Management Expense** within thirty (30) days of the date the **Named Insured** first incurs the subject **Crisis Management Expense**:
- The reasonable and necessary expenses directly resulting from a **Crisis Event** which the **Named Insured** incurs for **Crisis Management Services** provided to the **Named Insured** by a **Crisis Management Firm**, and
 - The reasonable and necessary expenses directly resulting from a **Crisis Event** which the **Named Insured** incurs for (a) advertising, printing, or the mailing of matter relevant to the **Crisis Event**, and (b) out of pocket travel expenses incurred by or on behalf of the **Named Insured** or the **Crisis Management Firm**; provided, however, **Crisis Management Expense** does not include those amounts which otherwise would constitute compensation, benefits, fees, overhead, charges or expenses of an **Insured** or any of the **Insured's** **Employees**.
5. **Crisis Management Firm** means a marketing firm, public relations firm, law firm, or other professional services entity retained by the **Insurer**, or by the **Named Insured** with the **Insurer's** prior written consent, to perform **Crisis Management Services** arising from a **Crisis Event**.
6. **Crisis Management Fund** means \$25,000.
7. **Crisis Management Services** means the professional services provided by a **Crisis Management Firm** in counseling or assisting the **Named Insured** in reducing or minimizing the potential harm to the **Named Insured** caused by the public disclosure of a **Crisis Event**.

The foregoing definitions shall apply equally to the singular and plural form.

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E. Exclusions

Except as limited under Insuring Agreement 3 above, the following exclusions apply to this Coverage Part in addition to the exclusions in the Common Conditions, Definitions and Exclusions section of this Policy.

The Insurer shall not be liable for Damages or Claim Expenses on account of any Claim:

1. Alleging, based upon, arising out of or attributable to any:
 - a. **Bodily Injury**, other than mental distress, mental injury, mental anguish, mental tension, pain and suffering, shock and humiliation arising out of an **Employment Practices Violation**;
 - b. **Property Damage**;
 - c. **Personal Injury**, other than libel, slander or defamation in any form arising out of a **Employment Practices Violation**;
 - d. **Advertising Injury**; or
 - e. Any allegation relating to the foregoing 1.a, 1.b, 1.c, and 1.d... that an **Insured** negligently employed, investigated, supervised or retained a person, or based on an alleged practice, custom or policy and including, without limitation, any allegation that the violation of a civil right caused or resulted from such **Damages, Claim Expenses or Claim**.
2. Alleging, based upon, arising out of or attributable to the return of taxes, assessments, penalties, fines, fees, or any award of salary, wages or earnings. However, this exclusion shall not apply to back pay or front pay.
3. Alleging, based upon, arising out of or attributable to strikes, riots or civil commotions.
4. Alleging, based upon, arising out of or attributable to the gaining in fact of any profit, remuneration or financial advantage to which any **Insured** was not legally entitled. However, this exclusion shall not apply to any **Claim** alleging **Employment Practices Violation**.
5. Brought or maintained by, on behalf of, or in the right of any **Insured**. However, with respect to any **Claim** alleging any **Employment Practices Violation**, this exclusion shall only apply to cross-claims or counter-claims brought or maintained by, on behalf of, or in the right of one **Insured** against another **Insured**.
6. Alleging, based upon, arising out of or attributable to breach of any express, implied, actual or constructive contract, warranty, guarantee or promise, unless such liability would have attached to the **Insured** even in the absence of such contract, warranty, guarantee or promise. However, this exclusion shall not apply to any **Claim** alleging any **Employment Practices Violation**.
7. Alleging, based upon, arising out of or attributable to any actual or alleged liability assumed by the **Insured** under any express, implied, actual or constructive contract or any collective bargaining agreement, unless such liability would have attached to the **Insured** even in the absence of such contract or agreement.
8. Alleging, based upon, arising out of or attributable to procurement, service, construction, architect, or engineer contracts, including but not limited to the **Insured's** intentional interference with such contracts.
9. Alleging, based upon, arising out of or attributable to:
 - a. Any prior or pending litigation or administrative or regulatory proceeding filed on or before the effective date of this Policy or any similar policy which was issued to the **Named Insured** by the **Insurer** or any affiliate thereof and continuously renewed and maintained, for the same or substantially the same **Wrongful Act, fact, circumstance or situation** underlying or alleged therein; or

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- b. Any other **Wrongful Act** whenever occurring which, together with a **Wrongful Act** underlying or alleged in such prior or pending proceeding would constitute **Interrelated Wrongful Acts**.
10. Alleging, based upon, arising out of, or attributable to:
- a. Any **Wrongful Act**, fact, circumstance or situation which has been the subject of any written notice given under any other policy of which this Policy is a renewal or replacement or which it succeeds in time; or
- b. Any other **Wrongful Act** whenever occurring which, together with a **Wrongful Act** which has been the subject of such notice, would constitute **Interrelated Wrongful Acts**.
11. Alleging, based upon, arising out of or attributable to any **Wrongful Act** prior to the inception date of the first policy issued to the **Named Insured** or any affiliate thereof and continuously renewed and maintained, if, on or before such date, any **Insured** knew or could have reasonably foreseen that such **Wrongful Act** could lead to a **Claim**.
12. Alleging, based upon, arising out of or attributable to the validity, infringement, violation or misappropriation of any trade secret, copyright, patent, collective mark, certification mark, registered mark, service mark, trademark, trade dress, trade name, domain, title, slogan or service name or other intellectual property.
13. Alleging, based upon, arising out of or attributable to any violation of (i) the Employee Retirement Income Security Act of 1974; by (ii) any workers' compensation, disability benefits, unemployment compensation, unemployment insurance, retirement benefits, social security benefits or similar law; (iii) the Fair Labor Standards Act (except the Equal Pay Act), (iv) the National Labor Relations Act, (v) the Worker Adjustment and Retraining Notification Act, (vi) the Consolidated Omnibus Budget Reconciliation Act, (vii) the Occupational Safety and Health Act; or any rules or regulations of any of such statutes or laws, amendments thereto or any similar provisions of any federal, state, local or foreign statutory law or common law; provided however, this exclusion shall not apply to that part of a **Claim** for **Retaliation**.
- Further, this exclusion shall not apply to any actual or alleged failure to execute required actions or mistaken actions committed in the **Administration of Your Employee Benefit Program**.
14. Alleging, based upon, arising out of or attributable to any costs or liability incurred by any **Insured** to provide any reasonable accommodations required by, made as a result of, or to conform with the requirements of, the Americans With Disabilities Act of 1992, as amended, or any similar federal, state or local law, regulation or ordinance, including the modification of any building, property or facility to make it more accessible or accommodating to any disabled person.
15. Alleging, based upon, arising out of or attributable to any **Wrongful Act** for which coverage is afforded under any other Coverage Part of this Policy.

F. **Extended Reporting Period**

If the **Insurer** terminates or does not renew this **Policy** (other than for failure to pay a premium when due), or if the **Named Insured** terminates or does not renew this **Policy** and does not obtain replacement coverage as of the effective date of such termination or non-renewal, the **Named Insured** shall have the right to a continuation of the coverage granted by this **Policy** for at least one **Extended Reporting Period** as follows:

1. **Automatic Extended Reporting Period**

The **Named Insured** shall have continued coverage granted by this **Policy** for a period of 60 days following the effective date of such termination or non-renewal, but only for **Claims** first made during such 60 days and arising from **Wrongful Acts** taking place prior to the effective date of such termination or non-renewal. This **Automatic Extended Reporting Period** shall immediately expire upon the purchase of replacement coverage by the **Named Insured**.

2. **Optional Extended Reporting Period**

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The **Named Insured** shall have the right, upon payment of the additional premium set forth in Item 7.A of the Declarations, to a continuation of the coverage granted by this Policy for an **Optional Extended Reporting Period** set forth in Item 7.B of the Declarations following the effective date of such termination or non-renewal, but only for **Claims** first made during such **Optional Extended Reporting Period** and arising from **Wrongful Acts** taking place prior to the effective date of such termination or non-renewal.

This right to continue coverage shall lapse unless written notice of such election is given by the **Named Insured** to the **Insurer**, and the **Insurer** receives payment of the additional premium, within 30 days following the effective date of termination or non-renewal.

The first 60 days of the **Optional Extended Reporting Period**, if it becomes effective, shall run concurrently with the **Automatic Extended Reporting Period**.

3. The **Insurer** shall give the **Named Insured** notice of the premium due for the **Optional Extended Reporting Period** as soon as practicable following the date the **Named Insured** gives such notice of such election, and such premium shall be paid by the **Named Insured** to the **Insurer** within 10 days following the date of such notice by the **Insurer** of the premium due. The **Optional Extended Reporting Period** is not cancelable and the entire premium for the **Optional Extended Reporting Period** shall be deemed fully earned and non-refundable upon payment.
4. The **Automatic and Optional Extended Reporting Periods** shall be part of and not in addition to the **Limit of Insurance** for the immediately preceding **Policy Period**. The purchase of the **Optional Extended Reporting Period** shall not increase or reinstate the **Limits of Insurance**, which shall be the maximum liability of the **Insurer** for the **Policy Period and Extended Reporting Periods** combined.
5. A change in **Policy** terms, conditions, exclusions and/or premiums shall not be considered a non-renewal for purposes of triggering the rights to the **Automatic or Optional Extended Reporting Periods**.

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ACE AdvantageSM
Public Entity
Scholastic Entity
Retained Limits Policy

LIMITED AUTOMOBILE PHYSICAL DAMAGE COVERAGE PART

Schedule

Retained Limit: \$1,000 Comprehensive and Collision - Private Passenger Autos
\$2,000 Comprehensive and Collision - Trucks
Each Accident Limit: \$1,000,000
Physical Damage Aggregate: \$1,000,000
Covered Autos: Per Schedule on File with the Company

No.	Description

In consideration of the payment of the premium, in reliance upon the **Application**, and subject to the Declarations and the terms and conditions of this **Policy**, the **Insured** and the **Insurer** agree as follows:

A. Insuring Agreements

The **Insurer** will indemnify the **Insured** for **Loss** in excess of the **Retained Limit** to a **Covered Auto** or its equipment.

No other obligation to pay any additional sums or provide services is covered.

B. Retained Limit

The **Insurer's** liability under this **Policy** applies only to **Loss** which is in excess of the **Retained Limit** applicable to this Coverage Part and specified in the Schedule above. The **Retained Limit** must be borne by the **Insured** as an uninsured amount and at its own risk.

C. Limits of Insurance

1. Subject to subsection 2 and 3 below, the **Insurer's** maximum liability for all **Loss** under this Coverage Part will not exceed the **Physical Damage Aggregate** specified in the Schedule above. This will be true regardless of:
 - a. The number of persons and organizations who are **Insureds** under this **Policy**;
 - b. The number of persons or organizations making **Claims**;
 - c. The number of **Covered Autos** involved in an **Accident**; or
 - d. Premiums paid.
2. Subject to subsection 3 below, the **Each Accident Limit** is the most **We** will pay for the sum of all **Loss** for all **Covered Autos** involved in an **Accident**.
3. The most **We** will pay for **Loss** to any one **Covered Auto** is the lesser of:
 - a. The actual cash value of the damaged or stolen property as of the time of the **Loss**; or

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b. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

4. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total Loss.

5. If a repair or replacement results in better than like kind or quality, We will not pay for the amount of the betterment.

D. Exclusions

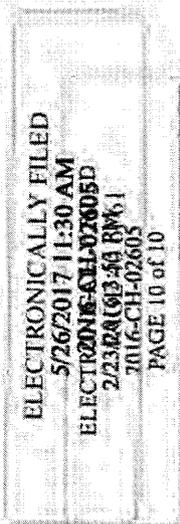
The following exclusions apply to this Coverage Part in addition to the exclusions found in the Common Conditions, Definitions and Exclusions section of this Policy.

The insurance under this Coverage Part does not apply to:

1. Any Bodily Injury, Personal Injury or Advertising Injury.
2. Any Property Damage for which coverage is provided under any other Coverage Part of this Policy.
3. Loss to any of the following:
 - a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
 - b. Any device designed or used to detect speed measuring equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed measurement equipment.
 - c. Any electronic equipment, without regard to whether this equipment is permanently installed, that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound.
 - d. Any accessories used with the electronic equipment described in Paragraph 3.c. above.

Exclusions 3.c. and 3.d. do not apply to:

- i. Equipment designed solely for the reproduction of sound and accessories used with such equipment, provided such equipment (1) is permanently installed in the Covered Auto at the time of the Loss or (2) is removable from a housing unit which is permanently installed in the Covered Auto at the time of the Loss, and (3) is designed to be solely operated by use of the power from the Covered Auto's electrical system, in or upon the Covered Auto; or
 - ii. Any other electronic equipment that is:
 1. Necessary for the normal operation of the Covered Auto or the monitoring of the Covered Auto's operating system; or
 2. An integral part of the same unit housing any sound reproducing equipment described in Paragraph a. above and permanently installed in the opening of the dash or console of the Covered Auto normally used by the manufacturer for installation of a radio.
4. Loss caused by or resulting from any of the following unless caused by other Loss that is covered by this insurance:
1. Wear and tear, freezing, mechanical or electrical breakdown.



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2. Blowouts, punctures or other road damage to tires.
5. Loss to any Covered Auto while used in any professional or organized racing or stunt activity or stunting activity, or while practicing for such contest or activity. We will also not pay for Loss to any Covered Auto while that Covered Auto is being prepared for such a contest or activity.
6. Loss to any Covered Auto due to Diminution in Value.

E. Conditions

The following Conditions apply to this Coverage Part in addition to the conditions in the Common Conditions, Definitions and Exclusions section of this Policy:

1. If You and We disagree on the amount of the Loss, either may demand an appraisal of the Loss. In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraiser will state separately the actual cash value and amount of Loss. If they fail to agree they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:
 - i. Pay its chosen appraiser; and
 - ii. Bear the other expenses of the appraisal and umpire equally.

If We submit to an appraisal, We still retain our right to deny the Claim.
2. Condition B, Duties in the Event of Accident, Occurrence, Wrongful Act or Claim of Common Conditions, Definitions and Exclusions applies to Loss.
3. We have no duty to provide coverage under this Coverage Part unless there has been full compliance with the following duties and the Common Conditions as modified:
 - a. In the event of Loss, You must give Us prompt notice of the Loss. Include:
 - i. How, when and where the Loss occurred;
 - ii. To the extent possible, the names and addresses of any injured persons and witnesses.
 - b. Additionally, You must:
 - i. Assume no obligation, make no payment or incur no expense without our consent, except at Your own cost.
 - ii. Cooperate with Us in the investigation or settlement of the Claim or defense against the Suit.
 - iii. Promptly notify the police if the Covered Auto or any of its equipment is stolen.
 - iv. Take all reasonable steps to protect the Covered Auto from further damage. Also keep a record of Your expenses for consideration in the settlement of the Claim.
 - v. Permit Us to inspect the Covered Auto and records proving the Loss before its repair or disposition.
 - vi. Agree to examination under oath at Our request and give Us a signed statement of Your answers.
4. No one may bring a legal action against us under this Coverage Part until there has been full compliance with all the terms of this Coverage Part.
5. At Our option We may:
 - a. Pay for, repair or replace damaged or stolen property;
 - b. Return the stolen property, at Our expense. We will pay for any Damage that results to the Covered Auto from the theft; or
 - c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If We pay for the Loss, Our payment will include the applicable sales tax for the damaged or stolen property.

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6. We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Part.

F. Definitions

The following definitions apply in addition to the definitions found in the Common Conditions, Definitions and Exclusions section of this Policy.

1. **Covered Auto** means an **Automobile** listed in the Schedule.
2. **Loss** means direct and accidental loss or damage.
3. **Diminution in Value** means the actual or perceived loss in market value or resale value which results from a direct and accidental **Loss**.

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ACE AdvantageSM
Public Entity
Retained Limits Policy

LIMITED SEXUAL ABUSE COVERAGE PART

THIS COVERAGE PART PROVIDES COVERAGE ON A CLAIMS MADE AND REPORTED BASIS. PLEASE READ THIS COVERAGE PART AND THE ENTIRE POLICY CAREFULLY. THE LIMITS OF INSURANCE AVAILABLE TO PAY INSURED DAMAGES SHALL BE REDUCED BY AMOUNTS INCURRED FOR CLAIM EXPENSES. AMOUNTS INCURRED FOR DAMAGES AND CLAIM EXPENSES SHALL ALSO BE APPLIED AGAINST THE RETAINED LIMIT AMOUNT.

I. The insurance provided by this Coverage Part modifies the following terms of the Common Conditions, Definitions and Exclusions section of the Policy:

- A. Exclusion 10 of Section C; and
- B. Condition 8 of Section A to apply to any Sexual Abuse Act.

II. Limited Sexual Abuse Coverage

SCHEDULE

Limits of Insurance

Each Sexual Abuse Act Limit	\$ 1,000,000
Aggregate Limit	\$ 2,000,000
Retained Limit	\$ 100,000
Retroactive Date	11/01/2011

In consideration of the payment of the premium, in reliance upon the Application, and subject to the Limits of Insurance listed in the Schedule of this Coverage Part and the terms and conditions of this Policy, the Insured and the Insurer agree as follows:

A. Insuring Agreement

The Insurer will indemnify the Named Insured for Damages and Claim Expenses in excess of the Retained Limit for which the Named Insured becomes legally obligated to pay because of a Claim first made against the Insured and reported to the Insurer during the Policy Period, or if applicable, the Extended Reporting Period, for any Sexual Abuse Act taking place on or subsequent to the Retroactive Date shown in the Schedule above and prior to the end of the Policy Period.

This insurance provided by this Coverage Part applies only if a Claim is first made against any Insured during the Policy Period; and, at or prior to the effective date of this Policy, no Insured had (a) actual knowledge of the Sexual Abuse giving rise to the Claim or (b) reasonably should have known of such Sexual Abuse.

No other obligation to pay any additional sums, perform acts or provide services is covered.

B. Retained Limit

The Insurer's liability under this Policy applies only to Damages and Claim Expenses which are in excess of the Retained Limit applicable to this Coverage Part and specified in the Schedule above. The Retained Limit must be borne by the Insured as an uninsured amount and at its own risk.

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C. Limits of Insurance

1. The Aggregate Limit of Insurance is the most We will pay for the sum of all covered Damages and Claim Expenses under this Coverage Part. The Aggregate Limit of Insurance is included in, and is not in addition to, the General Liability Coverage Part Aggregate Limit. If the Aggregate Limit of Insurance is exhausted by payment of Damages and Claim Expenses, the obligations of the Insurer under this Policy shall be completely fulfilled and extinguished. The Insurer will indemnify the Insured for Damages and Claim Expenses only as they become due and payable by the Insured, without consideration of other future payment obligations.
2. Claim Expenses will be part of and not in addition to the Aggregate Limit of Insurance stated in the Schedule above and shall reduce such Aggregate Limit of Insurance.
3. The Each Sexual Abuse Act Limit of Insurance is the most We will pay for the sum of all Damages and Claim Expenses arising out of any one Sexual Abuse Act including Interrelated Sexual Abuse Acts.
4. All Claims arising out of the same Sexual Abuse Act including all Interrelated Sexual Abuse Acts of the Insured shall be deemed to be one Claim, and such Claim shall be deemed to be first made on the date the earliest of such Claims is first made, regardless of whether such date is before or during the Policy Period. All Damages and all Claim Expenses from a single Claim shall be deemed a single Damage and Claim Expense.

D. Exclusions

The following exclusions apply to this Coverage Part in addition to the exclusions in the Common Conditions, Definitions and Exclusions section of this Policy.

The Insurance under this Coverage Part does not apply to:

1. Any Claim alleging, based upon, arising out of or attributable to:
 - a. Any Bodily Injury, Property Damage, Personal Injury, Advertising Injury or Wrongful Act for which coverage is provided under any other Coverage Part of this Policy.
 - b. Any Sexual Abuse of a person if the first incident of Sexual Abuse of that person by the same, or allegedly the same, individual or individuals occurred prior to the Retroactive date shown in the Schedule.
 - c. Any Sexual Abuse which took place prior to the Retroactive Date shown in the Schedule above or after the expiration of the Policy Period.
 - d. Any Sexual Abuse by a person committed after the Retroactive Date shown in the Schedule above and before the end of the Policy Period if such person actually or allegedly committed or attempted Sexual Abuse of any person or group of persons prior to the Policy Period.
2. Any Damages or Claim Expenses for any Insured who is alleged to have personally participated in committing any Sexual Abuse or for any Insured who is alleged to have remained passive after having personal knowledge, or under circumstances in which the Insured should reasonably have known, of any Sexual Abuse.

E. Definitions

For purposes of this Coverage Part, the following definitions apply and are in addition to the definitions in the Common Conditions, Definitions and Exclusions section of this Policy.

Sexual Abuse Act

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A. Means:

1. The actual or alleged negligent or reckless hiring, employment, supervision, or retention of an individual whose conduct results in a **Sexual Abuse**; or
 2. The actual or alleged negligent investigation of an allegation of **Sexual Abuse** by an individual; or
 3. The actual or alleged reporting to the proper authorities or failure to so report an individual whose conduct results in a **Sexual Abuse**;
- Provided any **Insured** is or ever was legally responsible for such individual; and

B. Includes **Interrelated Sexual Abuse Acts**.

For purposes of this Coverage Part, **Interrelated Sexual Abuse Acts** means all **Sexual Abuse Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of related facts, circumstances, situations, events, transactions or causes, regardless of:

1. The number of persons with injuries resulting from **Sexual Abuse**;
2. The number of locations where the **Sexual Abuse** occurred;
3. The number of acts of **Sexual Abuse** prior to or after the first **Claim** is made; or
4. The period of time over which the **Sexual Abuse** took place, whether the **Sexual Abuse** is during, before or after the **Policy Period**. However, only acts of **Sexual Abuse** that first take place after the **Retroactive Date** shown in the Schedule above and before cancellation or non-renewal of this Coverage Part are covered.

F. Extended Reporting Period

1. We will automatically provide an **Extended Reporting Period** as described in paragraphs 2. and 3. below if:
 - a. This endorsement is cancelled or not renewed; or
 - b. We renew or replace this Coverage Part with insurance that:
 - (1) Has a **Retroactive Date** later than the date shown on this Coverage Part; or
 - (2) Does not apply to errors, omissions, breaches of duty, or misstatements on a claims-made basis.
2. The **Extended Reporting Period** does not extend the **Policy Period** or change the scope of coverage provided. It applies only to **Claims for Sexual Abuse Acts** that occur before the end of the **Policy Period** but not before the **Retroactive Date** shown on this Coverage Part.

Once in effect, the **Extended Reporting Period** may not be cancelled.

3. The **Extended Reporting Period** is automatically provided without additional charge. This period starts with the end of the **Policy Period** and lasts for one year.

The **Extended Reporting Period** does not apply to **Claims** that are covered under any subsequent insurance You purchase, or that would be covered but for the exhaustion of insurance applicable to such **Claims**.

4. The **Extended Reporting Period** does not reinstate or increase the **Limits of Insurance**.

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TRADE OR ECONOMIC SANCTIONS ENDORSEMENT

Named Insured City of Chicago Heights			Endorsement Number 1
Policy Symbol PEP	Policy Number G24891562 003	Policy Period November 1, 2012 to November 1, 2013	Effective Date of Endorsement November 1, 2012
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This insurance does not apply to the extent that trade or economic sanctions or other laws or regulations prohibit us from providing insurance, including, but not limited to, the payment of claims. All other terms and conditions of policy remain unchanged.

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Authorized Agent

EXCLUSION OF CERTIFIED ACTS OF TERRORISM

Named insured City of Chicago Heights			Endorsement Number 2
Policy Symbol PEP	Policy Number G24891562 003	Policy Period November 1, 2012 to November 1, 2013	Effective Date of Endorsement November 1, 2012
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
This endorsement modifies insurance provided under the following:

PUBLIC ENTITY RETAINED LIMITS POLICY
SCHOLASTIC ENTITY RETAINED LIMITS POLICY

A. The following exclusion is added:

This insurance does not apply to:

1. **Any Injury or Damage** arising, directly or indirectly, out of a **Certified Act of Terrorism**.

B. The following definitions are added and apply under this endorsement wherever the term certified acts of terrorism or the phrase any injury or damage appear in bold print:

1. For the purposes of this endorsement, **Any Injury or Damage** means any injury or damage covered under any Coverage Part or Policy to which this endorsement is applicable, and includes but is not limited to **Bodily Injury, Property Damage, Personal Injury and Advertising Injury, Injury, Damages or Claim Expenses** as may be defined in any applicable Coverage Part or Policy.

2. **Certified Act of Terrorism** means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a **Certified Act of Terrorism** include the following:

- a. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
- b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

All other terms and conditions of this Policy remain unchanged.

Authorized Representative

PE-23667 (01/08)

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SERVICE OF SUIT ENDORSEMENT - ILLINOIS

Named Insured City of Chicago Heights			Endorsement Number 3
Policy Symbol PEP	Policy Number G24891562 003	Policy Period November 1, 2012 to November 1, 2013	Effective Date of Endorsement November 1, 2012
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

It is agreed that in the event of the failure of the company hereon to pay any amount claimed to be due hereunder, the company hereon, at the request of the Insured, will submit to the jurisdiction of any court of competent jurisdiction within the United States of America and will comply with all requirements necessary to give such court jurisdiction and all matters arising hereunder shall be determined in accordance with the law and practice of such court.

It is further agreed that service of process in such suit may be made upon the Claims Manager, or his nominee, at 525 W. Monroe Street, Suite 400, Chicago, Illinois 60661, and that in any suit instituted against this policy, the company will abide by the final decision of such court or of any Appellate court in the event of an appeal.

The above-named Claims Manager is authorized and directed to accept service of process on behalf of the Company in any such suit and/or upon the request of the Insured to give a written undertaking to the Insured that it or they will enter a general appearance upon the Company's behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States of America, which makes provision therefore, the company hereon designates the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute or their successor or successors in office as their true and lawful attorney upon whom may be served any lawful process of any action, suit or proceeding instituted by or on behalf of the Insured or any beneficiary, hereunder arising out of his contract of insurance, and hereby designates the above named Claims Manager as the person to whom the said officer is authorized to mail such process or true copy thereof.

The address of the Illinois Director of Insurance is:
 Department of Insurance
 State of Illinois
 320 West Washington Street
 Springfield, Illinois 62767

If the Insured is resident in Canada, it is agreed that the foregoing provisions shall also apply as respects any province of Canada.

NOTHING HEREIN CONTAINED SHALL BE HELD TO VARY, ALTER WAIVE OR EXTEND ANY OF THE TERMS, CONDITIONS, OR LIMITATIONS OF THE POLICY TO WHICH THIS ENDORSEMENT IS ATTACHED OTHER THAN AS ABOVE STATED.

 Authorized Representative

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MODIFICATION OF UNINSURED MOTORISTS COVERAGE - ILLINOIS

Named Insured City of Chicago Heights			Endorsement Number 4
Policy Symbol PEP	Policy Number G24891562 003	Policy Period November 1, 2012 to November 1, 2013	Effective Date of Endorsement November 1, 2012
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

**AUTOMOBILE LIABILITY COVERAGE PART
PUBLIC ENTITY RETAINED LIMITS POLICY
SCHOLASTIC ENTITY RETAINED LIMITS POLICY**

Certain words and phrases in **Bold** are defined in the Policy. The attached Illinois Uninsured Motorists Coverage endorsement form (CA 21 30 11 08) uses quotation marks to denote defined words and terms. Words and phrases that are defined in the Policy are deemed to have the meaning stated in the Policy's Common or Coverage Part Definitions, and do not refer to any other policy or coverage form.

The endorsement modifies the Policy and the attached Illinois Uninsured Motorists Coverage endorsement form (CA 21 30 11 08) as follows:

- I. With respect to Uninsured Motorist Coverage for a covered "auto" licensed or principally garaged in Illinois, Exclusion 8 of the Automobile Liability Coverage Part of this Policy is modified by the attached Illinois Uninsured Motorists Coverage (CA 21 30 11 08), but only as further modified by this Endorsement.
- II. The Illinois Uninsured Motorists Coverage (CA 21 30 11 08) is provided subject to the following:
 - A. The schedule of applicable coverage form in the endorsement is deleted and replaced with:
AUTOMOBILE LIABILITY COVERAGE PART
 - B. The Schedule of Illinois Uninsured Motorists Coverage (CA 21 30 11 08) is deleted and replaced with:

Limit of Insurance:	\$1,000,000 Each Accident
Aggregate Limit:	\$1,000,000
Retained Limit:	\$50,000 Each Accident
 - C. Section A. Coverage, Paragraph 1. is deleted and replaced with:

The Insurer will indemnify the Insured for all sums in excess of the **Retained Limit** for which the Insured is legally entitled to recover as compensatory **Damages** from the owner or driver of an "uninsured motor vehicle". The **Damages** must result from **Bodily Injury or Property Damage** caused by an **Accident**. The owner's or driver's liability for these **Damages** must result from the ownership, maintenance or use of the "uninsured motor vehicle".

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III. The following is added to paragraph 1. of Section E. Changes in Conditions, Illinois Uninsured Motorists Coverage (CA 21 30 11 08):

It is also agreed that all such other insurance is excess over the **Retained Limit** and **We** will not make any payments until the other insurance and the **Retained Limit** have been exhausted.

All other terms and conditions of this **Policy** and the Illinois Uninsured Motorist Coverage remain unchanged.

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Authorized Representative

SIGNATURE ENDORSEMENT

Named Insured City of Chicago Heights			Endorsement Number 5
Policy Symbol PEP	Policy Number G24891562 003	Policy Period November 1, 2012 to November 1, 2013	Effective Date of Endorsement November 1, 2012
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THE ONLY SIGNATURES APPLICABLE TO THIS POLICY ARE THOSE REPRESENTING THE COMPANY NAMED ON THE FIRST PAGE OF THE DECLARATIONS.

By signing and delivering the policy to you, we state that it is a valid contract when countersigned by our authorized representative.

ILLINOIS UNION INSURANCE COMPANY (A stock company)
525 W. Monroe Street, Suite 400, Chicago, Illinois 60661

WESTCHESTER SURPLUS LINES INSURANCE COMPANY (A stock company)
Royal Centre Two, 11575 Great Oaks Way, Suite 200, Alpharetta, GA 30022

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CARMINE A. GIGANTI, Secretary


JOHN J. LUPICA, President

Authorized Representative

LD-5S23 (12/11)

ILLINOIS CHANGES - CANCELLATION AND NONRENEWAL

Named Insured City of Chicago Heights			Endorsement Number 6
Policy Symbol PEP	Policy Number G24891562 003	Policy Period November 1, 2012 to November 1, 2013	Effective Date of Endorsement November 1, 2012
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

If the policy or coverage part to which this endorsement applies contains cancellation or nonrenewal provisions more favorable to the Named Insured than this endorsement, then those provisions apply.

I. The Cancellation Condition is replaced by the following:

CANCELLATION

- A. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
 - 1. We may cancel this policy by mailing to you written notice stating the reason for cancellation.
 - 2. If we cancel for nonpayment of premium, we will mail the notice at least 10 days prior to the effective date of cancellation.
 - 3. If we cancel for a reason other than nonpayment of premium, we will mail the notice at least:
 - a. 30 days prior to the effective date of cancellation if the policy has been in effect for 60 days or less.
 - b. 60 days prior to the effective date of cancellation if the policy has been in effect for more than 60 days.
- B. If this policy has been in effect for more than 60 days, we may cancel only for one or more of the following reasons:
 - 1. Nonpayment of premium;
 - 2. The policy was obtained through a material misrepresentation;
 - 3. Any insured has violated any of the terms and conditions of the policy;
 - 4. The risk originally accepted has measurably increased;
 - 5. Certification to the Director of Insurance of the loss of reinsurance by the insurer that provided coverage to us for all or a substantial part of the underlying risk insured; or
 - 6. A determination by the Director of Insurance that the continuation of the policy could place us in violation of the insurance laws of this State.
- C. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- D. If this policy is cancelled we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund will be less than pro rata. The cancellation will be effective even if we have not offered a refund.

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II. The following is added and supersedes any provision to the contrary:

NONRENEWAL

A. If we decide not to renew this policy, we will mail written notice stating the reason for nonrenewal no less than 60 days before the expiration date to:

1. You and;
2. The broker, if known to us, or the agent of record.

B. Even if we do not comply with these terms, this policy will terminate:

1. On the expiration date if:
 - a. You fail to perform any of your obligations in connection with the payment of the premium for the policy, or any installment payment, whether payable directly to us or our agents or indirectly under any premium finance plan or extension of credit; or
 - b. We have indicated our willingness to renew this policy to you or your representative; or
 - c. You have notified us or our agent that you do not want to renew this policy.

C. Mailing of Notices

We will mail cancellation and nonrenewal notices to you, and the agent or broker, at the last addresses known to us. Proof of mailing will be sufficient proof of notice.

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Authorized Agent

CORRIDOR RETENTION ENDORSEMENT

Named Insured City of Chicago Heights			Endorsement Number 7
Policy Symbol PEP	Policy Number G24891562 003	Policy Period November 1, 2012 to November 1, 2013	Effective Date of Endorsement November 1, 2012
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

**GENERAL LIABILITY COVERAGE PART
LIMITED SEXUAL ABUSE COVERAGE PART
PUBLIC ENTITY RETAINED LIMITS POLICY**

CORRIDOR RETENTION SCHEDULE

Corridor Retention: \$100,000 per Occurrence
\$100,000 per Claim for Sexual Abuse Act
Corridor Retention Aggregate: \$100,000

With respect to the General Liability Coverage Part and the Limited Sexual Abuse Coverage Part, the policy is amended to include the following:

1. The Insurer will indemnify the Named Insured for Damages and Claim Expenses in excess of both the applicable Retained Limits stated in the Declarations, Coverage Part or by endorsement to this Policy and the Corridor Retention as stated in the Schedule above. The Corridor Retention applies excess of the Retained Limits. The total amount that You must pay as Corridor Retention amounts is the Corridor Retention Aggregate shown in the Schedule above.
2. The application of the Corridor Retention is subject to the following provisions:
 - a. When the Corridor Retention applies, the Limits of Insurance set forth in the Declarations or Coverage Part, as applicable, are subject to and include the Corridor Retention amount stated in the Schedule above. Payments made within the Corridor Retention shall erode and be counted against the aggregate limits of this Policy.
 - b. A separate Corridor Retention amount shall apply to each Occurrence under the General Liability Coverage Part or each Claim for Sexual Abuse Act in accordance with the Schedule above and subject to the Corridor Retention Aggregate.
 - c. The Corridor Retention shall include amounts paid for Damages and Claim Expenses for which is the Named Insured is responsible. Such Damages and Claim Expenses shall be counted when determining erosion or exhaustion of the Corridor Retention.
3. Whenever the Corridor Retention applies, this Policy is subject to the following additional conditions:
 - a. All other terms and conditions of this Policy, including those pertaining to Your duties in the event of an Accident, Occurrence, Wrongful Act or Claim shall apply irrespective of the applicability of the Corridor Retention.
 - b. With respect to payment of Claims, this Policy will not apply until You are obligated to pay the amount of the applicable Retained Limit and Corridor Retention, subject to the Corridor Retention Aggregate.

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4. The following definition is added to this Policy:

Corridor Retention means the amount of covered Damages and Claim Expenses which You shall have a duty to pay in excess of the **Retained Limits** according to the Schedule above.

All other terms and conditions of this Policy remain unchanged.

Authorized Representative

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SEPARATE RETAINED LIMITS ENDORSEMENT - LAW ENFORCEMENT ACTIVITIES AND OTHER GENERAL LIABILITY

Named Insured City of Chicago Heights		Endorsement Number 8	
Policy Symbol PEP	Policy Number G24891562 003	Policy Period November 1, 2012 to November 1, 2013	Effective Date of Endorsement November 1, 2012
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

PUBLIC ENTITY RETAINED LIMITS POLICY

It is agreed that Item 4, Retained Limit, A. General Liability Coverage Part of the Declarations is deleted and replaced with:

Item 4. Retained Limit

A. General Liability Coverage Part

- 1. General Liability arising out of **Law Enforcement Activities** \$100,000 Each Occurrence
- 2. Other General Liability \$50,000 Each Occurrence

With respect to any Occurrence that is or is alleged to be an Occurrence arising out of **Law Enforcement Activities** and also is or is alleged to be an Occurrence under Other General Liability, the greater **Retained Limit** shown above will apply.

All other terms and conditions of this Policy remain unchanged.

Authorized Representative

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Illinois Union Insurance Company
Insurance Company

City of Chicago Heights
Policyholder

PEP G24891562 003
Policy Number

Boyle Flagg & Seaman Inc.
Broker/Producer

**POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM INSURANCE COVERAGE**

You were notified that under the Terrorism Risk Insurance Act, as amended, that you have the right to purchase insurance coverage for losses resulting from acts of terrorism, as defined in Section 102(1) of the Act. The term "act of terrorism" means any act that is certified by the Secretary of the Treasury—in concurrence with the Secretary of State, and the Attorney General of the United States—to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

YOU SHOULD KNOW THAT WHERE COVERAGE IS PROVIDED BY THIS POLICY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM, SUCH LOSSES MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. HOWEVER, YOUR POLICY MAY CONTAIN OTHER EXCLUSIONS WHICH MIGHT AFFECT YOUR COVERAGE, SUCH AS AN EXCLUSION FOR NUCLEAR EVENTS. UNDER THE FORMULA, THE UNITED STATES GOVERNMENT GENERALLY REIMBURSES 85% OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURANCE COMPANY PROVIDING THE COVERAGE. THE PREMIUM CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS THAT MAY BE COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.

YOU SHOULD ALSO KNOW THAT THE TERRORISM RISK INSURANCE ACT, AS AMENDED, CONTAINS A \$100 BILLION CAP THAT LIMITS U.S. GOVERNMENT REIMBURSEMENT AS WELL AS INSURERS' LIABILITY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM WHEN THE AMOUNT OF SUCH LOSSES IN ANY ONE CALENDAR YEAR EXCEEDS \$100 BILLION. IF THE AGGREGATE INSURED LOSSES FOR ALL INSURERS EXCEED \$100 BILLION, YOUR COVERAGE MAY BE REDUCED.

You elected *NOT* to purchase terrorism coverage under the Act at the price indicated. ACCORDINGLY, WE WILL *NOT* PROVIDE THIS COVERAGE AND YOU DO NOT OWE THE ADDITIONAL PREMIUM FOR THAT COVERAGE INDICATED BELOW.

Terrorism coverage described by the Act under your policy was made available to you for additional premium in the amount of \$N/A, however you elected to decline such coverage.

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ACE USA

- Illinois Union Insurance Company
- Westchester Surplus Lines Insurance Company
-

Insured:
City of Chicago Heights

Attached To Policy No.: PEP G24891562 003

Effective Date: November 1, 2012

ILLINOIS SURPLUS LINES NOTIFICATION

This contract is issued, pursuant to Section 445 of the Illinois Insurance Code, by a company not authorized and licensed to transact business in Illinois and as such is not covered by the Illinois Insurance Guaranty Fund.

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NOTHING HEREIN CONTAINED SHALL BE HELD TO VARY, ALTER, WAIVE OR EXTEND ANY OF THE TERMS, CONDITIONS, OR LIMITATIONS OF THE POLICY TO WHICH THIS NOTICE IS ATTACHED OTHER THAN AS STATED ABOVE.



**ACE Producer Compensation
Practices & Policies**

ACE believes that policyholders should have access to information about ACE's practices and policies related to the payment of compensation to brokers and independent agents. You can obtain that information by accessing our website at <http://www.aceproducercompensation.com> or by calling the following toll-free telephone number: 1-866-512-2862.

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ALL-20887 (10/06)

U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL ("OFAC") ADVISORY NOTICE TO POLICYHOLDERS

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous:

- Foreign agents;
- Front organizations;
- Terrorists;
- Terrorist organizations; and
- Narcotics traffickers;

as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's web site - <http://www.treas.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.

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CIRCUIT COURT OF COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK DOROTHY BROWN

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

CITY OF CHICAGO HEIGHTS, an Illinois)
Municipal Corporation, JEFFREY BOHLEN,)
SAM MANGIALARDI, ROBERT PINNOW,)
GERALDINE NARDONI, AS PERSONAL)
REPRESENTATIVE FOR NOW DECEASED)
CHARLES NARDONI, ANTHONY)
MURPHY, JOSEPH ROBUSTELLI and)
JEFFREY GOSS,)

Plaintiffs,)

v.)

ILLINOIS UNION INSURANCE COMPANY,)
STARR INDEMNITY & LIABILITY)
COMPANY and RODELL SANDERS,)

Defendants.)

Case No. _____

Judge _____

Jury Demanded

**ATTACHMENT TO COMPLAINT FOR DECLARATORY JUDGMENT,
LEGAL RELIEF AND MONETARY DAMAGES**

Exhibit 4

**Illinois Union Insurance Company
Primary Policy No. PEP G24891562 003
November 1, 2013 – November 1, 2014**

EXHIBIT C



Illinois Union Insurance Company
525 W. Monroe Street
Chicago, IL 60661

ACE Advantage[®] Public Entity Retained Limits Policy Declarations

This Policy is issued by the stock insurance company shown above.

SOME COVERAGE PARTS IN THIS POLICY PROVIDE COVERAGE ON A CLAIMS MADE AND REPORTED BASIS. IF COVERAGE IS PROVIDED ON A CLAIMS MADE AND REPORTED BASIS, IT IS SUBJECT TO THE TERMS AND CONDITIONS OF THAT COVERAGE PART. PLEASE READ IT CAREFULLY.

THE LIMITS OF INSURANCE AVAILABLE TO PAY INSURED DAMAGES SHALL BE REDUCED BY AMOUNTS INCURRED FOR CLAIMS EXPENSES. FURTHER NOTE THAT AMOUNTS INCURRED FOR DAMAGES AND CLAIMS EXPENSES SHALL ALSO BE APPLIED AGAINST THE RETAINED LIMIT AMOUNTS.

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Policy No. PEP G24891562 004	Renewal of: PEP G24891562 003
Item 1. Named Insured and Principal Address City of Chicago Heights 1601 Chicago Road Chicago Heights, IL 60411	Producer Name and Address Boyle Flagg & Seaman Inc. 7941 West 171 st Street Tinley Park, IL 60477-3244
Item 2. Policy Period: From: November 1, 2013 12:01 a.m. To November 1, 2014 12:01 a.m. (Local time at the address shown in Item 1)	
Item 3. Coverage(s) Purchased (☑):	
A. <input checked="" type="checkbox"/> General Liability Coverage Part	
B. <input checked="" type="checkbox"/> Automobile Liability Coverage Part	
C. <input checked="" type="checkbox"/> Public Officials & Employment Practices Liability Coverage Part	
D. <input type="checkbox"/> Miscellaneous Professional Liability Coverage Part	
E. <input checked="" type="checkbox"/> Limited Automobile Physical Damage Coverage Part	
F. <input type="checkbox"/>	
G. <input type="checkbox"/>	
TOTAL PREMIUM \$ 355,091	



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Item 4. Retained Limit.		
A. General Liability Coverage Part	Each Occurrence	\$ 50,000
Law Enforcement Liability	Each Occurrence	\$ 100,000
B. Automobile Liability Coverage Part	Each Accident	\$ 50,000
C. Public Officials & Employment Practices Liability Coverage Part	Each Claim	\$ 100,000
		\$ 50,000
D. Miscellaneous Professional Liability Coverage Part	Each Claim	<u>Not Covered</u>
The applicable Retained Limit is shown in the individual Coverage Part if not listed above.		
Item 5. Limits of Insurance:		
A. General Liability Coverage Part	Each Occurrence	\$ 1,000,000
General Liability Coverage Part Aggregate	Aggregate	\$ 2,000,000
B. Automobile Liability Coverage Part	Each Accident	\$ 1,000,000
C. Public Officials & Employment Practices Liability Coverage Part	Each Claim	\$ 1,000,000
Public Officials & Employment Practices Liability Coverage Part	Aggregate	\$ 2,000,000
D. Miscellaneous Professional Liability Coverage Part	Each Claim	<u>Not Covered</u>
Miscellaneous Professional Liability Coverage Part	Aggregate	<u>Not Covered</u>
The applicable Limits of Insurance are shown in the individual Coverage Part if not listed above.		
Item 6. Retroactive Date: (Enter Date or enter "None" if no Retroactive Date Applies)		
A. Public Officials & Employment Practices Liability Coverage Part		<u>None</u>
B. Miscellaneous Professional Liability Coverage Part		<u>Not covered</u>
The applicable Retroactive Date is shown in the individual Coverage Part if not listed above.		
Item 7. Optional Extended Reporting Period:		
A. Public Officials & Employment Practices Liability Coverage Part		
Additional Premium:	<u>100% of Annual Premium</u>	
Additional Period:	<u>12 months</u>	
B. Miscellaneous Professional Liability Coverage Part		
Additional Premium:	<u>Not covered % of Annual Premium</u>	
Additional Period:	<u>Not covered</u>	
Terms of the applicable Optional Extended Reporting Period are shown in the individual Coverage Part if not listed above.		

SCHEDULE OF FORMS AND ENDORSEMENTS

Named Insured City of Chicago Heights			Endorsement Number Part 1 of 1
Policy Symbol PEP	Policy Number G24891562 004	Policy Period November 1, 2013 to November 1, 2014	Effective Date of Endorsement November 1, 2013
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

SCHEDULE OF FORMS

Policy Forms	Title
PE-19611c	ACE Advantage Public Entity Retained Limits Policy Declarations
PE-19610i	Common Conditions, Definitions And Exclusions
PE-19609d	General Liability Coverage Part
PE-19608a	Automobile Liability Coverage Part
PE-19607f	Public Officials & Employment Practices Liability Coverage Part
CC-1E15	Limited Automobile Physical Damage Coverage Part

SCHEDULE OF ENDORSEMENTS

Endorsement Number	Form Number	Title
1	CC-1E15	Corridor Retention Endorsement
2	CC-1E15	Modification of Underinsured Motorists Coverage - Illinois
3	PE-27172	Separate Retained Limits Endorsement - Law Enforcement Activities And Other General Liability
4	LD-2S61a	Illinois Changes - Cancellation And Nonrenewal
5	PE-23667	Exclusion of Certified Acts of Terrorism
6	ALL 21101	Trade or Economic Sanctions Endorsement
7	XS-2X35b	Illinois Service of Suit
8	LD-5S23i	Signature Endorsement
	TRIA 15c	Policyholder Disclosure Notice of Terrorism Insurance Coverage
	SL-24684	Illinois Surplus Lines Notification
	ALL 20887	ACE Producer Compensation Practices & Policies
	IL P 0001	U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") Advisory Notice to Policyholders

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ACE Advantage[®] Public Entity Retained Limits Policy

COMMON CONDITIONS, DEFINITIONS AND EXCLUSIONS

Throughout this Policy the words You and Your refer to the Named Insured. The words We, Us, and Our refer to the company providing this insurance.

Certain words and phrases that appear in bold print have special meanings found either in the Common Conditions, Definitions and Exclusions section of the Policy, or in the Definitions sections of the Coverage Parts.

A. Policy Conditions

All Coverage Parts included in this Policy are subject to the following conditions except as otherwise expressly indicated.

1. Alteration, Assignment and Headings

- a. Notice to any agent or knowledge possessed by any agent or by any other person shall not affect a waiver or a change in any part of this Policy nor prevent the Insurer from asserting any right under the terms of this Policy.
- b. No change in, modification of, or assignment of interest under this Policy shall be effective except when made by a written endorsement to the Policy signed by an authorized representative of the Insurer.
- c. The titles and headings to the various parts, sections, subsections and endorsements of the Policy are included solely for ease of reference and do not in any way limit, expand or otherwise affect the provisions of such parts, sections, subsections or endorsements.

2. Alternative Dispute Resolution

The Insured and the Insurer shall submit any dispute or controversy arising out of or relating to this Policy or the breach, termination or invalidity thereof, including disputes as to the scope or applicability of coverage, to the alternative dispute resolution ("ADR") process set forth in this section.

Either an Insured or the Insurer may elect the type of ADR process discussed below; provided, however, that the Insured shall have the right to reject the choice by the Insurer of the type of ADR process at any time prior to its commencement, in which case the choice by the Insured of ADR process shall control.

There shall be two choices of ADR process: (1) non-binding mediation administered by any mediation facility to which the Insurer and the Insured mutually agree, in which the Insured and the Insurer shall try in good faith to settle the dispute by mediation in accordance with the then-prevailing commercial mediation rules of the mediation facility; or (2) arbitration submitted to any arbitration facility to which the Insured and the Insurer mutually agree, in which the arbitration panel shall consist of three disinterested individuals. In either mediation or arbitration, the mediator or arbitrators shall have expertise in the legal, or the insurance issues relevant to the matters in dispute. In the event of arbitration, the decision of the arbitrators shall be final and binding and provided to both parties. No award of the arbitrators shall include attorneys' fees or other costs. In the event of mediation, either party shall have the right to commence arbitration in accordance with this section; provided, however, that no such arbitration shall be commenced until at least 60 days after the date the mediation is concluded or terminated. In all events, each party shall bear its own expenses in the ADR process.

Either ADR process may be commenced in New York, New York or in the state indicated in Item 1 of the Declarations as the principal address of the Named Insured. The Named Insured shall act on behalf of each and every Insured in connection with any ADR process under this section.

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3. Appeals

We can appeal a judgment against an Insured under this agreement if:

- a. The judgment is for more than the amount of the Retained Limit, and
- b. An Insured does not appeal it.

If We appeal a judgment, We will pay the costs of the appeal and any interest on those costs. Those payments will be in addition to any Limit of Insurance of this Policy.

4. Audit of Books and Records

We may audit Your books and records at any time during the Policy Period or within five years after the Policy Period. There is no time limit on auditing Your books and records with respect to Claims under this Policy.

5. Authorization Clause

By the acceptance of this Policy, the Named Insured agrees to act on behalf of all Insureds with respect to the giving and receiving of notice of Claim, the giving or receiving of notice of cancellation or non renewal, the payment of premiums and the receiving of any premiums that may become due under this Policy, the agreement to and acceptance of endorsements, consenting to any settlement, exercising the right to the Extended Reporting Period, and the giving or receiving of any other notice provided for in this Policy, and all Insureds agree that the Named Insured shall so act on their behalf.

6. Conflicting State Law or Regulation

In the event that provisions of this Policy conflict with any state law or regulation, then such law or regulation shall prevail and this Policy is amended to conform with such law or regulation.

7. Defense and Settlement

- a. We have no duty to defend a Claim against an Insured seeking Damages.
- b. We shall have no obligation to pay or indemnify an Insured for any amount if an Insured's obligation to pay Damages and Claim Expenses is within or equal to the Retained Limit.
- c. You have the duty to defend any Claim to which this insurance applies and shall be responsible for the Damages and Claim Expenses up to the Retained Limit.
- d. When the Damages and Claim Expenses for which You become legally obligated to pay exceed the Retained Limit, You will be entitled to indemnification by Us. You shall submit any request for indemnification to Us as soon as practicable after the Damages and Claim Expenses exceed the Retained Limit. We will promptly indemnify You in excess of the Retained Limit subject to the Limit of Insurance for the applicable Coverage Part as shown on the Declarations. The Retained Limit must be satisfied by actual payment by You. The Retained Limit may not be satisfied by payment by the Insured of any deductible of any other Policy or payments made on behalf of the Insured by any other insurer, person or entity. The Insured must make actual payment of the Retained Limit under this Policy without regard to whether the Insured must pay other amounts under any other Policy, even if the claimed amounts are deemed to have been caused by one Occurrence, Accident or Wrongful Act. The Retained Limit shall not be impaired by any Claim brought against an Insured which is not covered under the applicable Coverage Part.
- e. Your legal obligation to pay the Damages and Claim Expenses must be evidenced either by a judgment against any Insured after final adjudication, or by an arbitration award entered as a judgment, or by a written settlement executed by You and the settling claimants.
- f. You must obtain Our prior written approval before offering or agreeing to pay an amount which is in excess of the Retained Limit in order to settle any Claim.
- g. We shall have the right and You shall avail Us of the opportunity to associate with You in the defense of any Claim that in Our sole opinion may create indemnification obligations for Us.

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h. We shall have the right to settle any Claim that in Our sole opinion may create indemnification obligations for Us.

8. Duties In the Event of Accident, Occurrence, Wrongful Act, or Claim

a. You must see to it that:

i. We are notified in writing as soon as practicable once You have knowledge of any Accident or Occurrence which may reasonably and subsequently give rise to a Claim being made against an Insured that is likely to result in liability for Us under this Policy. Notice shall be deemed given as soon as practicable if it is given to Us by the department or person to whom You have delegated such claims reporting responsibility as soon as practicable after they have knowledge of such Accident or Occurrence. Further, for any Claim arising from a Wrongful Act, notification to Us may be given no later than sixty (60) days after the end of the Policy Period.

ii. You immediately make a written record of specific information about any Claim which appears reasonably likely to involve indemnification under this Policy, including but not limited to:

1. The identity of any potential claimants;
2. A description of any anticipated Wrongful Act allegations;
3. The identity of the Insured allegedly involved;
4. The circumstances by which the Insured first became aware of the Accident, Occurrence or alleged Wrongful Act;
5. The consequences which have resulted or may result;
6. The nature of the potential monetary damages; and
7. The date the Claim was received;

iii. You notify Us in writing as soon as practicable and provide Us with all the information required under section ii above. Notice shall be deemed given as soon as practicable if it is given to Us by the department or person to whom You have delegated such responsibility as soon as practicable after they have knowledge of such Claim;

iv. Notice will be made to:

MAIL	ACE North American Claims P.O. Box 5122 Scranton, PA 18505-0554
EMAIL	ACEClaimsFirstNotice@acegroup.com
FAX	(877) 395-0131 (Toll Free) (302) 476-7254 (Local)
PHONE	(800) 433-0385 – Business Hours (800) 523-9254 – After Hours

v. We receive any assistance We reasonably request in the enforcement of any right against any person or organization which may be liable;

vi. We receive Your full cooperation as stated in this Policy; and

vii. We receive Your full cooperation in the investigation, settlement or defense of any Claim.

b. You must notify Us and provide information in the manner specified above of any Accident, Occurrence, Wrongful Act or Claim, regardless of the coverage or liability, which:

i. Results in the establishment of a reserve, or would reasonably require the establishment of a reserve, for Damages which equals or exceeds 50% of the Retained Limit; or

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- ii. Involves a notice of Claim for a Wrongful Act which is reasonably likely to equal or exceed 25% of the Retained Limit; or
- iii. Involves any of the following:
 1. Any injury to the spinal cord or vertebrate, including paraplegia, quadriplegia and partial paralysis;
 2. Any serious head injury including skull fracture;
 3. A brain or brain stem injury;
 4. Any burn to 25% or more of the body;
 5. A fatality;
 6. Any amputation or loss of use of a major extremity or multiple minor extremities;
 7. Sensory Loss (such as sight, hearing, smell, touch or taste);
 8. Multiple Fractures or serious disfigurement or scarring;
 9. Bodily injury resulting from use of a weapon or restraining device by law enforcement which results in the establishment of a reserve, or would reasonably require the establishment of a reserve, for Damages which equal or exceed 25% of the Retained Limit; or
 10. Any Suit filed as a class action, whether any such class action or class is certified, or
- iv. Is an actual or anticipated Crisis Event as soon as practicable, but in no event later than thirty (30) days after You first incur Crisis Management Expenses for which coverage will be requested under this Policy.

Knowledge of an Accident, Occurrence, Wrongful Act, or Claim by an agent or Employee of any Insured shall not in itself constitute Your knowledge unless any of the persons with such knowledge is an executive officer or director, or other persons in a supervisory or managerial capacity, or acting as a risk manager or insurance manager, or a person to whom You have delegated such responsibility, have such knowledge.

- c. If, during the Policy Period, You have knowledge of any Wrongful Act which may reasonably give rise to a future Claim covered under this Policy, and if You give written notice to Us during the Policy Period or any applicable Extended Reporting Period of the details of such Wrongful Act referenced in 1 - 6 of section 8.b.ii above, then any Claim which arises out of such Wrongful Act shall be deemed to have been first made at the time such written notice was received by Us. No coverage is provided for fees, expenses and other costs incurred prior to the time such Wrongful Act results in a Claim.

9. Estates, Legal Representatives and Spouses

The estates, heirs, legal representatives, assigns, spouses and legally recognized domestic partners of an Insured and any natural person qualifying as a domestic partner of an Insured under the provisions of any applicable federal, state or local law or under the provisions of any formal program established by the Named Insured shall be considered an Insured under this Policy; but coverage is afforded to such estates, heirs, legal representatives, assigns, spouses and legally recognized domestic partners only for a Claim arising solely out of their status as such and; in the case of a spouse or legally recognized domestic partner, where the Claim seeks Damages from marital community property, jointly held property or property transferred from a natural person Insured to the spouse or legally recognized domestic partner. No coverage is provided for any act of an estate, heir, legal representative, assign, spouse or legally recognized domestic partner. All of the terms and conditions of this Policy including, without limitation, the Retained Limit applicable to Damages and Claim Expenses claimed against an Insured shown in Item 4 of the Declarations, shall also apply to such estates, heirs, legal representatives, assigns, spouses and legally recognized domestic partners.

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10. Rights of Third Parties/Financial Impairment

- a. Other than (a) provided to You in Condition A.2. above (Alternative Dispute Resolution) or (b) expressly provided for by law, this Policy grants no rights whatsoever to any person or organization to sue Us or join Us as a party to any action against any Insured to determine the liability of any Insured nor shall We be impleaded by any Insured or its legal representatives. Bankruptcy or insolvency of any Insured or of the estate of any Insured (or any insurer providing underlying insurance or an Insured's inability to pay any part of the Retained Limit) shall not relieve Us of Our obligations nor deprive Us of any rights or defenses under this Policy.
- b. In the event there is a reduced recovery or no recovery available to an Insured as a result of such financial impairment of any Insurer providing other insurance, the coverage under this Policy shall apply only in excess of the Retained Limit. Under no circumstances shall We be required to drop down and replace any underlying Limit of Insurance, or assume any other obligations of any financially impaired Insurer or an Insured.

11. Inspection

We have the right, but are not obligated to inspect any Insured's premises and operations at any time. Our inspections are not safety inspections. They relate only to the insurability of the premises and operations and the premium to be charged. We may give You reports on the conditions We find. We may also recommend changes to make the premises or operation a better insurance risk. While they may help reduce losses, We do not undertake the duty of any person or organization to provide for or advise on the health or safety of workers, third parties or the public. We do not warrant or represent that the premises or operations are safe or healthful, or that they comply with laws, regulations, codes or standards.

12. Interpretation

The terms and conditions of this Policy shall be interpreted and construed as a commercial contract in an evenhanded fashion as between the parties. If the language of this Policy is to be interpreted in any suit, arbitration, mediation or appeal, any dispute regarding such interpretation shall be resolved in the manner most consistent with the relevant terms and conditions, without regard to authorship of the language, without any presumption or arbitrary interpretation or construction in favor of either the Insured or the Insurer and without reference to the reasonable expectations of either the Insured or the Insurer.

13. Other Insurance

If insurance with any other Insurer is available to cover a Claim for an Insured for any coverage under this Policy whether on a primary, excess, or contingent basis, the insurance under this Policy is excess of and does not contribute with such other insurance.

It is also agreed that such other insurance is excess over the Retained Limit and we will not make any payments until the other insurance and the Retained Limit have been exhausted.

The insurance under this Policy is not subject to the terms, conditions, or limitations of any other insurance.

This condition does not apply with respect to excess insurance purchased specifically to be in excess of this Policy.

14. Premium

- a. The Named Insured shown in the Declarations:
 - i. Is responsible for the payment of all premiums; and
 - ii. Will be the payee for any return premiums We pay.
- b. We will compute all premiums for this Policy in accordance with Our rules and rates.
- c. The Named Insured must keep records of the information needed for premium computation, and send copies at such times as We may request.

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15. Representations

- a. The Insured represents and acknowledges that the statements and information contained in the Application are true and accurate and:
- are the basis of this Policy and are to be considered as incorporated into and constituting a part of this Policy; and
 - shall be deemed material to the acceptance of this risk or the hazard assumed by the Insurer under this Policy; and
- b. It is understood and agreed that:
- this Policy is issued in reliance upon the truth and accuracy of such representations;
 - if such representations or such information are not true, accurate and complete, this Policy shall be null and void in its entirety and the Insurer shall have no liability hereunder;
- c. Any Insured's failure to disclose all hazards as of the inception date of this Policy shall not prejudice the Insured with respect to the coverage afforded by this Policy; provided such failure or omission is not intentional and any Insured did not know about such hazard prior to the commencement of the Policy Period.

16. Right to Recover Payment

Any persons or organizations for whom We make a payment under this insurance must transfer to Us their right of recovery against any other party. After a Claim they must do everything necessary to secure, and nothing to impair, these rights. However, We will waive Our right of recovery against any person or organization with respect to which the Insured has waived its right of recovery prior to the Occurrence, Accident, or Wrongful Act in an Insured Contract.

17. Territory

Coverage under this Policy shall extend to Accidents, Occurrences or Wrongful Acts taking place or sustained anywhere in the world, provided the Claim is made within the jurisdiction of and subject to the laws of the United States of America, Canada or their respective territories or possessions.

18. Termination of the Policy

- a. The Named Insured may cancel this Policy at any time by sending Us a written request or by returning the Policy stating the date of cancellation.
- b. We may cancel this Policy at any time by mailing to the Named Insured a notice of cancellation 60 days (10 days in the event of non-payment of premium) in advance of the cancellation date. Our notice of cancellation will be mailed to the Named Insured's last known address, and will indicate the date on which coverage is terminated.
- c. If cancellation is requested by the Named Insured, return premium will be computed at 90% of the pro rata premium.
- If We cancel, return premium will be computed pro rata. If this Policy insures more than one Named Insured, cancellation may be effected by the Named Insured as shown on the Declarations Page for the account of all the Named Insureds. Notice of cancellation by Us to the Named Insured will be deemed notice to all Insureds and payment of any return premium to such Named Insured will be for the account of all interests.
- d. This Policy shall also terminate at the earliest of the following times:
- Upon expiration of the Policy Period as set forth in Item 2 of the Declarations; or
 - At such other time as may be agreed upon by the Insurer and the Named Insured.
- e. Either party may elect to non-renew the Policy at its expiration date for any reason.

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COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK DOROTHY BROWN

19. Transfer of Rights and Duties

Your rights and duties under this insurance may not be transferred without Our written consent except in the case of death of an individual Insured.

If You die, Your rights and duties will be transferred to Your legal representative but only while acting within the scope of duties as Your legal representative. Until Your legal representative is appointed, anyone having proper temporary custody of Your property will have Your rights and duties but only with respect to that property.

20. Valuation

All premiums, limits, retentions, Damages, Claim Expenses and other amounts under this Policy are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is denominated or another element of Damages and Claim Expenses under this Policy is stated in a currency other than United States of America dollars, payment under this Policy shall be made in United States dollars at the applicable rate of exchange as published in *The Wall Street Journal* as of the date the final judgment is reached. If the amount of the settlement is agreed upon or the other element of Damages or Claim Expenses is due, respectively, or if it is not published on such date, the rate as published on the next date of publication of *The Wall Street Journal* shall apply.

21. When a Claim is Payable

With respect to payment of Claims, this Policy will not apply until You are obligated to pay the amount of the Retained Limit covered under this Policy. When the amount of Damages and Claim Expenses has finally been determined as provided in Condition A. 7. Defense and Settlement, We will promptly indemnify You the amount of the Damages and Claim Expenses covered under this Policy.

If We are required or at Our sole discretion, elect to pay any amounts on behalf of an Insured within the Retained Limit, You will promptly reimburse Us for any such amounts.

B. Definitions

1. Accident means an unintended and unexpected harmful event, including continuous or repeated exposure to substantially the same general harmful conditions which results in Bodily Injury or Property Damages. All such exposure to substantially the same general conditions will be considered as arising out of one Accident.

2. Administration means:

- a. Giving counsel to employees with respect to an Employee Benefits Program;
- b. Interpreting an Employee Benefits Program;
- c. Handling of records in connection with an Employee Benefits Program; or
- d. Effecting enrollment, termination, or cancellation of employees under an Employee Benefits Program;

provided such acts are authorized by You.

3. Advertising Injury means one or more of the following offenses:

- a. Libel, slander or defamation;
- b. Any infringement of copyright, title or slogan;
- c. Misappropriation of advertising ideas or style of doing business;
- d. Oral or written publication of material that violates a person's right of privacy;

committed or alleged to have been committed in any advertisement, publicity article, broadcast, or telecast and arising out of Your advertising activities except if arising out of electronic chat rooms or bulletin boards.

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4. **Application** means all applications, including any attachments thereto, and all other information and materials submitted by or on behalf of the **Insured** to the **Insurer** in connection with the **Insurer** underwriting this **Policy** or any **Policy** of which this **Policy** is a direct or indirect renewal or replacement. All such applications, attachments, information and materials are deemed attached to and incorporated in this **Policy**.
5. **Automobile** means a land motor vehicle, trailer, or semi-trailer designed for travel on public roads, including any attached machinery or equipment; but, does not include **Mobile Equipment**.
6. **Bodily Injury** means physical injury to the body, sickness or disease, including death resulting from any of these at any time, and if arising out of the foregoing, mental anguish, mental injury, mental tension, emotional distress, disability, pain and suffering, shock or fright.
7. **Claim** means:

- a. A written demand against any **Insured** for monetary damages or non-monetary or injunctive relief;
- b. A civil, administrative or regulatory proceeding against any **Insured** commenced by
- i. The service of a complaint or similar pleading against any **Insured** seeking monetary damages or non-monetary or injunctive relief;
 - ii. The issuance of a notice of charge or formal investigative order, including without limitation any such proceeding by or in association with any federal, state or local governmental authority located anywhere in the world; or
 - iii. The service upon or other receipt by any **Insured** of a written notice or subpoena from the investigating authority identifying any **Insured** as an individual against whom a civil, administrative or regulatory investigation or proceeding is to be commenced.

However, any complaint filed with the Equal Employment Opportunity Commission ("EEOC") shall not constitute a **Claim** until the EEOC has issued a "right to sue" letter or notice to the claimant;

- c. A criminal proceeding against any **Insured** commenced by a return of an indictment, information, or similar document, or receipt or filing of a notice of charges;
- d. An arbitration proceeding against any **Insured** seeking monetary damages or non-monetary or injunctive relief;
- e. Solely with respect to Insuring Agreement A.2, a written request of the **Insured** to toll or waive a statute of limitations applicable to a **Claim** described in paragraphs a through d above; including any appeal therefrom.

Claim does not mean a labor union grievance or complaint filed with a labor union.

8. **Claim Expenses** means:
- a. Reasonable and necessary attorneys' fees, expert witness fees and other fees and costs incurred by **Us**, or by an **Insured** with **Our** prior written consent, in the investigation and defense of covered **Claims**;
 - b. Reasonable and necessary premiums for any appeal bond, attachment bond or similar bond, provided that **We** shall have no obligation to apply for or furnish such bond; and
 - c. Pre-judgment and post-judgment interest awarded in any **Claim**.

Claim Expenses shall not include wages, salaries, fees or costs of directors, officers or **Employees** of the **Insurer** or the **Insured**. **Claim Expenses** shall be reduced by any recoveries or salvages which have been paid or will be collected. **Claim Expenses** does not include **Crisis Management Expense**.

9. **Damages** means compensatory damages, judgments and settlements which the **Insured** becomes legally obligated to pay on account of any **Claim**. **Damages** shall be reduced by any recoveries or salvages which have been paid or will be collected.

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Damages does not include:

- a. Any amount for which the Insured is not financially liable or legally obligated to pay;
- b. Taxes, fines, penalties, or assessments;
- c. Punitive or exemplary damages, or the multiple portion of any multiplied damage award;
- d. Matters uninsurable under the laws pursuant to which this Policy is construed;
- e. The cost to comply with any injunctive or other non-monetary or declaratory relief, including specific performance, or any agreement to provide such relief including any liability or costs incurred to modify any building or property to make it more accessible or accommodating to any person or any liability or costs in connection with any educational, sensitivity or other corporate program, policy or seminar;
- f. **Crisis Management Expense;**
- g. Liquidated damages, except to the extent specifically included as Damages below.

Solely with respect to the Public Officials & Employment Practices Liability and Miscellaneous Professional Liability coverage parts:

- a. With respect to any Claim arising out of a **Employment Practices Violation**, Damages shall also mean:
 - i. Front-pay and back-pay, except as otherwise stated below; and
 - ii. Liquidated damages awarded pursuant to the Age Discrimination in Employment Act or the Equal Pay Act.
- b. Damages does not include employment-related benefits, retirement benefits, perquisites, vacation and sick days, medical and insurance benefits, deferred cash incentive compensation or any other type of compensation; provided, however, this limitation:
 - i. Does not include salary, wages, bonuses, commissions and non-deferred cash incentive compensation in a settlement or judgment for a **Employment Practices Violation**; and
 - ii. Does not apply to a **Wrongful Act in the Administration of Your Employee Benefits Program**.

10. **Employee Benefit Program** means:

- a. Group life insurance, group accident or health insurance, investment plans or savings plans, profit sharing plans, pension plans and stock subscription plans; or
- b. Unemployment insurance, social security benefits, workers' compensation and disability benefits; provided for **Your Employees**.

11. **Employee** means any past or present full-time, part-time, temporary, or leased **Employee(s)** of the **Named Insured**.

For the purposes of **Employment Practices Violations**, this definition includes:

- a. Applicants for employment with the **Named Insured**; and
- b. Leased **Employees** but only to the extent of the **Named Insured's** obligation to provide indemnification to such leased **Employee**, not to exceed such obligation applicable to non-leased **Employees**.

12. **Employment Practices Violation** means any actual or alleged:

- a. Wrongful dismissal or discharge or termination of employment, whether actual or constructive;
- b. Employment related misrepresentation;
- c. Violation of any federal, state, or local laws (whether common or statutory) concerning employment or discrimination in employment;

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- d. **Sexual Harassment** or other unlawful workplace harassment;
- e. Wrongful deprivation of a career opportunity or failure to employ, promote or grant tenure;
- f. Wrongful discipline of **Employees**;
- g. Negligent evaluation of **Employees**;
- h. Failure to adopt adequate workplace or employment policies and procedures;
- i. Employment related libel, slander, defamation or invasion of privacy;
- j. **Retaliation**.
13. **Extended Reporting Period** means the period described in the section of any Coverage Part entitled **Extended Reporting Period** which period shall apply solely to such Coverage Part.
14. **Fungi** means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by **Fungi**.
15. **Impaired Property** means tangible property, other than **Your Product** or **Your Work** that cannot be used or is less useful because:
- It incorporates **Your Product** or **Your Work** that is known or thought to be defective, deficient, inadequate or dangerous; or
 - You** have failed to fulfill terms of a contract or agreement;
- if such property can be restored to use by:
- The repair, replacement, adjustment or removal of **Your Product** or **Your Work**; or
 - Your** fulfilling the terms of the contract or agreement.
16. **Incidental Medical Malpractice** means injury arising out of: (1) emergency medical services rendered or which should have been rendered to any person or persons during the **Policy Period** by any duly certified emergency medical technician or paramedic; or (2) medical services rendered or which should have been rendered to any person or persons during the **Policy Period** by any nurse who is employed by or acting on behalf of an **Insured** to provide such services, but is not employed at a hospital, clinic or nursing home facility.
17. **Insured** means each of the following to the extent set forth below:
- The **Named Insured**;
 - While acting within the scope of their duties for the **Named Insured**:
 - All persons who were, are now, or shall be **Your** lawfully elected or appointed officials;
 - Current or former members of commissions, boards or other units operated by **You** and under **Your** jurisdiction, provided such units are within the total operating budget included in the **Application**;
 - All of **Your** current or former **Employees**;
 - All persons who perform a service on a volunteer basis for **You**, provided such performance is under **Your** direction and control. This does not include any person working on retainer or as an independent contractor;
 - All persons or organizations providing service to **You** under any mutual aid or similar agreement; or
 - The estate of any person in (i.) through (iv.) above;
 - Any person or organization while acting as **Your** real estate manager;

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- d. With respect to **Mobile Equipment**, any person is an **Insured** under the **General Liability Coverage Part** while operating such equipment with **Your** permission;
- e. With respect to a **Covered Automobile**, any person is an **Insured** under the **Automobile Liability Coverage Part** while operating the **Covered Automobile** with **Your** permission.
- f. No person or organization is an **Insured** with respect to the conduct of any current or past partnership or joint venture that is shown as a **Named Insured** in the **Declarations**.
- g. Solely with respect to the **Public Officials & Employment Practices Liability Coverage Part**, **Insured** also means:
 - i. Elected or duly appointed officials and **Employees** of the **Named Insured** serving as a director or officer of a non-profit organization created and operated under Section 501c(3) of the Internal Revenue code of 1988, or as amended, for any **Wrongful Acts** they have committed in their respective capacities as a director or officer of such non-profit organization, provided that: (1) the appointment of such officials and **Employees** to serve as a director or officer of such non-profit organization is based solely upon such person's status as an official or **Employee** of the **Named Insured**; and (2) such official or **Employee** is directed in writing by the **Named Insured** to serve as a director or officer of such non-profit organization prior to beginning such service;
 - ii. Elected or duly appointed officials and **Employees** of the **Named Insured** while acting at the written request of the **Named Insured** in their capacity as a duly appointed official of an outside entity which is recognized by the government as being tax-exempt;

provided however, coverage for such individuals referenced in f.i. and f.ii above shall be specifically excess over: (1) any indemnification provided by such outside entity to such individuals; or (2) any insurance purchased by such outside entity covering such individual, whether such insurance is primary, contributory, excess, or contingent, and notwithstanding any similar "other insurance" clause contained in such policy.

- 18. **Insurer** means the insurance company providing this insurance.
- 19. **Interrelated Wrongful Acts** means all **Wrongful Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of related facts, circumstances, situations, events, transactions or causes.
- 20. **Law Enforcement Activities** means any of the official activities or operations of **Your** police force or any other public safety organization, including their agents or employees, which enforces the law and protects persons or property.
- 21. **Mobile Equipment** means any land vehicles including attached machinery or equipment that is not licensed for road use. However, this does not apply to equipment that is permanently attached to vehicles that are licensed for road use.
- 22. **Named Insured** means the person or organization first named in Item 1 of the **Declarations**.
- 23. **Occurrence** means:
 - a. With respect to **Bodily Injury and Property Damage**, an accidental happening including continuous or repeated exposure to substantially the same general harmful conditions which results in **Bodily Injury or Property Damage**. All such exposure to substantially the same general conditions will be considered as arising out of one **Occurrence**;
 - b. With respect to **Personal Injury**, only those offenses specified in the **Personal Injury Definition**. All damages arising out of substantially the same **Personal Injury** regardless of frequency, repetition, the number or kind of offenses, or number of claimants, will be considered as arising out of one **Occurrence**;
 - c. With respect to **Advertising Injury**, only the offenses listed in the **Advertising Injury Definition**. All damages arising out of substantially the same **Advertising Injury** regardless of frequency, repetition,

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the number or kind of media used, the number or kind of offenses, or the number of claimants, will be considered as arising out of one Occurrence.

24. **Personal Injury** means one or more of the following offenses:
- False arrest, false imprisonment, wrongful detention or malicious prosecution;
 - Libel, slander, defamation of character, or oral or written publication of material that violates a person's right of privacy, unless arising out of advertising activities in electronic chat rooms or bulletin boards;
 - Wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of the owner, landlord or lessor, or by a person claiming to be acting on behalf of the owner, landlord or lessor.
25. **Policy** means, collectively, the Declarations, the Application, this coverage form, Coverage Parts and any endorsements.
26. **Policy Period** means the period of time specified in Item 2 of the Declarations, subject to prior termination pursuant to Condition 18, Termination of the Policy.
27. **Pollutant(s)** means (a) any substance exhibiting any hazardous characteristics as defined by or identified on a list of hazardous substances issued by the United States Environmental Protection Agency or any federal, state, county, municipal or local counterpart thereof or any foreign equivalent; (b) any solid, liquid, gaseous or thermal irritant, contaminant or smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials, including materials to be recycled, reconditioned, or reclaimed; and also (c) any other air emission, odor, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products, noise, Fungi or bacteria (not including to any Fungi or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption), lead or lead compounds or lead contained in any materials, and electric or magnetic or electromagnetic field radiation.
28. **Post-judgment Interest** means interest on the full amount of any judgment that accrues after entry of the judgment and before We have paid, offered to pay, or deposited in court, the part of the judgment that is within the applicable Limit of Insurance.
29. **Pre-judgment Interest** means interest added to settlements, verdicts, awards, or judgments that are within the applicable Limit of Insurance, based on the amount of time prior to the settlements, verdicts, awards or judgments, whether or not made part of the judgments.
30. **Professional Services** means services that may be legally performed only by a person holding a professional license to render such services.
31. **Property Damage** means physical injury to tangible property, including all resulting loss of use of such property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it.
32. **Retained Limit** means the applicable amounts shown in the Declarations or any applicable endorsement for Retained Limit.
33. **Retaliation** means a **Wrongful Act** of an Insured relating to or alleged to be in response to:
- Disclosure or threat of disclosure by an Employee of the Named Insured to a superior or to any governmental agency of any act by an Insured which act is alleged to be a violation of any federal, state, local or foreign law, common or statutory, or any rule or regulation promulgated thereunder;
 - Actual or attempted exercise by an Employee of the Named Insured of any right that such Employee has under law, including rights under workers' compensation laws, the Family and Medical Leave Act, The Americans with Disabilities Act or any similar state or local law;
 - An Employee of the Named Insured filing a Claim under the Federal False Claims Act or any other federal, state, local or foreign whistle-blower law;
 - Strikes by Employees of the Named Insured; or

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e. Political affiliation of an **Employee of the Named Insured**.

34. **Sexual Abuse** means any actual, attempted or alleged criminal sexual conduct of a person by another person, or persons acting in concert, which causes physical and/or mental injuries. **Sexual Abuse** includes: sexual molestation, sexual assault, sexual exploitation or sexual injury.

Sexual Abuse does not include **Sexual Harassment**.

35. **Sexual Harassment** means any actual or alleged unwelcome sexual advances, requests for sexual favors or other conduct of a sexual nature, of a person by another person, or persons acting in concert, which causes physical and/or mental injuries. **Sexual Harassment** includes:

- The above conduct when submission to or rejection of such conduct is made either explicitly or implicitly a condition of a person's employment, or a basis for employment decisions affecting a person; or
- The above conduct when such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual Harassment does not include **Sexual Abuse**.

36. **Suit** means a civil proceeding in which **Damages** because of **Bodily Injury, Property Damage, Personal Injury, Advertising Injury or Wrongful Act** to which the applicable Coverage Part applies, are alleged, including:

- An arbitration proceeding in which such damages are alleged; or
- Any other Alternative Dispute Resolution proceeding in which such damages are alleged.

37. **Wrongful Act** means:

- With respect to Insuring Agreement A.1 of the Public Officials & Employment Practices Liability Coverage Part, any negligent act, error, misstatement, misleading statement, or omission committed or attempted by the **Named Insured**, including **Administration of Your Employee Benefit Program**, or by any other **Insured** solely in the performance of duties for the **Named Insured**.
- With respect to Insuring Agreement A.2 of the Public Officials & Employment Practices Liability Coverage Part, any **Employment Practices Violation** actually or allegedly committed by the **Named Insured**, or by any other **Insured** solely in the performance of duties for the **Named Insured**.
- With respect to the Miscellaneous Professional Liability Coverage Part, any actual or alleged negligent act, error, omission, misstatement or misleading statement, **Personal Injury**, or **Advertising Injury** committed by the **Insured** in the **Insured's** performance or failure to perform **Miscellaneous Professional Services**.

However, **Wrongful Act** does not include any actual or alleged network security or privacy breach, including but not limited to:

- The failure or inability of the security of any computer system to prevent a computer attack or mitigate loss arising in whole or in part from a computer attack;
- Physical theft, loss or mysterious disappearance of firmware, hardware (including components thereof) or hard copy files; or
- The disclosure of an individual's name; address; telephone number; medical, healthcare or other health information; social security, drivers license or other government identification number; credit or debit card number; account numbers or histories; passwords or other personal information not lawfully available to the general public.

38. **Your Product** means:

- Any goods or products (other than real property) manufactured, sold, handled, distributed or disposed of by:

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- i. You;
 - ii. Others trading under Your name; or
 - iii. A person or organization whose business or assets You have acquired.
- b. Containers (other than vehicles), materials, parts, or equipment furnished in connection with such goods or products.
39. **Your Work** means:
- a. Work or operations performed by You or on Your behalf;
 - b. Materials, parts or equipment furnished in connection with such work or operations.
- Your Work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of a. and b. above. Your Work also includes the providing of or failure to provide warnings or instructions.

The foregoing definitions shall apply equally to the singular and plural forms of the respective words.

C. Exclusions

All Coverage Parts included in this Policy also contain their own exclusions and are subject to any applicable exclusions in the Coverage Part and the following Exclusions that apply to all Coverage Parts except as otherwise expressly indicated.

The insurance under any Coverage Part in this Policy does not apply to:

1. Any liability arising out of the operation of the principles of eminent domain, condemnation, inverse condemnation, adverse possession, temporary or permanent taking.
2. Any Claim alleging, based upon, arising out of, or attributable to:
 - a. The violation of any price fixing, restraint of trade, monopolization, unfair trade practices or other violation of the Federal Trade Commission Act, the Sherman Anti-Trust Act, the Clayton Act or any other statutory provision regulating antitrust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade activities, and any amendments thereto, or any rules or regulations promulgated thereunder, or any similar provision of any federal, state, or local statutory law or common law anywhere in the world;
 - b. Any (1) purchase, sale, offer of or solicitation of an offer to purchase or sell securities, or violation of any securities law, including provisions of the Securities Act of 1933, or the Securities Exchange Act of 1934, as amended; (2) violation of the Organized Crime Control Act of 1970 (commonly known as "Racketeer Influenced And Corrupt Organizations Act" or "RICO"), as amended; (3) any regulation promulgated under the foregoing laws; or (4) any federal, state, local or foreign laws similar to the foregoing laws (including "Blue Sky" laws), or regulating the same or similar conduct or services, whether such law is statutory, regulatory or common law;
 - c. The failure to pay any bond, interest on any bond, any debt, financial guarantee or debenture;
 - d. Alleging, based upon, arising out of or attributable to the failure to effect or maintain any insurance or bond, which shall include, but not be limited to, insurance provided by self-insurance arrangements, pools, self-insurance trusts, captive insurance companies, retention groups, reciprocal exchanges or any other plan or agreement of risk transfer or assumption. However, this exclusion shall not apply to Claim Expenses; or
 - e. Whether directly or indirectly, the performance of assets or invested funds or the failure to invest any funds.
3. Any Claim alleging, based upon, arising out of or attributable to any dishonest, fraudulent, criminal or malicious act, error or omission, or any intentional or knowing violation of the law by an Insured;

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however, the **Insured** shall be reimbursed for the reasonable **Claim Expenses** incurred in such **Claim** if the **Insured** is not found liable for such act, error, omission or violation.

However, this exclusion does not apply to the Automobile Liability Coverage Part or to that part of any **Claim** for an **Employment Practices Violation**.

4. Any **Insured's** activities in an investing or fiduciary capacity including but not limited to, any **Employee Benefit Programs**, including any pension, savings or profit sharing plan or to any amounts or benefits due under any fringe benefit program, retirement program, incentive program, perquisite program, entitlement program or other benefits owed to any **Employee**, the Administration of any self-insurance fund or any obligations under the Employees' Retirement Income Security Act (ERISA) of 1974 or any amendments thereto or similar subsequent federal acts or any similar provisions of statutory or common law.

This exclusion does not pertain to failure to execute required actions or mistaken actions committed in the **Administration of Your Employee Benefit Program**.

5. Any **Damages** for any costs, civil fines, penalties or expenses levied or imposed against an **Insured** arising from any complaint or enforcement action from any federal, state, or local government regulatory agency.
6. Any liability arising out of or attributable to:
- The rendering or failure to render:
Medical, surgical, dental, x-ray, or nursing service or treatment or the furnishing of food or beverages in connection therewith; or
Any service or treatment related or conducive to health or of a professional nature;
 - The furnishing or dispensing of drugs, medical, dental, or surgical supplies or appliances;
 - Any service by a person as a member of a formal accreditation or similar professional board or committee, or as a person charged with the duty of executing directives of any such board or committee; or
 - Any blood product handled or distributed by an **Insured** or any service related thereto, including any allegation of reliance upon any representation or warranty made at any time with respect to blood products.

However, with respect to the General Liability Coverage Part, this exclusion does not apply to **Incidental Medical Malpractice**.

7. The rendering or failure to render any **Professional Services**, provided, however, this exclusion shall not apply to:
- Professional Services** provided by any full-time or part-time **Employee** acting as a lawyer or accountant and providing such services solely to the **Named Insured**; and
 - The Miscellaneous Professional Services Liability Coverage Part.
8. With respect to **Law Enforcement Activities**, any **Claims, Damages** or **Suits** directly or indirectly arising out of:
- Any willful violation, or any violation in which any **Insured** had knowledge of or consented to the violation, of any federal, state or local ordinance, rule, or regulation, or any willful violation of a penal statute;
 - The failure to arrest or detain any person;
 - Any part of any **Claim** or **Suit** seeking relief or redress in any form other than money damages including but not limited to, injunctive relief, declaratory relief, any other equitable remedies, including actions brought:

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CHANCERY DIVISION
CLERK DOROTHY BROWN

- i. To improve the physical conditions of any facility; or
 - ii. To improve the living conditions of any person being held in any facility;
 - d. The providing or failing to provide any form of health care services, except for (i) first aid which is limited to the rendering of emergency medical treatment at the time of an Accident or (ii) actual or alleged denial of access to health care services.
 - e. Any injury to any volunteer who is injured in the conduct of Your Law Enforcement Activities within the scope of their duties for You.
9. Any premium, assessment, penalty, fine, benefit or other obligation imposed by any Workers' Compensation Law, unemployment compensation or disability benefits law, the Jones Act, General Maritime Law, the Federal Employers' Liability Act, Federal Employee Compensation Act, the Defense Base Act, U.S. Longshoremen's and Harbor Workers' Compensation Act, Federal Coal Mine Health and Safety Act, any federal occupational disease law; any amendments to such laws or under any similar law for which You, or any insurance company as Your insurer, may be held liable; or for which an Insured is a qualified self-insurer.
10. Any liability, whether direct or indirect, arising out of Sexual Abuse by an Insured.
11. Any liability for which any Insured may be held liable by reason of:
- a. Causing or contributing to the intoxication of any person;
 - b. The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
 - c. Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.
- However, this exclusion only applies if You are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. This exclusion does not apply to the Automobile Liability Coverage Part.
12. Any:
- a. Liability arising from the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of Pollutants; or
 - b. Loss, cost or expense arising out of any:
 - i. Request, demand or order that an Insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of Pollutants; or
 - ii. Any Claim by or on behalf of governmental authority or others for Damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of Pollutants.

With respect to the General Liability Coverage Part, this exclusion does not apply to:

1. **Bodily Injury or Property Damage** caused by heat, smoke or fumes from a Hostile Fire. As used herein, Hostile Fire means a fire which becomes uncontrollable or breaks out from where it was intended to be;
2. **Bodily Injury** if sustained within a building owned or occupied by, or rented or loaned to, any Insured and caused by smoke, fumes, vapor, or soot from equipment used to heat that building.

With respect to the Automobile Liability Coverage Part, this exclusion does not apply to Accidents that occur away from premises owned or rented to an Insured with respect to Pollutants, but only if:

1. The Pollutants or any property in which the Pollutants are contained are upset, overturned or damaged as a result of the maintenance or use of a Covered Automobile; and

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2. The discharge, dispersal, seepage, migration, release or escape of the **Pollutants** is caused directly by such upset, overturn or damage; and
3. The **Pollutants** were not in, upon or released from the **Covered Automobile**.

Paragraph 3. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar **Pollutants** that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the **Covered Automobile** or its parts, if:

- a. The **Pollutants** escape, seep, migrate, or are discharged, dispersed or released directly from an **Automobile** part designed by its manufacturer to hold, store, receive or dispose of such **Pollutants**; and
 - b. The **Bodily Injury** or **Property Damage** does not arise out of the operation of **Mobile Equipment**.
13. Any liability arising out of:
 - a. Inhaling, ingesting or physical exposure to asbestos or goods or products containing asbestos;
 - b. The use of asbestos in constructing or manufacturing of, or presence of asbestos in any good, product, or structure;
 - c. The manufacture, transportation, storage or disposal of asbestos or goods or products containing asbestos, or
 - d. Payment for investigation or defense of any loss, fine or penalty, or for any expense or **Claim**; related to a., b. or c. above.
 14. Any loss, cost or expense arising out of, resulting from, caused by or contributed to by:
 - a. The toxic or pathological properties of lead, lead compounds or lead contained in any materials;
 - b. The abatement, mitigation, removal, or disposal of lead, lead compounds or lead contained in any materials;
 - c. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with a. and b. above; or
 - d. Any obligation to share **Damages**, remediation or other relief or compensation of any kind with, or to repay someone else who must pay such **Damages** in connection with a., b. or c. above.
 15. Any liability arising out of the complete or partial failure to adequately supply gas, oil, water, electricity, steam or sewerage service.
 16. Any liability, whether direct or indirect, arising out of, caused by, resulting from, contributed to, or aggravated by the subsidence, expansion, settling, sinking, slipping, falling away, caving in, shifting, eroding, mudflow, rising, tilting or any other land or earth movement.
 17. Any liability arising out of the ownership, maintenance, loading or unloading, control, use or operations of any aircraft, airfields, runways, hangers, buildings, or other properties in connection with aviation activities.
 This exclusion applies even if the **Claims** against any **Insured** allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that **Insured**.
 However, with respect to the **General Liability Coverage Part**, this exclusion does not apply to liability for the premises of buildings or other properties to which the general public is admitted.
 18. Any liability arising out of the ownership, maintenance, operation, use loading or unloading or entrustment to others of any watercraft owned or operated by an **Insured** or rented, loaded, or chartered by or on behalf of an **Insured**.

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This exclusion applies even if the Claims against any Insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that Insured.

However, with respect to the General Liability Coverage Part, this exclusion does not apply to:

- a. Watercraft while ashore on premises an Insured owns or rents;
 - b. Watercraft not owned by an Insured that is less than 51 feet long and not being used to carry persons or property for a charge.
19. Any liability arising out of the ownership, maintenance, operation, control, use or operations of any landfill or disposal site or other properties in conjunction with landfill or disposal site activities.

However, with respect to the General Liability Coverage Part, and subject to the Pollution Exclusion (Exclusion 12), which does apply in all cases, this exclusion does not apply to liability arising out of the use or maintenance of the premises, buildings or other areas of such properties to which the general public is admitted.

20. Any liability arising out of collapse, flooding, cracking, settling, seepage, underseepage, spillage, subsidence, landslide or earth movement of any dam, spillway, levee or reservoir.
21. Any:
- a. Claim by an Insured against any other Insured; and
 - b. Injury or Damage to the spouse, child, parent, brother and sister of the Insured as a consequence of a. above.

However, this exclusion does not apply: (1) with respect to Claims against the Named Insured to the extent coverage is provided for Employment Practices Violations for a Claim by an Employee; or (2) to any Claim brought or maintained by any natural person Insured in the form of a cross-claim or a third-party claim for contribution or indemnity which is part of, and results directly from, a Claim that is covered by this Policy.

22. Any liability arising from the use of trampolines or other rebounding equipment.
23. Any liability, cost or expense arising out of, resulting from, or in any way related to, in whole or in part, the respiration, inspiration, inhalation or breathing in of dust or particulate matter. Dust or particulate matter may include, but is not limited to: dust, particulate matter, inspirable dust, respirable dust, smoke, mist, dirt, fibers, grit, soot, salt, acids, bases, metals, aerosols, crystals, minerals, sand, silicates, or silica.
24. Any liability an Insured may have, directly or indirectly, occasioned by, happening through, or in consequence of:
- a. War, including undeclared or civil war;
 - b. Warlike action by a military force including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents;
 - c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these; or
 - d. Confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority.
25. Any liability arising out of or allegedly arising out of exposure to or contact with electromagnetic field radiation.
26. Any:
- a. Injury, Damage, expense, cost, loss, liability or legal obligation which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any Fungi or bacteria on or within a building or structure.

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including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or Damage; or

- b. Loss, cost or expenses arising out of abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effect of Fungi or bacteria, by any Insured or by any other person or entity.

This exclusion does not apply to any Fungi or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.

27. Any liability for Personal Injury or Advertising Injury arising out of Your advertising activities in electronic chat rooms or bulletin boards.
28. Any liability:

With respect to which an Insured under this Policy is also an Insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada, or any of their successors, or would be an Insured under any such policy but for its termination upon exhaustion of its limit of liability, or

Resulting from the Hazardous Properties of Nuclear Material and with respect to which:

- i. Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
- ii. An Insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization;

For any expenses incurred with respect to Bodily Injury resulting from the Hazardous Properties of Nuclear Material and arising out of the operation of a Nuclear Facility by any person or organization.

Resulting from the Hazardous Properties of Nuclear Material, if:

- i. The Nuclear Material:
 1. Is at any Nuclear Facility owned by, or operated by or on behalf of, an Insured; or
 2. Has been discharged or dispersed therefrom;
- ii. The Nuclear Material is contained in Spent Fuel or Waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an Insured; or
- iii. Arising out of the furnishing by an Insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any Nuclear Facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (iii.) applies only to Property Damage to such Nuclear Facility and any property at such Nuclear Facility

As used in this exclusion:

- i. Hazardous Properties means radioactive, toxic or explosive properties.
- ii. Nuclear Material means Source Material, Special Nuclear Material or By-product Material. Source Material, Special Nuclear Material, and By-product Material have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.
- iii. Spent Fuel means any fuel component, solid or liquid, which has been used or exposed to radiation in a Nuclear Reactor.
- iv. Waste means any Waste material.

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Containing **By-product Material** other than the tailings or **Wastes** produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its **Source Material** content; and

Resulting from the operation by any person or organization of any **Nuclear Facility**.

v. **Nuclear Facility** means:

Any Nuclear Reactor;

Any equipment or device designed or used for:

- a. Separating the isotopes of uranium or plutonium,
- b. Processing or utilizing **Spent Fuel**, or
- c. Handling processing or packaging **Waste**;

Any equipment or device used for the processing, fabricating or alloying of **Special Nuclear Material** if at any time the total amount of such material in the custody of an **Insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **Waste**;

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premiums used for such operations.

vi. **Nuclear Reactor** means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

vii. **Property Damage** as defined in this exclusion only means physical injury to tangible property, including all resulting loss of use of such property; and includes all forms of radioactive contamination of property.

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ACE Advantage[®]
Public Entity
Retained Limits Policy

GENERAL LIABILITY COVERAGE PART

THE LIMITS OF INSURANCE AVAILABLE TO PAY INSURED DAMAGES SHALL BE REDUCED BY AMOUNTS INCURRED FOR CLAIMS EXPENSES. AMOUNTS INCURRED FOR DAMAGES AND CLAIMS EXPENSES SHALL ALSO BE APPLIED AGAINST THE RETAINED LIMIT AMOUNTS.

In consideration of the payment of the premium, in reliance upon the Application, and subject to the Declarations and the terms and conditions of this Policy, the Insureds and the Insurer agree as follows:

A. Insuring Agreement

The Insurer will indemnify the Insured for Damages and Claim Expenses in excess of the Retained Limit for which the Insured becomes legally obligated to pay because of a Claim first arising out of an Occurrence happening during the Policy Period in the Coverage Territory for Bodily Injury, Personal Injury, Advertising Injury, or Property Damage taking place during the Policy Period.

No other obligation to pay any additional sums, perform acts or provide services is covered.

B. Retained Limit

The Insurer's liability under this Policy applies only to Damages and Claims Expenses which are in excess of the Retained Limit applicable to this Coverage Part and specified in Item 4. A of the Declarations. The Retained Limit must be borne by the Insured as an uninsured amount and at its own risk. This will be true regardless of:

1. The number of persons and organizations who are Insureds under this Policy;
2. The number of Claims made against any or all Insureds; or
3. The number of persons or organizations making Claims.

C. Limits of Insurance

1. Subject to subsection 2 below, the Insurer's maximum liability for all Damages and Claim Expenses resulting from each Occurrence under this Coverage Part will not exceed the General Liability Coverage Part Each Occurrence Limit of Insurance specified in Item 5. A of the Declarations. This will be true regardless of:
 - a. The number of persons and organizations who are Insureds under this Policy;
 - b. The number of Claims made against any or all Insureds; or
 - c. The number of persons or organizations making Claims.
2. The Insurer's maximum liability for all Damages and Claim Expenses resulting from all Claims under this Coverage Part will not exceed the General Liability Coverage Part Aggregate Limit of Insurance specified in Item 5. A of the Declarations which is the most the Insurer will indemnify for Damages and Claim Expenses under this Coverage Part during the Policy Period.
3. Claim Expenses will be part of and not in addition to the Aggregate Limit of Insurance stated in Item 5. A of the Declarations, and shall reduce such Aggregate Limit of Insurance. If the Aggregate Limit of Insurance is exhausted by payment of Damages and Claim Expenses, the obligations of the Insurer under this Policy shall be completely fulfilled and extinguished. The Insurer will indemnify the Insured for Damages and Claim Expenses only as they become due and payable by the Insureds, without consideration of other future payment obligations.
4. All Claims arising out of the same Occurrence and all interrelated Occurrences shall be deemed to be one Claim, and such Claim shall be deemed to first occur on the date the earliest of such Claims first occurs, regardless of whether such date is before or during the Policy

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Period. All Damages and all Claim Expenses resulting from a single Claim shall be deemed a single Damage and Claim Expense.

D. Exclusions

The following exclusions apply to this Coverage Part in addition to the exclusions in the Common Conditions, Definitions and Exclusions section of this Policy.

The insurance under this Coverage Part does not apply to:

1. Any Bodily Injury, Property Damage, Personal Injury, or Advertising Injury for which coverage is provided under any other Coverage Part of this Policy.
2. Bodily Injury or Property Damage either expected or intended from the standpoint of an Insured. This exclusion does not apply:
 - a. To Bodily Injury resulting from the use of reasonable force to protect persons or property; or
 - b. To Law Enforcement Activities, subject to Exclusion 8 of Common Conditions, Definitions, and Exclusions.
3. Advertising Injury or Personal Injury caused by or at the direction of an Insured if the Insured knew or reasonably should have known that the act would violate the rights of another and would inflict Advertising Injury or Personal Injury.
4. An Insured's obligation to pay by reason of the assumption of liability in a contract or agreement. However, this exclusion does not apply to liability for Damages:
 - a. That an Insured would have in the absence of the contract or agreement; or
 - b. Assumed in a contract or agreement that is an Insured Contract provided the Bodily Injury or Property Damage occurs subsequent to the effective date of the Insured Contract and such Insured Contract was in effect at the inception of the Policy Period or becomes effective during the Policy Period.
5. Bodily Injury to:
 - a. An Employee of an Insured arising out of and in the course of:
 - i. Employment by an Insured; or
 - ii. Performing duties related to the conduct of an Insured's business; or
 - b. The spouse, child, parent, brother or sister of that Employee as a consequence of a. above.

This exclusion applies:

 - a. Whether an Insured may be liable as an employer or in any other capacity; and
 - b. To any obligation to share damages with or repay someone else who must pay damages because of the injury.

However, this exclusion does not apply to liability assumed by an Insured under an Insured Contract.
6. Any liability arising out of:
 - a. Any Employment Practices Violation;
 - b. The Administration of Your Employee Benefit Program;
 - c. Any form of discrimination; or
 - d. Any violation of civil rights.

However, this exclusion does not apply to Law Enforcement Activities, subject to Exclusion 8 of Common Conditions, Definitions and Exclusions.
7. Any Property Damage to:

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- a. Property owned, occupied or leased by an **Insured** or purchased by an **Insured** under an installment sales contract or property on consignment to an **Insured**;
- b. Property loaned to an **Insured**;
- c. **Personal Property** in the care, custody, or control of an **Insured**, provided however, this sub-paragraph c. does not apply to **Law Enforcement Activities**, subject to Exclusion 8 of Common Conditions, Definitions and Exclusions;
- d. Premises **You** sell, give away or abandon, if the **Property Damage** arises out of any part of those premises;
- e. That particular part of real property on which **You** or any of **Your** contractors or subcontractors working directly or indirectly on **Your** behalf are performing operations, if the **Property Damage** arises out of those operations; or
- f. That particular part of any property that must be restored, repaired or replaced because **Your Work** was incorrectly performed on it.

B. Any Property Damage to:

- a. **Your Work** arising out of the work or out of materials, parts or equipment that is furnished with such work;
- b. **Your Product** or arising out of **Your Product** or any part of it; or
- c. **Impaired Property** or property not physically injured, arising out of a defect, deficiency, inadequacy or dangerous condition in **Your Product** or **Your Work**, or a delay or failure by **You** or anyone acting on **Your** behalf to perform a contract or agreement in accordance with its terms.

However, this exclusion does not apply to the loss of use or use of property of another arising out of unexpected and unintended physical injury to **Your Product** or **Your Work** after it has been put to its intended use.

9. Advertising Injury resulting from:

- a. Failure of performance of contract, but this exclusion does not apply to **Claims** for misappropriation of ideas based upon alleged breach of an implied contract;
- b. Incorrect description of any article or commodity;
- c. Any mistake in advertised price; or
- d. Failure of goods, products or services to conform with advertised quality or performance.

10. Personal Injury arising out of:

- a. Oral or written publication of material, if done by or at the direction of an **Insured** with knowledge of its falsity;
- b. Oral or written publication of material whose first publication took place before the beginning of the **Policy Period**.

11. Bodily Injury or Property Damage arising out of:

- a. The ownership, entrustment, maintenance, operation, use, loading or unloading of **Automobiles**; or while **Automobiles** are being transported; or
- b. The transportation of **Mobile Equipment** by an **Automobile** owned or operated by or rented or loaned to any **Insured**.

This exclusion applies even if the **Claims** against any **Insured** allege negligence or other wrongdoing in the supervision, hiring, employment, training, or monitoring of others by that **Insured**.

This exclusion does not apply to liability for **Bodily Injury** or **Property Damage** arising from **Automobiles** not owned, leased, rented, or operated by an **Insured**.

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12. Damages arising out of the loss of, the loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

13. **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** arising directly or indirectly out of any action or omission that violates or is alleged to violate:
- The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
 - The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
 - The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
 - Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

E. Definitions

The following definitions apply to this Coverage Part in addition to the definitions in the Common Conditions, Definitions and Exclusions section of this Policy.

1. Insured Contract means:

- A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises rented to You or temporarily occupied by You with permission of the owner is not an Insured Contract;
- A sidetrack agreement;
- Any easement or license agreement except in connection with vehicle or pedestrian private railroad crossings at grade;
- Any other easement agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- A mutual aid assistance agreement or contract between political subdivisions;
- An elevator maintenance agreement;
- An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- That part of any other written contract or written agreement pertaining to Your business (including an indemnification of a municipality in connection with work performed for a municipality) under which You assume the tort liability of another party to pay for **Bodily Injury or Property Damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

An Insured Contract does not include that part of any contract or agreement:

- That indemnifies a railroad for **Bodily Injury or Property Damage** arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
- That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications, or

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- b. Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
 - iii. Under which the Insured, if an architect, engineer, or surveyor, assumes liability for an injury or damage arising out of the Insured's rendering or failure to render professional services, including those listed in ii. above and supervisory, inspection, architectural or engineering activities.
2. Personal Property means any property other than real property or fixtures.

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ACE AdvantageSM
Public Entity
Retained Limits Policy

AUTOMOBILE LIABILITY COVERAGE PART

THE LIMITS OF INSURANCE AVAILABLE TO PAY INSURED DAMAGES SHALL BE REDUCED BY AMOUNTS INCURRED FOR CLAIMS EXPENSES. AMOUNTS INCURRED FOR DAMAGES AND CLAIMS EXPENSES SHALL ALSO BE APPLIED AGAINST THE RETAINED LIMIT AMOUNTS.

In consideration of the payment of the premium, in reliance upon the Application, and subject to the Declarations and the terms and conditions of this Policy, the Insured and the Insurer agree as follows:

A. Insuring Agreements

The Insurer will indemnify the Insured for Damages and Claim Expenses in excess of the Retained Limit for which the Insured become legally obligated to pay because of a Claim arising out of an Accident taking place during the Policy Period for Bodily Injury or Property Damage and resulting from the ownership, maintenance or use of a Covered Automobile in the Coverage Territory.

No other obligation to pay any additional sums or provide services is covered.

B. Retained Limit

The Insurer's liability under this Policy applies only to Damages and Claim Expenses which are in excess of the Retained Limit applicable to this Coverage Part and specified in Item 5.B of the Declarations. The Retained Limit must be borne by the Insured as an uninsured amount and at its own risk. This will be true regardless of:

1. The number of persons and organizations who are Insureds under this Policy;
2. The number of Claims made against any or all Insureds; or
3. The number of persons or organizations making Claims.

C. Limits of Insurance

1. Subject to subsection 2 below, the Insurer's maximum liability for all Damages and Claim Expenses resulting from each Claim under this Coverage Part will not exceed the Automobile Liability Coverage Part Each Accident Limit of Insurance specified in Item 5.B of the Declarations. This will be true regardless of:
 - a. The number of persons and organizations who are Insureds under this Policy;
 - b. The number of Claims made against any or all Insureds;
 - c. The number of persons or organizations making Claims;
 - d. The number of vehicles involved in the Accident; or
 - e. Premiums paid.
2. The Insurer will indemnify the Insured for Damages and Claim Expenses only as they become due and payable by the Insured, without consideration of other future payment obligations.
3. All Claims arising out of the same Accident and all interrelated accidents shall be deemed to be one Claim, and such Claim shall be deemed to first occur on the date the earliest of such Claims first occurs, regardless of whether such date is before or during the Policy Period. All Damages and all Claim Expenses resulting from a single Claim shall be deemed a single Damage and Claim Expense.

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CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK DOROTHY BROWN

D. Exclusions

The following exclusions apply to this Coverage Part in addition to the exclusions found in the Common Conditions, Definitions and Exclusions section of this Policy.

The insurance under this Coverage Part does not apply to:

1. Any **Bodily Injury** or **Property Damage** for which coverage is provided under another Coverage Part of this Policy.
2. **Covered Automobiles** while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply to any **Covered Automobile** while it is being prepared for such contest or activity.
3. **Bodily Injury** or **Property Damage** either expected or intended from the standpoint of an **Insured**. But this exclusion does not apply to **Law Enforcement Activities**, subject to Exclusion 8 of Common Conditions, Definitions and Exclusions.
4. An **Insured's** obligation to pay by reason of the assumption of liability in a contract or agreement. However, this exclusion does not apply to liability for **Damages**:
 - a. That an **Insured** would have in the absence of the contract or agreement; or
 - b. Assumed in a contract or agreement that is an **Insured Contract** provided the **Bodily Injury** or **Property Damage** first occurs subsequent to the effective date of the **Insured Contract**; and such **Insured Contract** was in effect at the inception of the **Policy Period** or becomes effective during the **Policy Period**.
5. **Bodily Injury** to:
 - a. An **Employee** of an **Insured** arising out of and in the course of:
 - i. Employment by an **Insured**; or
 - ii. Performing duties related to the conduct of an **Insured's** business; or
 - b. The spouse, child, parent, brother or sister of that **Employee** as a consequence of a. above.

This exclusion applies:

 - a. Whether an **Insured** may be liable as an employer or in any other capacity; or
 - b. To any obligation to share **Damages** with or repay someone else who must pay **Damages** because of the **Bodily Injury**.

This exclusion does not apply to liability assumed by an **Insured** under an **Insured Contract**.
6. Any **Property Damage** to or involving property owned or transported by an **Insured** or in an **Insured's** care, custody, or control. But this exclusion does not apply to liability assumed under a sidetrack agreement or to **Law Enforcement Activities** subject to Exclusion 8 of the Common Conditions, Definitions and Exclusions.
7. **Bodily Injury** or **Property Damage** resulting from the handling of property:
 - a. Before it is moved from the place where it is accepted by an **Insured** for the movement into or onto the **Covered Automobile**; or
 - b. After it is moved from the **Covered Automobile** to the place where it is finally delivered by an **Insured**.
8. Any liability incurred by or imposed on an **Insured** under any **Uninsured/Underinsured Motorist** law, **No Fault** law or **Personal Injury Protection** law.

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E. Definitions

The following definitions apply in addition to the definitions found in the Common Conditions, Definitions and Exclusions section of this Policy.

1. **Covered Automobile** means an **Automobile**:
 - a. You own, or You acquire during the **Policy Period**;
 - b. You lease, hire, rent or borrow (this does not include an **Automobile** you lease, hire, rent or borrow from any of Your **Employees** or their domestic partners or any other member of their households);
 - c. You do not own, lease, hire, rent, or borrow that is used in conjunction with Your business (this includes an **Automobile** owned by any **Insured** or members of their household but only while used in conjunction with Your business).
2. **Insured Contract** means:
 - a. A lease of premises;
 - b. A sidetrack agreement;
 - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work on or within 50 feet of a railroad;
 - e. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - f. That part of any other written contract or written agreement pertaining to Your business (including an indemnification of a municipality in connection with work performed for a municipality) under which You assume the tort liability of another party to pay for **Bodily Injury** or **Property Damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
 - g. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by You or any of your **Employees**, of any **Automobile**. However, such contract or agreement shall not be considered an **Insured Contract** to the extent that it obligates you or any of Your **Employees** to pay for **Property Damage** to any **Automobile** rented or leased by You or any of Your **Employees**.

An **Insured Contract** does not include that part of any contract or agreement:

- i. That indemnifies any person or organization for **Bodily Injury** or **Property Damage** arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
- ii. That pertains to the loan, lease, or rental of an **Automobile** to You or any of Your **Employees**, if the **Automobile** is loaned, leased or rented with a driver; or
- iii. That indemnifies or holds harmless a person or organization engaged in the business of transporting property or persons by **Automobile** for hire harmless for Your use of a **Covered Automobile** over a route or territory that person or organization is authorized to serve by public authority.

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ACE Advantage[®] Public Entity Retained Limits Policy

PUBLIC OFFICIALS & EMPLOYMENT PRACTICES LIABILITY COVERAGE PART
THIS COVERAGE PART PROVIDES COVERAGE ON A CLAIMS MADE AND REPORTED BASIS. PLEASE READ THIS COVERAGE PART AND THE ENTIRE POLICY CAREFULLY.

CLAIM EXPENSES ARE SUBJECT TO A SEPARATE LIMIT. THE LIMITS OF INSURANCE AVAILABLE TO PAY INSURED DAMAGES SHALL BE REDUCED BY AMOUNTS INCURRED FOR CLAIM EXPENSES ONCE THE CLAIM EXPENSES LIMIT HAS BEEN EXHAUSTED. AMOUNTS INCURRED FOR DAMAGES AND CLAIM EXPENSES SHALL ALSO BE APPLIED AGAINST THE RETAINED LIMIT AMOUNT.

In consideration of the payment of the premium, in reliance upon the Application, and subject to the Declarations and the terms and conditions of this Policy, the Insured and the Insurer agree as follows:

A. Insuring Agreement

1. The Insurer will indemnify the Insured for Damages and Claim Expenses in excess of the Retained Limit for which the Insured becomes legally obligated to pay because of a Claim first made against the Insured and reported to the Insurer during the Policy Period, or if applicable, the Extended Reporting Period, for any Wrongful Act taking place on or subsequent to the Retroactive Date specified in Item 6 of the Declarations and prior to the end of the Policy Period.
2. The Insurer will indemnify the Insured for Damages and Claim Expenses in excess of the Retained Limit for which the Insured becomes legally obligated to pay because of a Claim first made against the Insured and reported to the Insurer during the Policy Period, or if applicable, the Extended Reporting Period, for any Wrongful Act taking place on or subsequent to the Retroactive Date specified in Item 6 of the Declarations and prior to the end of the Policy Period if such Claim is brought and maintained by or on behalf of any Employee(s) of the Named Insured.
3. The Insurer will pay on behalf of the Named Insured the Crisis Management Expense for which the Named Insured becomes legally obligated to pay by reason of a Crisis Event first occurring during the Policy Period, but only up to the limit of liability for the Crisis Management Fund.

B. Retained Limit

The Insurer's liability under this Policy applies only to Damages and Claim Expenses which are in excess of the Retained Limit applicable to this Coverage Part and specified in Item 4.C of the Declarations. This Retained Limit must be borne by the Insured as an uninsured amount and at its own risk.

Notwithstanding the above, there shall be no Retained Limit applicable to Damages or Claim Expenses and the Insurer shall pay such Damages or Claim Expenses from the first dollar for Claims against natural person Insureds and for which such Insureds are not indemnified by the Named Insured, subject to all other terms and conditions of this Policy, including the Limit of Insurance.

The Named Insured agrees to indemnify the aforementioned Insured to the fullest extent permitted by law, taking all steps necessary or advisable in furtherance thereof, including the making in good faith any application for court approval.

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Notwithstanding anything in this section to the contrary, the Named Insured's indemnification obligations under this section shall not apply in the event the Named Insured is neither permitted nor required to grant such indemnification either because of the appointment by any state or federal official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate the Named Insured, or because of the Named Insured becoming a debtor-in-possession.

C. Limits of Insurance

1. Subject to subsection 2 below, the Insurer's maximum liability for all Damages resulting from each Claim under this Coverage Part will not exceed the Public Officials & Employment Practices Liability Coverage Part Each Claim Limit of Insurance specified in Item 5.C of the Declarations.
2. The Insurer's maximum liability for all Damages resulting from all Claims under this Coverage Part will not exceed the Public Officials & Employment Practices Liability Coverage Part Aggregate Limit of Insurance specified in Item 5.C of the Declarations, which is the most the Insurer will indemnify for Damages under this Coverage Part during the Policy Period.
3. The Insurer shall pay Claim Expenses in excess of the applicable Retained Limit and up to an aggregate amount equal to the Public Officials & Employment Practices Liability Coverage Part Aggregate Limit of Insurance stated in Item 5.C of the Declarations without reduction of the applicable Limit of Insurance. The total amount of such Claim Expense payments by the Insurer shall be capped at the amount of the Limit of Insurance, and is not on a per Claim basis.
4. Once the Insurer has paid the amount set forth in Item 5.C of the Declarations in aggregate Claim Expenses arising from or relating to any and all matters, all further payments by the Insurer of Claim Expenses shall reduce the applicable Limit of Insurance.
5. The Insurer will indemnify the Insured for Damages and Claim Expenses only as they become due and payable by the Insureds, without consideration of other future payment obligations.
6. All Claims arising out of the same Wrongful Act and all Interrelated Wrongful Acts of the Insureds shall be deemed to be one Claim, and such Claim shall be deemed to be first made on the date the earliest of such Claims is first made, regardless of whether such date is before or during the Policy Period. All Damages and all Claim Expenses resulting from a single Claim shall be deemed a single Damage and Claim Expense.
7. The Crisis Management Fund is the Insurer's maximum liability for all Crisis Management Expenses arising for any and all Crisis Events occurring during the Policy Period. This limit shall be the Insurer's maximum liability under this Policy regardless of the number of Crisis Events reported during the Policy Period. The Insurer's obligation to pay Crisis Management Expense terminates and ends upon the exhaustion of the Crisis Management Fund. The Crisis Management Fund shall be in addition to the aggregate Limit of Insurance set forth in Item 5.C of the Declarations.

D. Definitions

The following definitions apply to this Coverage Part in addition to the definitions in the Common Conditions, Definitions and Exclusions section of this Policy.

1. **Retroactive Date** means the date specified in Item 6.A of the Declarations for this Coverage Part.
2. **Adverse Publicity** means the publication of unfavorable information regarding the Named Insured which can reasonably be considered to materially reduce public confidence in the competence, integrity or viability of the Named Insured to conduct business. Such publication must occur in a report about an Insured appearing in
 - a. A daily newspaper of general circulation;
 - b. A magazine or other published periodical; or

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- c. A radio or television news program
3. **Crisis Event** means one of the following, except where coverage is otherwise excluded under the Common Conditions, Definitions and Exclusions or any Coverage Part of this Policy:
- Management Event: The incapacity, death or state or federal criminal indictment of a natural person Insured for whom the Named Insured has purchased and continues to maintain key individual life insurance;
 - Funding Cancellation: The cancellation, withdrawal or revocation of \$500,000 or more in funding, donations(s), grant(s) or bequest(s) by a non-government entity or person to the Named Insured;
 - Bankruptcy: The disclosure by the Named Insured of (i) its intention to file or its actual filing for protection under federal bankruptcy laws, or (ii) a third-party's intention to file or its actual filing of an involuntary bankruptcy petition under federal bankruptcy laws with respect to the Named Insured;
 - Employment Event: The disclosure by the Named Insured of the threatened or actual commencement by a third-party of an action, audit or investigation alleging an **Employment Practices Violation** by the Named Insured which has caused or is reasonably likely to cause **Adverse Publicity**; and
 - Material Event: Any other material event which, in the good faith opinion of the Named Insured, has caused or is reasonably likely to result in **Adverse Publicity**, but only if such material event is scheduled for coverage by written endorsement to this Policy.
4. **Crisis Management Expense** means the following expenses incurred by the Named Insured during a period beginning ninety (90) days prior to and in reasonable anticipation of a **Crisis Event** and ending ninety (90) days after an actual or reasonably anticipated **Crisis Event**, irrespective of whether a **Claim** is actually made with respect to the subject **Crisis Event**; provided, however, that the Insurer must have been notified of the **Crisis Management Expense** within thirty (30) days of the date the Named Insured first incurs the subject **Crisis Management Expense**:
- The reasonable and necessary expenses directly resulting from a **Crisis Event** which the Named Insured incurs for **Crisis Management Services** provided to the Named Insured by a **Crisis Management Firm**, and
 - The reasonable and necessary expenses directly resulting from a **Crisis Event** which the Named Insured incurs for (a) advertising, printing, or the mailing of matter relevant to the **Crisis Event**, and (b) out of pocket travel expenses incurred by or on behalf of the Named Insured or the **Crisis Management Firm**; provided, however, **Crisis Management Expense** does not include those amounts which otherwise would constitute compensation, benefits, fees, overhead, charges or expenses of an Insured or any of the Insured's Employees.
5. **Crisis Management Firm** means a marketing firm, public relations firm, law firm, or other professional services entity retained by the Insurer, or by the Named Insured with the Insurer's prior written consent, to perform **Crisis Management Services** arising from a **Crisis Event**.
6. **Crisis Management Fund** means \$25,000.
7. **Crisis Management Services** means the professional services provided by a **Crisis Management Firm** in counseling or assisting the Named Insured in reducing or minimizing the potential harm to the Named Insured caused by the public disclosure of a **Crisis Event**.

The foregoing definitions shall apply equally to the singular and plural form.

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E. Exclusions

Except as limited under Insuring Agreement 3 above, the following exclusions apply to this Coverage Part in addition to the exclusions in the Common Conditions, Definitions and Exclusions section of this Policy.

The Insurer shall not be liable for Damages or Claim Expenses on account of any Claim:

1. Alleging, based upon, arising out of or attributable to any:
 - a. **Bodily Injury**, other than mental distress, mental injury, mental anguish, mental tension, pain and suffering, shock and humiliation arising out of an **Employment Practices Violation**;
 - b. **Property Damage**;
 - c. **Personal Injury**, other than libel, slander or defamation in any form arising out of a **Employment Practices Violation**;
 - d. **Advertising Injury**; or
 - e. Any allegation relating to the foregoing 1.a, 1.b, 1.c, and 1.d., that an **Insured** negligently employed, investigated, supervised or retained a person, or based on an alleged practice, custom or policy and including, without limitation, any allegation that the violation of a civil right caused or resulted from such **Damages, Claim Expenses or Claim**.
2. Alleging, based upon, arising out of or attributable to the return of taxes, assessments, penalties, fines, fees, or any award of salary, wages or earnings. However, this exclusion shall not apply to back pay or front pay.
3. Alleging, based upon, arising out of or attributable to strikes, riots or civil commotions.
4. Alleging, based upon, arising out of or attributable to the gaining in fact of any profit, remuneration or financial advantage to which any **Insured** was not legally entitled. However, this exclusion shall not apply to any **Claim** alleging **Employment Practices Violation**.
5. Brought or maintained by, on behalf of, or in the right of any **Insured**. However, with respect to any **Claim** alleging any **Employment Practices Violation**, this exclusion shall only apply to cross-claims or counter-claims brought or maintained by, on behalf of, or in the right of one **Insured** against another **Insured**.
6. Alleging, based upon, arising out of or attributable to breach of any express, implied, actual or constructive contract, warranty, guarantee or promise, unless such liability would have attached to the **Insured** even in the absence of such contract, warranty, guarantee or promise. However, this exclusion shall not apply to any **Claim** alleging any **Employment Practices Violation**.
7. Alleging, based upon, arising out of or attributable to any actual or alleged liability assumed by the **Insured** under any express, implied, actual or constructive contract or any collective bargaining agreement, unless such liability would have attached to the **Insured** even in the absence of such contract or agreement.
8. Alleging, based upon, arising out of or attributable to procurement, service, construction, architect, or engineer contracts, including but not limited to the **Insured's** intentional interference with such contracts.
9. Alleging, based upon, arising out of or attributable to:
 - a. Any prior or pending litigation or administrative or regulatory proceeding filed on or before the effective date of this Policy or any similar policy which was issued to the **Named Insured** by the **Insurer** or any affiliate thereof and continuously renewed and maintained, for the same or substantially the same **Wrongful Act**, fact, circumstance or situation underlying or alleged therein; or

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- b. Any other **Wrongful Act** whenever occurring which, together with a **Wrongful Act** underlying or alleged in such prior or pending proceeding would constitute **Interrelated Wrongful Acts**.
10. Alleging, based upon, arising out of, or attributable to:
- Any **Wrongful Act**, fact, circumstance or situation which has been the subject of any written notice given under any other policy of which this **Policy** is a renewal or replacement or which it succeeds in time; or
 - Any other **Wrongful Act** whenever occurring which, together with a **Wrongful Act** which has been the subject of such notice, would constitute **Interrelated Wrongful Acts**.
11. Alleging, based upon, arising out of or attributable to any **Wrongful Act** prior to the inception date of the first policy issued to the **Named Insured** by the **Insurer** or any affiliate thereof and continuously renewed and maintained, if, on or before such date, any **Insured** knew or could have reasonably foreseen that such **Wrongful Act** could lead to a **Claim**.
12. Alleging, based upon, arising out of or attributable to the validity, infringement, violation or misappropriation of any trade secret, copyright, patent, collective mark, certification mark, registered mark, service mark, trademark, trade dress, trade name, domain, title, slogan or service name or other intellectual property.
13. Alleging, based upon, arising out of or attributable to any violation of (i) the Employee Retirement Income Security Act of 1974; by (ii) any workers' compensation, disability benefits, unemployment compensation, unemployment insurance, retirement benefits, social security benefits or similar law; (iii) the Fair Labor Standards Act (except the Equal Pay Act), (iv) the National Labor Relations Act, (v) the Worker Adjustment and Retraining Notification Act, (vi) the Consolidated Omnibus Budget Reconciliation Act, (vii) the Occupational Safety and Health Act; or any rules or regulations of any of such statutes or laws, amendments thereto or any similar provisions of any federal, state, local or foreign statutory law or common law, provided however, this exclusion shall not apply to that part of a **Claim** for **Retaliation**.
- Further, this exclusion shall not apply to any actual or alleged failure to execute required actions or mistaken actions committed in the **Administration of Your Employee Benefit Program**.
14. Alleging, based upon, arising out of or attributable to any costs or liability incurred by any **Insured** to provide any reasonable accommodations required by, made as a result of, or to conform with the requirements of, the Americans With Disabilities Act of 1992, as amended, or any similar federal, state or local law, regulation or ordinance, including the modification of any building, property or facility to make it more accessible or accommodating to any disabled person.
15. Alleging, based upon, arising out of or attributable to any **Wrongful Act** for which coverage is afforded under any other Coverage Part of this **Policy**.

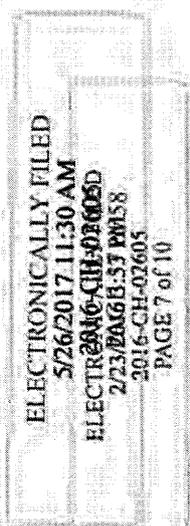
F. **Extended Reporting Period**

If the **Insurer** terminates or does not renew this **Policy** (other than for failure to pay a premium when due), or if the **Named Insured** terminates or does not renew this **Policy** and does not obtain replacement coverage as of the effective date of such termination or non-renewal, the **Named Insured** shall have the right to a continuation of the coverage granted by this **Policy** for at least one **Extended Reporting Period** as follows:

1. **Automatic Extended Reporting Period**

The **Named Insured** shall have continued coverage granted by this **Policy** for a period of 60 days following the effective date of such termination or non-renewal, but only for **Claims** first made during such 60 days and arising from **Wrongful Acts** taking place prior to the effective date of such termination or non-renewal. This **Automatic Extended Reporting Period** shall immediately expire upon the purchase of replacement coverage by the **Named Insured**.

2. **Optional Extended Reporting Period**



The **Named Insured** shall have the right, upon payment of the additional premium set forth in Item 7.A of the Declarations, to a continuation of the coverage granted by this Policy for an **Optional Extended Reporting Period** set forth in Item 7.B of the Declarations following the effective date of such termination or non-renewal, but only for **Claims** first made during such **Optional Extended Reporting Period** and arising from **Wrongful Acts** taking place prior to the effective date of such termination or non-renewal.

This right to continue coverage shall lapse unless written notice of such election is given by the **Named Insured** to the **Insurer**, and the **Insurer** receives payment of the additional premium, within 30 days following the effective date of termination or non-renewal.

The first 60 days of the **Optional Extended Reporting Period**, if it becomes effective, shall run concurrently with the **Automatic Extended Reporting Period**.

3. The **Insurer** shall give the **Named Insured** notice of the premium due for the **Optional Extended Reporting Period** as soon as practicable following the date the **Named Insured** gives such notice of such election, and such premium shall be paid by the **Named Insured** to the **Insurer** within 10 days following the date of such notice by the **Insurer** of the premium due. The **Optional Extended Reporting Period** is not cancelable and the entire premium for the **Optional Extended Reporting Period** shall be deemed fully earned and non-refundable upon payment.
4. The **Automatic** and **Optional Extended Reporting Periods** shall be part of and not in addition to the **Limit of Insurance** for the immediately preceding **Policy Period**. The purchase of the **Optional Extended Reporting Period** shall not increase or reinstate the **Limits of Insurance**, which shall be the maximum liability of the **Insurer** for the **Policy Period** and **Extended Reporting Periods** combined.
5. A change in **Policy** terms, conditions, exclusions and/or premiums shall not be considered a non-renewal for purposes of triggering the rights to the **Automatic** or **Optional Extended Reporting Periods**.

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ACE AdvantageSM
Public Entity
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Retained Limits Policy

LIMITED AUTOMOBILE PHYSICAL DAMAGE COVERAGE PART

Schedule

Retained Limit: \$10,000 Comprehensive and Collision - Private Passenger Autos
Each Accident Limit: \$25,000 Comprehensive and Collision - Trucks
Physical Damage Aggregate: \$1,000,000
Covered Autos: Per Schedule on File with the Company

No.	Description

In consideration of the payment of the premium, in reliance upon the Application, and subject to the Declarations and the terms and conditions of this Policy, the Insured and the Insurer agree as follows:

A. Insuring Agreements

The Insurer will indemnify the Insured for Loss in excess of the Retained Limit to a Covered Auto or its equipment.

No other obligation to pay any additional sums or provide services is covered.

B. Retained Limit

The Insurer's liability under this Policy applies only to Loss which is in excess of the Retained Limit applicable to this Coverage Part and specified in the Schedule above. The Retained Limit must be borne by the Insured as an uninsured amount and at its own risk.

C. Limits of Insurance

1. Subject to subsection 2 and 3 below, the Insurer's maximum liability for all Loss under this Coverage Part will not exceed the Physical Damage Aggregate specified in the Schedule above. This will be true regardless of:
 - a. The number of persons and organizations who are Insureds under this Policy;
 - b. The number of persons or organizations making Claims;
 - c. The number of Covered Autos involved in an Accident; or
 - d. Premiums paid.
2. Subject to subsection 3 below, the Each Accident Limit is the most We will pay for the sum of all Loss for all Covered Autos involved in an Accident.
3. The most We will pay for Loss to any one Covered Auto is the lesser of:
 - a. The actual cash value of the damaged or stolen property as of the time of the Loss; or

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- b. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.
4. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total Loss.
 5. If a repair or replacement results in better than like kind or quality, We will not pay for the amount of the betterment.

D. Exclusions

The following exclusions apply to this Coverage Part in addition to the exclusions found in the Common Conditions, Definitions and Exclusions section of this Policy.

The insurance under this Coverage Part does not apply to:

1. Any Bodily Injury, Personal Injury or Advertising Injury.
2. Any Property Damage for which coverage is provided under any other Coverage Part of this Policy.
3. Loss to any of the following:
 - a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
 - b. Any device designed or used to detect speed measuring equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed measurement equipment.
 - c. Any electronic equipment, without regard to whether this equipment is permanently installed, that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound.
 - d. Any accessories used with the electronic equipment described in Paragraph 3.c. above.

Exclusions 3.c. and 3.d. do not apply to:

- i. Equipment designed solely for the reproduction of sound and accessories used with such equipment, provided such equipment (1) is permanently installed in the Covered Auto at the time of the Loss or (2) is removable from a housing unit which is permanently installed in the Covered Auto at the time of the Loss, and (3) is designed to be solely operated by use of the power from the Covered Auto's electrical system, in or upon the Covered Auto; or
 - ii. Any other electronic equipment that is:
 1. Necessary for the normal operation of the Covered Auto or the monitoring of the Covered Auto's operating system; or
 2. An integral part of the same unit housing any sound reproducing equipment described in Paragraph a. above and permanently installed in the opening of the dash or console of the Covered Auto normally used by the manufacturer for installation of a radio.
4. Loss caused by or resulting from any of the following unless caused by other Loss that is covered by this insurance:
 1. Wear and tear, freezing, mechanical or electrical breakdown.

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2. Blowouts, punctures or other road damage to tires.
5. Loss to any Covered Auto while used in any professional or organized racing or stunt activity, or while practicing for such contest or activity. We will also not pay for Loss to any Covered Auto while that Covered Auto is being prepared for such a contest or activity.
6. Loss to any Covered Auto due to Diminution in Value.

E. Conditions

The following Conditions apply to this Coverage Part in addition to the conditions in the Common Conditions, Definitions and Exclusions section of this Policy.

1. If You and We disagree on the amount of the Loss, either may demand an appraisal of the Loss. In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraiser will state separately the actual cash value and amount of Loss. If they fail to agree they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:
 - i. Pay its chosen appraiser, and
 - ii. Bear the other expenses of the appraisal and umpire equally.

If We submit to an appraisal, We still retain our right to deny the Claim.
2. Condition 8, Duties in the Event of Accident, Occurrence, Wrongful Act or Claim of Common Conditions, Definitions and Exclusions applies to Loss.
3. We have no duty to provide coverage under this Coverage Part unless there has been full compliance with the following duties and the Common Conditions as modified:
 - a. In the event of Loss, You must give Us prompt notice of the Loss. Include:
 - i. How, when and where the Loss occurred;
 - ii. To the extent possible, the names and addresses of any injured persons and witnesses.
 - b. Additionally, You must:
 - i. Assume no obligation, make no payment or incur no expense without our consent, except at Your own cost.
 - ii. Cooperate with Us in the investigation or settlement of the Claim or defense against the Suit.
 - iii. Promptly notify the police if the Covered Auto or any of its equipment is stolen.
 - iv. Take all reasonable steps to protect the Covered Auto from further damage. Also keep a record of Your expenses for consideration in the settlement of the Claim.
 - v. Permit Us to inspect the Covered Auto and records proving the Loss before its repair or disposition.
 - vi. Agree to examination under oath at Our request and give Us a signed statement of Your answers.
4. No one may bring a legal action against us under this Coverage Part until there has been full compliance with all the terms of this Coverage Part.
5. At Our option We may:
 - a. Pay for, repair or replace damaged or stolen property;
 - b. Return the stolen property, at Our expense. We will pay for any Damage that results to the Covered Auto from the theft; or
 - c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If We pay for the Loss, Our payment will include the applicable sales tax for the damaged or stolen property.

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6. We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Part.

F. Definitions

The following definitions apply in addition to the definitions found in the Common Conditions, Definitions and Exclusions section of this Policy.

1. **Covered Auto** means an **Automobile** listed in the Schedule.
2. **Loss** means direct and accidental loss or damage.
3. **Diminution in Value** means the actual or perceived loss in market value or resale value which results from a direct and accidental **Loss**.

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CORRIDOR RETENTION ENDORSEMENT

Named Insured City of Chicago Heights			Endorsement Number 1
Policy Symbol PEP	Policy Number G24891562 004	Policy Period November 1, 2013 to November 1, 2014	Effective Date of Endorsement November 1, 2013
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

**GENERAL LIABILITY COVERAGE PART
LIMITED SEXUAL ABUSE COVERAGE PART
PUBLIC ENTITY RETAINED LIMITS POLICY**

CORRIDOR RETENTION SCHEDULE

Corridor Retention: \$100,000 per Occurrence
\$100,000 per Claim for Sexual Abuse Act
Corridor Retention Aggregate: \$100,000

With respect to the General Liability Coverage Part and the Limited Sexual Abuse Coverage Part, the policy is amended to include the following:

1. The Insurer will indemnify the Named Insured for Damages and Claim Expenses in excess of both the applicable Retained Limits stated in the Declarations, Coverage Part or by endorsement to this Policy and the Corridor Retention as stated in the Schedule above. The Corridor Retention applies excess of the Retained Limits. The total amount that You must pay as Corridor Retention amounts is the Corridor Retention Aggregate shown in the Schedule above.
2. The application of the Corridor Retention is subject to the following provisions:
 - a. When the Corridor Retention applies, the Limits of Insurance set forth in the Declarations or Coverage Part, as applicable, are subject to and include the Corridor Retention amount stated in the Schedule above. Payments made within the Corridor Retention shall erode and be counted against the aggregate limits of this Policy.
 - b. A separate Corridor Retention amount shall apply to each Occurrence under the General Liability Coverage Part or each Claim for Sexual Abuse Act in accordance with the Schedule above and subject to the Corridor Retention Aggregate.
 - c. The Corridor Retention shall include amounts paid for Damages and Claim Expenses for which is the Named Insured is responsible. Such Damages and Claim Expenses shall be counted when determining erosion or exhaustion of the Corridor Retention.
3. Whenever the Corridor Retention applies, this Policy is subject to the following additional conditions:
 - a. All other terms and conditions of this Policy, including those pertaining to Your duties in the event of an Accident, Occurrence, Wrongful Act or Claim shall apply irrespective of the applicability of the Corridor Retention.
 - b. With respect to payment of Claims, this Policy will not apply until You are obligated to pay the amount of the applicable Retained Limit and Corridor Retention, subject to the Corridor Retention Aggregate.

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4. The following definition is added to this Policy:

Corridor Retention means the amount of covered Damages and Claim Expenses which You shall have a duty to pay in excess of the **Retained Limits** according to the Schedule above.

All other terms and conditions of this Policy remain unchanged.

Authorized Representative

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CC-1E15

MODIFICATION OF UNINSURED MOTORISTS COVERAGE - ILLINOIS

Named Insured City of Chicago Heights			Endorsement Number 2
Policy Symbol PEP	Policy Number G24891562 004	Policy Period November 1, 2013 to November 1, 2014	Effective Date of Endorsement November 1, 2013
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

**AUTOMOBILE LIABILITY COVERAGE PART
PUBLIC ENTITY RETAINED LIMITS POLICY
SCHOLASTIC ENTITY RETAINED LIMITS POLICY**

Certain words and phrases in **Bold** are defined in the Policy. The attached Illinois Uninsured Motorists Coverage endorsement form (CA 21 30 11 08) uses quotation marks to denote defined words and terms. Words and phrases that are defined in the Policy are deemed to have the meaning stated in the Policy's Common or Coverage Part Definitions, and do not refer to any other policy or coverage form.

The endorsement modifies the Policy and the attached Illinois Uninsured Motorists Coverage endorsement form (CA 21 30 11 08) as follows:

I. With respect to Uninsured Motorist Coverage for a covered "auto" licensed or principally garaged in Illinois, Exclusion B of the Automobile Liability Coverage Part of this Policy is modified by the attached Illinois Uninsured Motorists Coverage (CA 21 30 11 08), but only as further modified by this Endorsement.

II. The Illinois Uninsured Motorists Coverage (CA 21 30 11 08) is provided subject to the following:

A. The schedule of applicable coverage form in the endorsement is deleted and replaced with:

AUTOMOBILE LIABILITY COVERAGE PART

B. The Schedule of Illinois Uninsured Motorists Coverage (CA 21 30 11 08) is deleted and replaced with:

Limit of Insurance: \$1,000,000 Each Accident

Aggregate Limit: \$1,000,000

Retained Limit: \$50,000 Each Accident

C. Section A. Coverage, Paragraph 1. is deleted and replaced with:

The Insurer will indemnify the Insured for all sums in excess of the **Retained Limit** for which the Insured is legally entitled to recover as compensatory **Damages** from the owner or driver of an "uninsured motor vehicle". The **Damages** must result from **Bodily Injury or Property Damage** caused by an **Accident**. The owner's or driver's liability for these **Damages** must result from the ownership, maintenance or use of the "uninsured motor vehicle".

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- III. The following is added to paragraph 1. of Section E. Changes in Conditions, Illinois Uninsured Motorists Coverage (CA 21 30 11 08):

It is also agreed that all such other insurance is excess over the **Retained Limit** and **We** will not make any payments until the other insurance and the **Retained Limit** have been exhausted.

All other terms and conditions of this Policy and the Illinois Uninsured Motorist Coverage remain unchanged.

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Authorized Representative

SEPARATE RETAINED LIMITS ENDORSEMENT - LAW ENFORCEMENT ACTIVITIES AND OTHER GENERAL LIABILITY

Named (Insured) City of Chicago Heights			Endorsement Number 3
Policy Symbol PEP	Policy Number G24891562 004	Policy Period November 1, 2013 to November 1, 2014	Effective Date of Endorsement November 1, 2013
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

PUBLIC ENTITY RETAINED LIMITS POLICY

It is agreed that Item 4. Retained Limit, A. General Liability Coverage Part of the Declarations is deleted and replaced with:

Item 4. Retained Limit

A. General Liability Coverage Part

- 1. General Liability arising out of **Law Enforcement Activities** \$100,000 Each Occurrence
- 2. Other General Liability \$50,000 Each Occurrence

With respect to any Occurrence that is or is alleged to be an Occurrence arising out of **Law Enforcement Activities** and also is or is alleged to be an Occurrence under Other General Liability, the greater **Retained Limit** shown above will apply.

All other terms and conditions of this Policy remain unchanged.

Authorized Representative

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ILLINOIS CHANGES - CANCELLATION AND NONRENEWAL

Named Insured City of Chicago Heights			Endorsement Number 4
Policy Symbol PEP	Policy Number G24891562 004	Policy Period November 1, 2013 to November 1, 2014	Effective Date of Endorsement November 1, 2013
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

If the policy or coverage part to which this endorsement applies contains cancellation or nonrenewal provisions more favorable to the Named Insured than this endorsement, then those provisions apply.

I. The Cancellation Condition is replaced by the following:

CANCELLATION

A. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.

1. We may cancel this policy by mailing to you written notice stating the reason for cancellation.
2. If we cancel for nonpayment of premium, we will mail the notice at least 10 days prior to the effective date of cancellation.
3. If we cancel for a reason other than nonpayment of premium, we will mail the notice at least:
 - a. 30 days prior to the effective date of cancellation if the policy has been in effect for 60 days or less.
 - b. 60 days prior to the effective date of cancellation if the policy has been in effect for more than 60 days.

B. If this policy has been in effect for more than 60 days, we may cancel only for one or more of the following reasons:

1. Nonpayment of premium;
2. The policy was obtained through a material misrepresentation;
3. Any insured has violated any of the terms and conditions of the policy;
4. The risk originally accepted has measurably increased;
5. Certification to the Director of Insurance of the loss of reinsurance by the insurer that provided coverage to us for all or a substantial part of the underlying risk insured; or
6. A determination by the Director of Insurance that the continuation of the policy could place us in violation of the insurance laws of this State.

C. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.

D. If this policy is cancelled we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund will be less than pro rata. The cancellation will be effective even if we have not offered a refund.

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II. The following is added and supersedes any provision to the contrary:

NONRENEWAL

A. If we decide not to renew this policy, we will mail written notice stating the reason for nonrenewal no less than 60 days before the expiration date to:

1. You and;
2. The broker, if known to us, or the agent of record.

B. Even if we do not comply with these terms, this policy will terminate:

1. On the expiration date if:
 - a. You fail to perform any of your obligations in connection with the payment of the premium for the policy, or any installment payment, whether payable directly to us or our agents or indirectly under any premium finance plan or extension of credit; or
 - b. We have indicated our willingness to renew this policy to you or your representative; or
 - c. You have notified us or our agent that you do not want to renew this policy.

C. Mailing of Notices

We will mail cancellation and nonrenewal notices to you, and the agent or broker, at the last addresses known to us. Proof of mailing will be sufficient proof of notice.

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Authorized Agent

EXCLUSION OF CERTIFIED ACTS OF TERRORISM

Named Insured City of Chicago Heights		Endorsement Number 5	
Policy Symbol PEP	Policy Number G24891562 004	Policy Period November 1, 2013 to November 1, 2014	Effective Date of Endorsement November 1, 2013
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
This endorsement modifies insurance provided under the following:

**PUBLIC ENTITY RETAINED LIMITS POLICY
SCHOLASTIC ENTITY RETAINED LIMITS POLICY**

A. The following exclusion is added:

This insurance does not apply to:

1. **Any Injury or Damage** arising, directly or indirectly, out of a **Certified Act of Terrorism**.

B. The following definitions are added and apply under this endorsement wherever the term certified acts of terrorism or the phrase any injury or damage appear in bold print.

1. For the purposes of this endorsement, **Any Injury or Damage** means any injury or damage covered under any Coverage Part or Policy to which this endorsement is applicable, and includes but is not limited to **Bodily Injury, Property Damage, Personal Injury and Advertising Injury, Injury, Damages or Claim Expenses** as may be defined in any applicable Coverage Part or Policy.
2. **Certified Act of Terrorism** means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a **Certified Act of Terrorism** include the following:
 - a. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act, and
 - b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

All other terms and conditions of this Policy remain unchanged.

Authorized Representative

PE-23667 (01/05)

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TRADE OR ECONOMIC SANCTIONS ENDORSEMENT

Named Insured City of Chicago Heights		Endorsement Number 6
Policy Symbol PEP	Policy Number G24891562 004	Policy Period November 1, 2013 to November 1, 2014
Issued By (Name of Insurance Company) Illinois Union Insurance Company		Effective Date of Endorsement November 1, 2013

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This insurance does not apply to the extent that trade or economic sanctions or other laws or regulations prohibit us from providing insurance, including, but not limited to, the payment of claims. All other terms and conditions of policy remain unchanged.

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Authorized Agent

SERVICE OF SUIT ENDORSEMENT - ILLINOIS

Named Insured City of Chicago Heights			Endorsement Number 7
Policy Symbol PEP	Policy Number G24891562 004	Policy Period November 1, 2013 to November 1, 2014	Effective Date of Endorsement November 1, 2013
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

Insert the policy number. The remainder of this information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

It is agreed that in the event of the failure of the company hereon to pay any amount claimed to be due hereunder, the company hereon, at the request of the Insured, will submit to the jurisdiction of any court of competent jurisdiction within the United States of America and will comply with all requirements necessary to give such court jurisdiction and all matters arising hereunder shall be determined in accordance with the law and practice of such court.

It is further agreed that service of process in such suit may be made upon the Claims Manager, or his nominee, at 525 W. Monroe Street, Suite 400, Chicago, Illinois 60661, and that in any suit instituted against this policy, the company will abide by the final decision of such court or of any Appellate court in the event of an appeal.

The above-named Claims Manager is authorized and directed to accept service of process on behalf of the Company in any such suit and/or upon the request of the Insured to give a written undertaking to the Insured that it or they will enter a general appearance upon the Company's behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States of America, which makes provision therefore, the company hereon designates the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute or their successor or successors in office as their true and lawful attorney upon whom may be served any lawful process of any action, suit or proceeding instituted by or on behalf of the Insured or any beneficiary, hereunder arising out of his contract of insurance, and hereby designates the above named Claims Manager as the person to whom the said officer is authorized to mail such process or true copy thereof.

The address of the Illinois Director of Insurance is:
 Department of Insurance
 State of Illinois
 320 West Washington Street
 Springfield, Illinois 62767

If the Insured is resident in Canada, it is agreed that the foregoing provisions shall also apply as respects any province of Canada.

NOTHING HEREIN CONTAINED SHALL BE HELD TO VARY, ALTER WAIVE OR EXTEND ANY OF THE TERMS, CONDITIONS, OR LIMITATIONS OF THE POLICY TO WHICH THIS ENDORSEMENT IS ATTACHED OTHER THAN AS ABOVE STATED.

 Authorized Representative

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SIGNATURE ENDORSEMENT

Named Insured City of Chicago Heights			Endorsement Number 8
Policy Symbol PEP	Policy Number G24891562 004	Policy Period November 1, 2013 to November 1, 2014	Effective Date of Endorsement November 1, 2013
Issued By (Name of Insurance Company) Illinois Union Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THE ONLY SIGNATURES APPLICABLE TO THIS POLICY ARE THOSE REPRESENTING THE COMPANY NAMED ON THE FIRST PAGE OF THE DECLARATIONS.

By signing and delivering the policy to you, we state that it is a valid contract when countersigned by our authorized representative.

ILLINOIS UNION INSURANCE COMPANY (A stock company)
525 W. Monroe Street, Suite 400, Chicago, Illinois 60661

WESTCHESTER SURPLUS LINES INSURANCE COMPANY (A stock company)
Royal Centre Two, 11575 Great Oaks Way, Suite 200, Alpharetta, GA 30022

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CARMINE A. GIGANTI, Secretary


JOHN J. LUPICA, President

Authorized Representative

LD-5S23i (12/11)



Illinois Union Insurance Company
Insurance Company

City of Chicago Heights
Policyholder

PEP G24891562 004
Policy Number

Boyle Flagg & Seaman Inc.
Broker/Producer

**POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM INSURANCE COVERAGE**

You were notified that under the Terrorism Risk Insurance Act, as amended, that you have the right to purchase insurance coverage for losses resulting from acts of terrorism, as defined in Section 102(1) of the Act: The term "act of terrorism" means any act that is certified by the Secretary of the Treasury--in concurrence with the Secretary of State, and the Attorney General of the United States--to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

YOU SHOULD KNOW THAT WHERE COVERAGE IS PROVIDED BY THIS POLICY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM, SUCH LOSSES MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. HOWEVER, YOUR POLICY MAY CONTAIN OTHER EXCLUSIONS WHICH MIGHT AFFECT YOUR COVERAGE, SUCH AS AN EXCLUSION FOR NUCLEAR EVENTS. UNDER THE FORMULA, THE UNITED STATES GOVERNMENT GENERALLY REIMBURSES 85% OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURANCE COMPANY PROVIDING THE COVERAGE. THE PREMIUM CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS THAT MAY BE COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.

YOU SHOULD ALSO KNOW THAT THE TERRORISM RISK INSURANCE ACT, AS AMENDED, CONTAINS A \$100 BILLION CAP THAT LIMITS U.S. GOVERNMENT REIMBURSEMENT AS WELL AS INSURERS' LIABILITY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM WHEN THE AMOUNT OF SUCH LOSSES IN ANY ONE CALENDAR YEAR EXCEEDS \$100 BILLION. IF THE AGGREGATE INSURED LOSSES FOR ALL INSURERS EXCEED \$100 BILLION, YOUR COVERAGE MAY BE REDUCED.

You elected **NOT** to purchase terrorism coverage under the Act at the price indicated. ACCORDINGLY, WE WILL **NOT** PROVIDE THIS COVERAGE AND YOU DO NOT OWE THE ADDITIONAL PREMIUM FOR THAT COVERAGE INDICATED BELOW.

Terrorism coverage described by the Act under your policy was made available to you for additional premium in the amount of **\$N/A**, however you elected to decline such coverage.

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- ACE USA
- Illinois Union Insurance Company
 - Westchester Surplus Lines Insurance Company
 - _____

Insured:
 City of Chicago Heights
 1601 Chicago Road
 Chicago Heights, IL 60411

Attached To Policy No.: PEP G24891562 004

Effective Date: November 1, 2013

ILLINOIS SURPLUS LINES NOTIFICATION

This contract is issued, pursuant to Section 445 of the Illinois Insurance Code, by a company not authorized and licensed to transact business in Illinois and as such is not covered by the Illinois Insurance Guaranty Fund.

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NOTHING HEREIN CONTAINED SHALL BE HELD TO VARY, ALTER, WAIVE OR EXTEND ANY OF THE TERMS, CONDITIONS, OR LIMITATIONS OF THE POLICY TO WHICH THIS NOTICE IS ATTACHED OTHER THAN AS STATED ABOVE.



**ACE Producer Compensation
Practices & Policies**

ACE believes that policyholders should have access to information about ACE's practices and policies related to the payment of compensation to brokers and independent agents. You can obtain that information by accessing our website at <http://www.aceproducercompensation.com> or by calling the following toll-free telephone number: 1-866-512-2862.

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COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK DOROTHY BROWN

U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL ("OFAC") ADVISORY NOTICE TO POLICYHOLDERS

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous:

- Foreign agents;
- Front organizations;
- Terrorists;
- Terrorist organizations; and
- Narcotics traffickers;

as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's web site – <http://www.treas.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.

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CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK DOROTHY BROWN

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

CITY OF CHICAGO HEIGHTS, an Illinois)
Municipal Corporation, JEFFREY BOHLEN,)
SAM MANGIALARDI, ROBERT PINNOW,)
GERALDINE NARDONI, AS PERSONAL)
REPRESENTATIVE FOR NOW DECEASED)
CHARLES NARDONI, ANTHONY)
MURPHY, JOSEPH ROBUSTELLI and)
JEFFREY GOSS,)

Plaintiffs,)

v.)

ILLINOIS UNION INSURANCE COMPANY,)
STARR INDEMNITY & LIABILITY)
COMPANY and RODELL SANDERS,)

Defendants.)

Case No. _____

Judge _____

Jury Demanded

**ATTACHMENT TO COMPLAINT FOR DECLARATORY JUDGMENT,
LEGAL RELIEF AND MONETARY DAMAGES**

Exhibit 3

**Starr Indemnity and Liability Company
Excess Policy No. SISCPEL01944312
November 1, 2012 – November 1, 2013**

EXCESS LIABILITY DECLARATIONS

Starr Indemnity & Liability Company

Dallas, Texas
Administrative Office: 399 Park Avenue, 8th Floor, New York, NY 10022

POLICY NUMBER: SISCPPEL01944312

RENEWAL OF: SISCPPEL00011411

PRODUCER NAME: Boyle Flagg & Seaman, Inc.

ADDRESS: 7941 W 171st Street,
Tinley Park, IL 60477

ITEM 1. NAMED INSURED: CITY OF CHICAGO HEIGHTS

ADDRESS: 1601 Chicago Road,
Chicago Heights, IL 60411

ITEM 2. POLICY PERIOD: FROM November 01, 2012 TO November 01, 2013
12:01 A.M. STANDARD TIME AT THE ADDRESS OF THE NAMED INSURED SHOWN ABOVE.

ITEM 3. COVERAGE: Commercial Excess Liability

ITEM 4. LIMITS OF INSURANCE:

The Limits of Insurance, subject to all the terms of this Policy, are:

- A. \$10,000,000 Each Occurrence
- B. \$10,000,000 Other Aggregate(s), Where Applicable
- C. \$10,000,000 Products-Completed Operations Aggregate

ITEM 5. "UNDERLYING INSURANCE"

A. First Underlying Insurance Policy(ies)

Insurer

See attached Schedule of Underlying Insurance

Policy No.

Policy Period

B. Additional Underlying Insurance Policy(ies)

Insurer

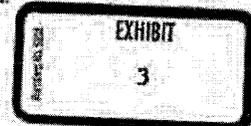
Policy No.

Policy Period

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ITEM 6. POLICY PREMIUM:

<u>Advanced Premium</u>	<u>Minimum Premium</u>	<u>Minimum Earned Premium</u>
\$115,800	N/A	\$28,950
<u>Estimated Exposure</u>	<u>Rate Per</u>	<u>Audit Period</u>
N/A	N/A	N/A

ITEM 7. NOTICES

In the event of an accident, occurrence, wrongful act, claim or suit, that is reasonably likely to involve this Policy, send all pertinent facts to:

New claims can be reported to:

Email: 4869excessclaims@yorkrsg.com
Telephone: 1-866-391-9675
Fax: (973) 404-1040

Provide the following information when reporting a claim:

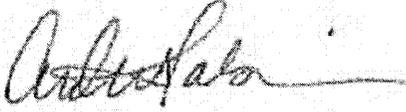
1. York Client Code: 4869
2. Policy Numbers

ITEM 8. ENDORSEMENTS ATTACHED:

<u>Title</u>	<u>Form Number</u>
Excess Liability Declarations	XS 101 D 10 08
Excess Liability Policy Schedule Of Underlying Insurance	XS 102 10 08
Excess Liability Policy Form	XS 100 10 08
Illinois Changes - Cancellation And Nonrenewal	XS 301 IL 03 09
Auto Coverage - Exclusion Of Terrorism	XS 341 10 08
Exclusion Of Terrorism	XS 346 10 08
Illinois Changes - Underlying Claims-Made Coverage	XS 348 IL 10 08
CV Starr Excess Casualty Program Claim Reporting Guidelines	XS CLAIMS NOTICE

The foregoing discloses all hazards insured hereunder known to exist at the inception date of this Policy, unless otherwise stated herein by endorsement on this Policy.

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COUNTERSIGNED November 07, 2012 BY 
DATE AUTHORIZED REPRESENTATIVE

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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

**Excess Liability Policy
Schedule of Underlying Insurance**

Policy Number: SISCPPEL01944312	Effective Date: November 01, 2012
Named Insured: CITY OF CHICAGO HEIGHTS	Issuing Company: Starr Indemnity & Liability Company

The Declarations, Schedule(s), and all terms and conditions complete this insurance Policy.

Type of Policy or Coverage and Insurer, Policy Number and Policy Period		Limits of Insurance	
A. First Underlying Insurance Policy(ies)			
Carrier:	Illinois Union Insurance Co.		
Policy No.:	TBD		
Coverage:	GENERAL LIABILITY	Limits: \$1,000,000	Each Occurrence Limit
Policy Period:	Nov 01, 2012 to Nov 01, 2013	\$2,000,000	General Aggregate Limit
		\$2,000,000	Products/Comp. Ops. Aggregate Limit
Coverage:	AUTO LIABILITY	\$1,000,000	Combined Single Limit
Policy Period:	Nov 01, 2012 to Nov 01, 2013		

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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

B. Additional Underlying Insurance Policy(ies)

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Date of Issue:

November 07, 2012

Authorized Representative:

Starr Indemnity & Liability Company

Dallas, Texas
Administrative Office: 399 Park Avenue, 8th Floor, New York, NY 10022

Excess Liability Policy

Named Insured: CITY OF CHICAGO HEIGHTS

Policy Number: SISCPPEL01944312

Effective Date: November 01, 2012 at 12:01 A.M.

This Policy is a legal contract between the Named Insured and Starr Indemnity & Liability Company (herein referenced as "the Company"). The Company agrees to provide insurance to the Named Insured, in exchange for the payment of the required premium. Coverage is subject to the terms and conditions described in this Policy.

This Policy and the coverage provided by it become effective at 12:01 A.M. at the address of the Named Insured on the Policy Effective Date shown above. It continues in effect in accordance with the provisions set forth in this Policy.

This Policy is governed by the laws of the state where it was delivered.

Signed for the Company as of the Effective Date above:


[Honora M. Keane], General Counsel


[Charles H. Dangelo], President

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EXCESS LIABILITY POLICY FORM

Various provisions in this Policy restrict coverage. Read the entire Policy carefully to determine rights, duties and what is and is not covered.

Throughout this Policy, the words you and your refer to the Named Insured as shown in ITEM 1. of the Declarations. The words we, us and our refer to the Company shown in the Declaration providing this insurance.

The word Insured means the Named Insured and any person or organization qualifying as an Insured in the First Underlying Insurance Policy(ies), but only to the extent to which such person(s) or organization(s) qualify as an Insured in the First Underlying Insurance Policy(ies) at the inception date of this Policy. Newly acquired or formed organizations must comply with SECTION IV. CONDITIONS, D. Changes in order to qualify for coverage.

Words and phrases that appear in quotation marks have special meaning. Refer to SECTION III. DEFINITIONS, or to the specific section, of this Policy where such words appear.

SECTION I. COVERAGE

- A. We will pay on behalf of the Insured, the "Ultimate Net Loss" in excess of the "Underlying Insurance" as shown in ITEM 5. of the Declarations, that the Insured becomes legally obligated to pay for loss or damage to which this insurance applies and that takes place in the Coverage Territory. Except for the terms, definitions, conditions and exclusions of this Policy, the coverage provided by this Policy shall follow the terms, definitions, conditions and exclusions of the applicable First Underlying Insurance Policy(ies) shown in ITEM 5.A. of the Declarations.
- B. Regardless of any other warranties, terms, conditions, exclusions or limitations of this Policy, if any applicable Underlying Insurance Policy(ies) does not cover "Ultimate Net Loss" for reasons other than exhaustion of its limit of liability by payment of claims or suits, then this Policy will not cover such "Ultimate Net Loss".
- C. The amount we will pay for the "Ultimate Net Loss" is limited as described in SECTION II. LIMITS OF INSURANCE.

SECTION II. LIMITS OF INSURANCE

- A. The Limits of Insurance shown in the Declarations and the rules below describe the most we will pay regardless of the number of:
 - 1. Insureds;
 - 2. Claims made or suits brought; or
 - 3. Persons or organizations making claims or bringing suits.
- B. The Limits of Insurance of this Policy will apply as follows:
 - 1. This Policy applies only in excess of the "Underlying Insurance" scheduled in ITEM 5. of the Declarations.
 - 2. If our Limits of Insurance stated in ITEM 4. of the Declarations are less than the total Limits of Insurance stated in ITEM 4. of the Declarations, then our Limits of Insurance shall be that proportion of the "Ultimate Net Loss" to which our Limits of Insurance apply to the total Limits of Insurance stated in ITEM 4. of the Declarations and apply only in excess of the total Limits of "Underlying Insurance" scheduled in ITEM 5. of the Declarations.

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3. Subject to Paragraph B.2. above, the Each Occurrence limit stated in ITEM 4.A. of the Declarations is the most we will pay for the "Ultimate Net Loss" for loss or damages arising out of any one occurrence to which this insurance applies.
4. Subject to Paragraphs B.2. and B.3. above, the limit stated in Item 4.C. of the Declarations for the Products-Completed Operations Aggregate is the most we will pay for all "Ultimate Net Loss" under the products-completed operations hazard.
5. Subject to Paragraphs B.2. and B.3. above, the Other Aggregate Limit stated in Item 4.B. of the Declarations is the most we will pay for all "Ultimate Net Loss" except "Ultimate Net Loss" covered under the products-completed operations hazard, that is subject to an aggregate limit provided by the First Underlying Insurance Policy(ies). The Other Aggregate Limit stated in ITEM 4.B. applies separately and in the same manner as the aggregate limits provided by the First Underlying Insurance Policy(ies).
6. Subject to Paragraphs B.2., B.3., B.4. and B.5. above, if the total applicable Limits of Insurance of "Underlying Insurance" scheduled in ITEM 5. of the Declarations are:
 - a. Exhausted by payment of "Ultimate Net Loss" arising solely out of a claim first made, or occurrence(s) which first took place, during the Policy Period shown in the Declarations and would be covered under the provisions of this Policy, this insurance applies in excess of such exhausted limit(s); or
 - b. Reduced or exhausted by payment of "Ultimate Net Loss" arising out of a claim which was not first made during the Policy Period shown in the Declarations, or occurrence(s) which took place before or after the Policy Period shown in the Declarations or would not be covered under the provisions of this Policy, this insurance applies as if such payments had not been made.
7. The Limits of Insurance shown in ITEM 4. of the Declarations apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the Policy Period shown in the Declarations, unless the Policy Period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the preceding period for purposes of determining the Limits of Insurance.

SECTION III. DEFINITIONS

A. "Ultimate Net Loss"

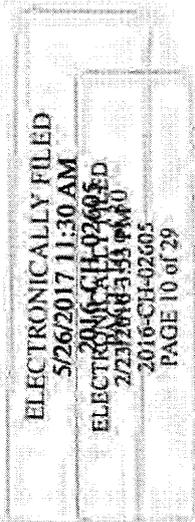
"Ultimate Net Loss" means the total sum, after reduction for all recoveries including other valid and collectible insurance, excepting only the "Underlying Insurance" scheduled under ITEM 5. of the Declarations, actually paid or payable due to a claim or suit for which you or an Insured are liable either by a settlement to which we agreed or a final judgment.

The term "Ultimate Net Loss" shall also include defense costs when such defense costs are included within the limits of insurance of any applicable "Underlying Insurance".

B. "Underlying Insurance"

"Underlying Insurance" means the Policy(ies) and/or self-insured retention identified in ITEM 5. of the Declarations. "Underlying Insurance" shall include:

1. The First Underlying Insurance Policy(ies) scheduled in ITEM 5.A. of the Declarations;



2. Any Additional Underlying Insurance Policy(ies) scheduled in ITEM 5.B. of the Declarations; and
3. Any renewal or replacement of such Policy(ies).

SECTION IV. CONDITIONS

A. Appeals

If the Insured or underlying insurer elects not to appeal a judgment or award in excess of the limits of the "Underlying Insurance," we may do so at our expense. We will not be liable for any judgment or award that exceeds the Limits of Insurance stated in ITEM 4. of the Declarations.

B. Bankruptcy or Insolvency

Your or an Insured's bankruptcy, insolvency or inability to pay will not relieve us from our obligations under this Policy.

In the event of bankruptcy, insolvency or refusal or inability to pay, of any underlying insurer or insurer providing other insurance, the insurance afforded by this Policy will not drop down or replace such "Underlying Insurance" or other insurance, but will apply as if all limits of any "Underlying Insurance" or other insurance are fully available and collectible.

C. Cancellation

1. You may cancel this Policy. You must mail or deliver advance written notice to us stating when the cancellation is to take effect.
2. We may cancel this Policy. If we cancel because of non-payment of premium, we must mail or deliver to you not less than ten (10) days advance written notice stating when the cancellation is to take effect. If we cancel for any other reason, we must mail or deliver to you not less than thirty (30) days advance written notice stating when the cancellation is to take effect. Mailing that notice to you at your mailing address shown in ITEM 1. of the Declarations will be sufficient to prove notice.
3. The Policy Period will end on the day and hour stated in the cancellation notice.
4. If we cancel, earned premium will be calculated pro rata based on the time this Policy was in force.
5. If you cancel, earned premium will be more than a pro rata of the Advanced Premium as shown on ITEM 6. of the Declarations; it will be based on the time this Policy was in force and increased by the applicable short rate cancellation table and procedure.
6. Premium adjustment may be made at the time of cancellation or as soon as practicable thereafter but the cancellation will be effective even if we have not made or offered any refund due you. Our check or our representative's check, mailed or delivered, shall be sufficient tender of any refund due you.
7. The first Named Insured in ITEM 1. of the Declarations shall act on behalf of all other Insured(s) with respect to the giving and receiving of notice of cancellation and the receipt of any refund that may become payable under this Policy.
8. Any of these provisions that conflict with a law that controls the cancellation of the insurance in this Policy is changed by this statement to comply with that law.

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D. Changes

You must promptly notify us of any newly acquired or formed organizations, or coverage or limit changes made after the inception date of this Policy to the First Underlying Insurance Policy(ies) as scheduled in ITEM 5.A. of the Declarations.

Coverage under this Policy will apply to newly acquired or formed organizations only if we endorse the organization as an Insured onto this Policy. Any newly acquired or formed organizations endorsed onto this Policy may be subject to an additional premium and to a premium audit.

E. Coverage Territory

Any claim or suit for loss or damage occurring within the Coverage Territory must be brought within the United States of America.

Coverage Territory shall be deemed to be anywhere in the world with the exception of any country or jurisdiction which is subject to trade or other economic sanction or embargo by the United States of America.

Payments under this Policy shall only be made in full compliance with all United States of America economic or trade sanction laws or regulations, including, but not limited to, sanctions, laws and regulations administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC").

F. Defense

We have no duty to defend any claim or suit and will not be obligated to assume charge of the investigation, settlement or defense of any claim, suit or proceeding instituted against you or any Insured for loss or damages to which this insurance may apply. We will have the right and opportunity to participate or associate in the investigation, settlement or defense of any claim, suit or proceeding against you or an Insured for loss or damage to which this insurance may apply. If we exercise such right, which is at our sole discretion, we will do so at our own expense.

G. Maintenance of "Underlying Insurance"

You agree to maintain all "Underlying Insurance" in full force and effect during our Policy Period stated in ITEM 2. of the Declarations, except for the reduction of the aggregate limits of the "Underlying Insurance" due to payment of claim(s) or suit(s) for loss or damage to which this insurance may apply. If you fail to comply with this condition precedent, then the insurance provided by this Policy shall only apply as though such "Underlying Insurance" had been in full force and effect by you.

H. Notification of Accidents or Occurrences

1. You or an Insured must see to it that we are notified as soon as practicable of an accident, occurrence or wrongful act which is reasonably likely to result in a claim or suit to which this insurance may apply.

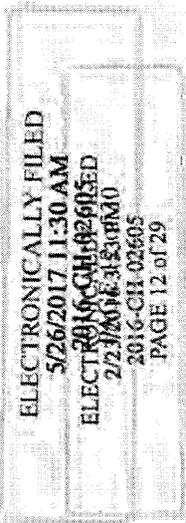
To the extent possible, notice will include:

- a. How, when and where the accident, occurrence or wrongful act took place;
- b. The names and addresses of any injured persons and witnesses;
- c. The nature and location of any loss, injury or damage arising out of the accident, occurrence or wrongful act.

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2. If a claim is made or a suit is brought against an Insured that is reasonably likely to involve this Policy, you or an Insured must notify us in writing as soon as practicable.
3. You and an Insured must:
 - a. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or suit;
 - b. Authorize us to obtain records and other information;
 - c. Cooperate with us in the investigation, settlement or defense of the claim or suit; and
 - d. Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the Insured because of loss or damage to which this insurance may also apply.
4. No Insured will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

I. Other Insurance

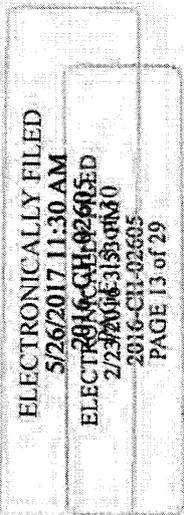
If other insurance applies to "Ultimate Net Loss" that is also covered by this Policy, this Policy will apply excess of, and will not contribute to, the other insurance. Nothing herein will be construed to make this Policy subject to the terms, conditions and limitations of such other insurance. However, other insurance does not include:

1. "Underlying Insurance";
2. Insurance that is specifically written as excess over this Policy; or
4. Insurance held by a person(s) or organization(s) qualifying as an additional insured in "Underlying Insurance", but only when the written contract or agreement between you and the additional insured requires a specific limit of insurance that is in excess of the Underlying Limits of Insurance. However, the Limits of Insurance afforded the additional insured in this paragraph shall be the lesser of the following:
 - a. The minimum limits of insurance required in the contract or agreement between you and the additional insured; or
 - b. The Limits of Insurance shown in the Declarations of this Policy.

Other insurance includes any type of self-insurance or other mechanism by which an Insured arranges for the funding of legal liabilities.

J. Premium

The first Named Insured shown in ITEM 1. of the Declarations shall be responsible for payment of all premiums when due.



The Advanced Premium shown in ITEM 6. of the Declarations is a flat premium for this Policy Period, unless Estimated Exposure, Rate Per and Audit Period are completed on the Declarations. In that case a Premium Audit Endorsement will be attached to the Policy.

Earned Premium in a Policy Period shall be subject to the Minimum Premium and the Minimum Earned Premium as stated in the Declarations, if applicable.

K. Transfer of Rights of Recovery Against Others to Us

If the Insured has rights to recover all or part of any payment we have made under this Policy, those rights are transferred to us. The Insured must do nothing after loss to impair them. At our request, the Insured will bring suit or transfer those rights to us and help us enforce them. Reimbursement of recovery(ies), minus expenses incurred by us in the process of recovery, will be first made to any interest (including the Insured) who has paid any amounts in excess of the limits of this Policy; then next to us; and then finally to all other interests (including the Insured and the underlying insurer) with respect to the remaining amounts, if any.

L. Unintentional Errors or Omissions

Your failure to disclose all hazards existing as of the inception date of this Policy shall not prejudice you with respect to the coverage afforded by this Policy provided such failure or any omission is not intentional.

M. When "Ultimate Net Loss" is Payable

Coverage under this Policy will not apply unless and until the Insured or the Insured's "Underlying Insurance" has paid or is obligated to pay the full amount of the limits of the "Underlying Insurance" scheduled in ITEM 5. of the Declarations. If other insurance applies, coverage under this Policy will not apply until the other insurance has paid or is obligated to pay the full amount of its limit of insurance.

When the "Ultimate Net Loss" is determined, we will pay on behalf of the Insured the amount of "Ultimate Net Loss" to which this insurance applies.

SECTION V. EXCLUSIONS

This insurance shall not apply to:

A. Asbestos

1. "Ultimate Net Loss" arising out of the manufacture of, mining of, use of, sale of, installation of, removal of, distribution of or exposure to asbestos, asbestos products, asbestos fibers or asbestos dust;
2. Any obligation of the Insured to indemnify any party because of damages arising out of such "Ultimate Net Loss" as a result of the manufacture of, mining of, use of, sale of, installation of, removal of, distribution of or exposure to asbestos, asbestos products, asbestos fibers or asbestos dust; or
3. Any obligation to defend any suit or claim against the Insured seeking damages, if such suit or claim arises from "Ultimate Net Loss" as a result of the manufacture of, mining of, use of, sales of, installation of, removal of, distribution of or exposure to asbestos, asbestos products, asbestos fibers or asbestos dust.

B. Auto Coverages

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"Ultimate Net Loss" arising out of or resulting from any first party physical damage coverage; no-fault law; personal injury protection or auto medical payments coverage; or uninsured or underinsured motorist law.

C. Nuclear

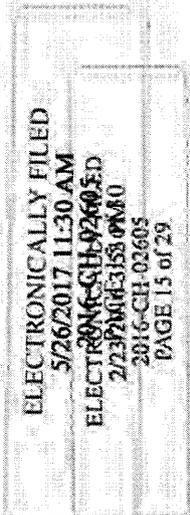
"Ultimate Net Loss":

1. a. With respect to which the Insured is also an Insured under a nuclear energy liability policy issued by Nuclear Energy Liability-Property Insurance Assoc., Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an Insured under any such policy but for its termination upon exhaustion of its limit of liability, or
 - b. Resulting from the "hazardous properties" of "Nuclear Material" and with respect to which (1) any person or any organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the Insured is, or had this Policy not been available would be, entitled to indemnity from the United States of America or any agency thereof, under any agreement entered into by the United States of America or any agency thereof, with any person or organization.
2. "Ultimate Net Loss" resulting from the hazardous properties of "Nuclear Material", if:
 - a. The "Nuclear Material" (1) is at any "nuclear facility" owned by the Insured or operated by the Insured or on the Insured's behalf, or (2) has been discharged or dispensed therefrom;
 - b. The "Nuclear Material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by the Insured or on the Insured's behalf, or
 - c. The "Ultimate Net Loss" arises out of the furnishing by the Insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "Nuclear Facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion c. applies only to property damage to such "Nuclear Facility" and any property thereat.
3. As used in this exclusion:
 - a. "Hazardous Properties" includes radioactive, toxic or explosive properties;
 - b. "Nuclear Material" means "Source Material", "Special Nuclear Material" or "By-Product Material";
 - c. "Source Material", "Special Nuclear Material" and "By-product Material" have the meanings given them in the Atomic Energy Act of 1954 or any law amendatory thereof;
 - d. "Spent Fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;
 - e. "Waste" means any waste material (1) containing "By-Product Material" and (2) resulting from the operation by any person or organization of a "Nuclear Facility" included within the definition of "Nuclear Facility" below;
 - f. "Nuclear Facility" means:

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- (1) Any nuclear reactor;
 - (2) Any equipment or device designed or used for (i) separating the isotopes of uranium or plutonium, (ii) processing or utilizing "Spent Fuel", or (iii) handling, processing or packaging wastes;
 - (3) Any equipment or device used for the processing, fabricating, or alloying of "Special Nuclear Material" if at any time the total amount of such material in the Insured's custody at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
 - (4) Any structure, basin, excavation, premises or place prepared or used for storage or disposal of waste, and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.
- g. "Nuclear Reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.
- h. "Ultimate Net Loss" includes all forms of radioactive contamination of property.

D. Pollution

- 1. "Ultimate Net Loss" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants at any time.
- 2. Loss, cost or expense arising out of any:
 - a. Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants; or
 - b. Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of pollutants.

This exclusion does not apply if valid "Underlying Insurance" for the pollution liability risks described above exists or would have existed but for the exhaustion of the applicable limits of the Underlying Insurance. Coverage provided under this Policy will follow the terms, definitions, conditions, exclusions and limitations of the First Underlying Insurance Policy(ies).

E. Workers Compensation and Similar Laws

"Ultimate Net Loss" for any obligation of the Insured under any worker's compensation, disability benefits or unemployment compensation law or any similar law.

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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

Illinois Changes – Cancellation and Nonrenewal

Policy Number: SISCPPEL01944312

Effective Date: November 01, 2012 at 12:01 A.M.

Named Insured: CITY OF CHICAGO HEIGHTS

A. SECTION IV. CONDITIONS, condition C. Cancellation is deleted in its entirety and replaced with the following:

C. Cancellation

1. The first Named Insured shown in the Declarations may cancel this Policy by mailing to us advance written notice of cancellation.
2. We may cancel this Policy by mailing to you written notice stating the reason for cancellation. If we cancel:
 - a. For nonpayment of premium, we will mail the notice at least 10 days prior to the effective date of cancellation.
 - b. For a reason other than nonpayment of premium, we will mail the notice at least:
 - (1) 30 days prior to the effective date of cancellation if the Policy has been in effect for 60 days or less.
 - (2) 60 days prior to the effective date of cancellation if the policy has been in effect for more than 60 days.
3. If this policy has been in effect for more than 60 days or is a renewal or continuation policy, we may cancel only for one or more of the following reasons:
 - a. Nonpayment of premium;
 - b. The policy was obtained through a material misrepresentation;
 - c. Any Insured has violated any of the terms and conditions of the Policy.
 - d. The risk originally accepted has measurably increased;

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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

- e. Certification to the Director of Insurance of the loss of reinsurance by the insurer that provided coverage to us for all or a substantial part of the underlying risk insured; or
 - f. A determination by the Director of Insurance that the continuation of the Policy could place us in violation of the insurance laws of this State.
4. Notice of cancellation will state the effective date of cancellation. The Policy Period will end on that date.
 5. If this Policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund will be less than pro rata. The cancellation will be effective even if we have not offered a refund.

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The following conditions are added to **SECTION IV. CONDITIONS:**

Nonrenewal

If we decide not to renew or continue this Policy, we will mail you and your agent or broker written notice, stating the reason for nonrenewal, at least 60 days before the end of the Policy Period. If we offer to renew or continue and you do not accept, this Policy will terminate at the end of the current Policy Period. Failure to pay the required renewal or continuation premium when due shall mean that you have not accepted our offer.

If we fail to mail proper written notice of nonrenewal and you obtain other insurance, this Policy will end on the effective date of that insurance.

Mailing Of Notices

We will mail cancellation and nonrenewal notices to you, and the agent or broker, at the last addresses known to us. Proof of mailing will be sufficient proof of notice.

All other terms and conditions of this Policy remain unchanged.



Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

Signed for the Company as of the Effective Date above:

Charles H. Dangelo, President

Honora M. Keane, General Counsel

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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

Auto Coverage – Exclusion of Terrorism

Policy Number: SISCPPEL01944312

Effective Date: November 01, 2012 at 12:01 A.M.

Named Insured: CITY OF CHICAGO HEIGHTS

Any endorsement addressing acts of terrorism (however defined) in any "Underlying Insurance" does not apply to this Policy.

A. The provisions of this endorsement:

1. Apply only to loss or damage arising out of the ownership, maintenance or use of any auto that is a covered auto under this Policy; and
2. Supersede the provisions of any other endorsement addressing terrorism attached to this Policy only with respect to injury or damage arising out of the ownership, maintenance or use of any auto that is a covered auto.

The following definition is added to **SECTION III. DEFINITIONS** and applies under this endorsement wherever the term terrorism is enclosed in quotation marks:

1. "Terrorism" means activities against persons, organizations or property of any nature:
 - a. That involve the following or preparation for the following:
 - (1) Use or threat of force or violence; or
 - (2) Commission or threat of a dangerous act; or
 - (3) Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
 - b. When one or both of the following applies:
 - (1) The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
 - (2) It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

XS - 341 (10/08)

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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

C. The following exclusion is added to SECTION V. EXCLUSIONS:

Exclusion of Terrorism

This insurance shall not apply to loss or damage caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". Any loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such

injury or damage. But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or
3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or
5. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
6. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
 - a. Physical injury that involves a substantial risk of death; or
 - b. Protracted and obvious physical disfigurement; or
 - c. Protracted loss of or impairment of the function of a bodily member or organ.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the thresholds in Paragraph C.5. or C.6., above are exceeded.

With respect to this exclusion, Paragraphs C.5. and C.6., above describe the threshold used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the

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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

purpose of determining whether this exclusion will apply to that incident. When the exclusion applies to an incident of "terrorism", there is no coverage under this Policy.

In the event of any incident of "terrorism" that is not subject to this exclusion, coverage does not apply to any loss or damage that is otherwise excluded under this Policy.

All other terms and conditions of this Policy remain unchanged.

Signed for the Company as of the Effective Date above:

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Charles H. Dangelo, President

Honora M. Keane, General Counsel



Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

Exclusion of Terrorism

Policy Number: SISCPPEL01944312

Effective Date: November 01, 2012 at 12:01 A.M.

Named Insured: CITY OF CHICAGO HEIGHTS

A. The following definitions are added to SECTION III. DEFINITIONS:

1. "Terrorism" means activities against persons, organizations or property of any nature:

a. That involve the following or preparation for the following:

- (1) Use or threat of force or violence; or
- (2) Commission or threat of a dangerous act; or
- (3) Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and

b. When one or both of the following applies:

- (1) The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
- (2) It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

2. "Any loss or damage" means any loss or damage covered under any Policy or "Underlying Insurance" to which this endorsement is applicable, and includes but is not limited to bodily injury, property damage, personal and advertising injury, injury or environmental damage as may be defined in any applicable Policy or "Underlying Insurance".

B. The following exclusion is added to SECTION V. EXCLUSIONS:

Terrorism

This policy shall not apply to "any loss or damage" caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". "Any loss or damage" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such loss or damage. But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":

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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or
3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or
5. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
6. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
 - a. Physical injury that involves a substantial risk of death; or
 - b. Protracted and obvious physical disfigurement; or
 - c. Protracted loss of or impairment of the function of a bodily member or organ.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the thresholds in Paragraphs B.5. or B.6. above are exceeded.

With respect to this exclusion, Paragraphs B.5. and B.6. above describe the threshold used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this exclusion will apply to that incident. When the exclusion applies to an incident of "terrorism", there is no coverage under this Policy.

In the event of any incident of "terrorism" that is not subject to this exclusion, coverage does not apply to "any loss or damage" that is otherwise excluded under this Policy.

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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

All other terms and conditions of this Policy remain unchanged.

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Signed for STARR INDEMNITY & LIABILITY COMPANY

Charles H. Dangelo, President

Honora M. Keane, General Counsel

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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

Illinois Changes – Underlying Claims – Made Coverage

Policy Number: SISPEL01944312

Effective Date: November 1, 2012 at 12:01 A.M.

Named Insured: CITY OF CHICAGO HEIGHTS

SCHEDULE

Underlying Claims-Made Coverage: Public Officials and Employment Practices Liability Retroactive Date: None Information required to complete this Schedule, if not shown above, will be shown in the Declarations of this Policy.
--

Solely with respect to a policy of Underlying Claims-Made Coverage listed in the Schedule of this endorsement, this Policy is amended as follows:

A. SECTION I. COVERAGE, paragraph A. is amended to include:

For an applicable First Underlying Insurance Policy written on a claims-made basis, this Policy will apply only to an injury, damage or event covered by the First Underlying Insurance Policy, but only if:

1. The injury, damage or event did not occur before the Retroactive Date shown in the Schedule of this endorsement, or after the end of the policy period of this Policy; and
2. A claim for loss or damage because of the injury, damage or event is first made against any Insured, during the policy period of this Policy or any Extended Reporting Period we provide under an Extended Reporting Period endorsement.
3. All claims for loss or damage to the same person or organization will be deemed to have been made at the time the first of those claims is made against any Insured.

B. The following provision is added to SECTION II. LIMITS OF INSURANCE:

The applicable Limits of Insurance of "Underlying Insurance" will only be exhausted by payments of claims, or defense expenses if the limits of the First Underlying Insurance Policy are reduced by defense expenses for that insurance, that are made during the policy period, or any Extended Reporting Period, of this Policy.

C. The following section is added to the Policy.

SECTION VI. EXTENDED REPORTING PERIOD

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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

1. Any provisions under the applicable First Underlying Insurance Policy relating to an Extended Reporting Period for which a separate premium charge is made do not apply to this Policy, unless an Extended Reporting Period is purchased under this Policy.
2. An Extended Reporting Period, consistent with the terms, conditions and duration of any Extended Reporting Period available in accordance with the terms of the applicable First Underlying Insurance Policy will be available for this Policy by endorsement, for an additional charge, if:
 - a. This Policy is cancelled or not renewed; or
 - b. This Policy is renewed or replaced with insurance that:
 - (1) Has a Retroactive Date later than the date shown in the Schedule of this endorsement; or
 - (2) Does not apply to injury, damage or events on a claims-made basis.
3. If this policy and the applicable First Underlying Insurance Policy are cancelled or not renewed and an Extended Reporting Period has been provided under the First Underlying Insurance Policy, then an Extended Reporting Period will be available for this Policy. The Extended Reporting Period available under this Policy will be consistent with the terms, conditions and duration of any Extended Reporting Period provided in accordance with the terms of the applicable First Underlying Insurance Policy.
4. You must give us a written request for the Extended Reporting Period endorsement under this Policy no later than the time allowed to purchase such endorsement under the applicable First Underlying Insurance Policy. The Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.
5. We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:
 - a. The exposures insured;
 - b. Previous types and amounts of insurance;
 - c. Limits of insurance available under this Policy for future payment of damages; and
 - d. Other related factors.

The additional premium will not exceed 200% of the annual premium for this Policy.
6. If the provisions of the Extended Reporting Period in the applicable First Underlying Insurance Policy provide for supplemental aggregate Limits of Insurance when the Extended Reporting Period is purchased, a supplementary aggregate limit of insurance, equal to the Aggregate Limit shown in the Declarations of this Policy, will apply to claims first made during the Extended Reporting Period if the Extended Reporting Period is purchased for this Policy.

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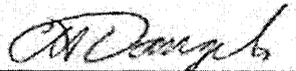
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Dallas, TX 1-866-519-2522

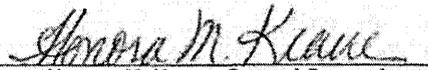
All other terms and conditions of this Policy remain unchanged.

Signed for the Company as of the Effective Date above:

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Charles H. Dangelo, President



Honora M. Keane, General Counsel



Starr Indemnity & Liability Company

C.V. Starr & Company (California) Excess Casualty Insurance Program

CLAIM REPORTING PROCEDURES

All Losses on Starr Indemnity & Liability Company Excess Liability Policies and Special Excess Liability Policy for Public Entities issued by C.V. Starr & Company (California) must be reported directly to York Claims Services at York's Claims Intake Center:

- 1. Email: 4869excessclaims@yorkrsg.com (Preferred Method)
- 2. Fax: (973) 404-1040
- 3. Telephone: 1-866-391-9675 (YORK)
- 4. Address: York Claims Services / Claims Intake
99 Cherry Hill Road
Parsippany, NJ 07054

The Following (2) Items Must Always Be Provided

- 1. C.V. Starr's York Client Code.....4869
- 2. Complete 15 Digit Policy Number, including below prefix
Starr Indemnity and Liability Company.....SISC
Starr Surplus Lines Insurance Company.....SLSC

Upon York's receipt of a first notice of loss their Claims Intake Center will assign it to an appropriate York branch office. The assigned branch office will then send an acknowledgement email to the reporting party informing them of York's assigned claim number / assigned adjuster and contact information.

For Questions / Concerns Please Contact:

- | | |
|---|---|
| Sonia Acevedo, Manager, Claims Intake Center
Sonia.Acevedo@yorkrsg.com | Tel: (973) 404-1134 |
| Maria Alford, Director of Client Relations
Maria.Alford@yorkrsg.com | Tel: (845) 831-3175
Cell: (973) 289-8586 |
| Paul Lettieri, Claim Director, Starr Adjustment
Paul.Lettieri@starrcompanies.com | Tel: (646) 227-6742
Cell: (646) 217-1258 |

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CLERK DOROTHY BROWN

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION
CLERK DOROTHY BROWN

CITY OF CHICAGO HEIGHTS, an Illinois)
Municipal Corporation, JEFFREY BOHLEN,)
SAM MANGIALARDI, ROBERT PINNOW,)
GERALDINE NARDONI, AS PERSONAL)
REPRESENTATIVE FOR NOW DECEASED)
CHARLES NARDONI, ANTHONY)
MURPHY, JOSEPH ROBUSTELLI and)
JEFFREY GOSS,)

Case No. _____

Judge _____

Plaintiffs,)

Jury Demanded

v.)

ILLINOIS UNION INSURANCE COMPANY,)
STARR INDEMNITY & LIABILITY)
COMPANY and RODELL SANDERS,)

Defendants.)

**ATTACHMENT TO COMPLAINT FOR DECLARATORY JUDGMENT,
LEGAL RELIEF AND MONETARY DAMAGES**

Exhibit 5

**Starr Indemnity and Liability Company
Excess Policy No. 100005129
Renewal of Policy No. SISCPPEL01944312
November 1, 2013 – November 1, 2014**

EXHIBIT E

EXCESS LIABILITY DECLARATIONS

Starr Indemnity & Liability Company

Dallas, Texas

Administrative Office: 399 Park Avenue, 8th Floor New York, NY 10022

POLICY NUMBER: 1000005129

RENEWAL OF: SISCEPEL01944312

PRODUCER NAME: Boyle Flagg & Seaman Inc

ADDRESS: 7941 W 171st Street
Tinley Park, IL 60477

ITEM 1. NAMED INSURED: CITY OF CHICAGO HEIGHTS

ADDRESS: 1601 Chicago Road
Chicago Heights, IL 60411

ITEM 2. POLICY PERIOD: FROM 11/01/2013 TO 11/01/2014
12:01 A.M. STANDARD TIME AT THE ADDRESS OF THE NAMED INSURED SHOWN ABOVE.

ITEM 3. COVERAGE: Commercial Excess Liability

ITEM 4. LIMITS OF INSURANCE:

The Limits of Insurance, subject to all the terms of this Policy, are:

- A. \$10,000,000 Each Occurrence
- B. \$10,000,000 Other Aggregate(s), Where Applicable
- C. \$10,000,000 Products-Completed Operations Aggregate

ITEM 5. "UNDERLYING INSURANCE"

A. First Underlying Insurance Policy(ies)

Insurer

See attached Schedule of Underlying Insurance

Policy No.

Policy Period

B. Additional Underlying Insurance Policy(ies)

Insurer

Policy No.

Policy Period

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ITEM 6. POLICY PREMIUM:

<u>Advance Premium</u> \$121,600	<u>Minimum Premium</u> N/A	<u>Minimum Earned Premium</u> \$30,400
<u>Estimated Exposure</u> N/A	<u>Rate Per</u> N/A	<u>Audit Period</u> N/A

ITEM 7. NOTICES

In the event of an accident, occurrence, wrongful act, claim or suit, that is reasonably likely to involve this Policy, send all pertinent facts to:

New claims can be reported to:

Email: 4869excessclaims@yorkrsg.com
Telephone: 1-866-391-9675
Fax: (973) 404-1040

Provide the following information when reporting a claim:

1. York Client Code: 4869
2. Policy Numbers

ITEM 8. ENDORSEMENTS ATTACHED:

<u>Title</u>	<u>Form Number</u>
Excess Liability Declarations	XS 101 D 10 08
Excess Liability Policy Schedule Of Underlying Insurance	XS 102 10 08
Excess Liability Policy Form	XS 100 10 08
Illinois Changes - Cancellation And Nonrenewal	XS 301 IL 03 09
Auto Coverage - Exclusion Of Terrorism	XS 341 10 08
Exclusion Of Terrorism	XS 346 10 08
Starr Companies Excess Casualty Program Claim Reporting Guidelines	XS CLAIMS NOTICE

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The foregoing discloses all hazards insured hereunder known to exist at the inception date of this Policy, unless otherwise stated herein by endorsement on this Policy.

COUNTERSIGNED 10/30/2013 BY 
DATE AUTHORIZED REPRESENTATIVE

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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

**Excess Liability Policy
Schedule of Underlying Insurance**

Policy Number: 1000005129	Effective Date: 11/01/2013 at 12:01 A.M.
Named Insured: CITY OF CHICAGO HEIGHTS	Issuing Company: Starr Indemnity & Liability Company

The Declarations, Schedule(s), and all terms and conditions complete this insurance Policy.

Type of Policy or Coverage and Insurer, Policy Number and Policy Period		Limits of Insurance	
A. First Underlying Insurance Policy(ies)			
Carrier:	Illinois Union Insurance Co.	Limits:	
Policy No.:	PEP G24891562 004	\$1,000,000	Each Occurrence Limit
Coverage:	GENERAL LIABILITY	\$2,000,000	General Aggregate Limit
Policy Period:	11/01/2013 to 11/01/2014	N/A	Products/Comp. Ops. Aggregate Limit
Coverage:	AUTO LIABILITY	\$1,000,000	Combined Single Limit
Policy Period:	11/01/2013 to 11/01/2014		

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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

Coverage:	PUBLIC OFFICIALS AND EPL		
Policy Period:	11/01/2013 to 11/01/2014		
		\$1,000,000	Each Claim
		\$2,000,000	Aggregate

B. Additional Underlying Insurance Policy(ies)

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Date of Issue:	10/30/2013	Authorized Representative:	
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Starr Indemnity & Liability Company

Dallas, Texas
Administrative Office: 399 Park Avenue, 8th Floor, New York, NY 10022

Excess Liability Policy

Named Insured: CITY OF CHICAGO HEIGHTS

Policy Number: 1000005129

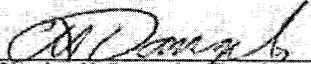
Effective Date: 11/01/2013 at 12:01 A.M.

This Policy is a legal contract between the Named Insured and Starr Indemnity & Liability Company (herein referenced as "the Company"). The Company agrees to provide insurance to the Named Insured, in exchange for the payment of the required premium. Coverage is subject to the terms and conditions described in this Policy.

This Policy and the coverage provided by it become effective at 12:01 A.M. at the address of the Named Insured on the Policy Effective Date shown above. It continues in effect in accordance with the provisions set forth in this Policy.

This Policy is governed by the laws of the state where it was delivered.

Signed for the Company as of the Effective Date above:


Charles H. Dangelo, President


Nehemiah E. Ginsburg, General Counsel

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EXCESS LIABILITY POLICY FORM

Various provisions in this Policy restrict coverage. Read the entire Policy carefully to determine rights, duties and what is and is not covered.

Throughout this Policy, the words you and your refer to the Named Insured as shown in **ITEM 1.** of the Declarations. The words we, us and our refer to the Company shown in the Declaration providing this insurance.

The word Insured means the Named Insured and any person or organization qualifying as an Insured in the First Underlying Insurance Policy(ies), but only to the extent to which such person(s) or organization(s) qualify as an Insured in the First Underlying Insurance Policy(ies) at the inception date of this Policy. Newly acquired or formed organizations must comply with **SECTION IV. CONDITIONS, D. Changes** in order to qualify for coverage.

Words and phrases that appear in quotation marks have special meaning. Refer to **SECTION III. DEFINITIONS**, or to the specific section, of this Policy where such words appear.

SECTION I. COVERAGE

- A.** We will pay on behalf of the Insured, the "Ultimate Net Loss" in excess of the "Underlying Insurance" as shown in **ITEM 5.** of the Declarations, that the Insured becomes legally obligated to pay for loss or damage to which this insurance applies and that takes place in the Coverage Territory. Except for the terms, definitions, conditions and exclusions of this Policy, the coverage provided by this Policy shall follow the terms, definitions, conditions and exclusions of the applicable First Underlying Insurance Policy(ies) shown in **ITEM 5.A.** of the Declarations.
- B.** Regardless of any other warranties, terms, conditions, exclusions or limitations of this Policy, if any applicable Underlying Insurance Policy(ies) does not cover "Ultimate Net Loss" for reasons other than exhaustion of its limit of liability by payment of claims or suits, then this Policy will not cover such "Ultimate Net Loss".
- C.** The amount we will pay for the "Ultimate Net Loss" is limited as described in **SECTION II. LIMITS OF INSURANCE.**

SECTION II. LIMITS OF INSURANCE

- A.** The Limits of Insurance shown in the Declarations and the rules below describe the most we will pay regardless of the number of:
1. insureds;
 2. Claims made or suits brought; or
 3. Persons or organizations making claims or bringing suits.
- B.** The Limits of Insurance of this Policy will apply as follows:
1. This Policy applies only in excess of the "Underlying Insurance" scheduled in **ITEM 5.** of the Declarations.
 2. If our Limits of Insurance stated in **ITEM 4.** of the Declarations are less than the total Limits of Insurance stated in **ITEM 4.** of the Declarations, then our Limits of Insurance shall be that proportion of the "Ultimate Net Loss" to which our Limits of Insurance apply to the total Limits of Insurance stated in **ITEM 4.** of the Declarations and apply only in excess of the total Limits of "Underlying Insurance" scheduled in **ITEM 5.** of the Declarations.

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3. Subject to Paragraph B.2. above, the Each Occurrence limit stated in ITEM 4.A. of the Declarations is the most we will pay for the "Ultimate Net Loss" for loss or damages arising out of any one occurrence to which this insurance applies.
4. Subject to Paragraphs B.2. and B.3. above, the limit stated in Item 4.C. of the Declarations for the Products-Completed Operations Aggregate is the most we will pay for all "Ultimate Net Loss" under the products-completed operations hazard.
5. Subject to Paragraphs B.2. and B.3. above, the Other Aggregate Limit stated in Item 4.B. of the Declarations is the most we will pay for all "Ultimate Net Loss" except "Ultimate Net Loss" covered under the products-completed operations hazard, that is subject to an aggregate limit provided by the First Underlying Insurance Policy(ies). The Other Aggregate Limit stated in ITEM 4.B. applies separately and in the same manner as the aggregate limits provided by the First Underlying Insurance Policy(ies).
6. Subject to Paragraphs B.2., B.3., B.4. and B.5. above, if the total applicable Limits of Insurance of "Underlying Insurance" scheduled in ITEM 5. of the Declarations are:
 - a. Exhausted by payment of "Ultimate Net Loss" arising solely out of a claim first made, or occurrence(s) which first took place, during the Policy Period shown in the Declarations and would be covered under the provisions of this Policy, this insurance applies in excess of such exhausted limit(s); or
 - b. Reduced or exhausted by payment of "Ultimate Net Loss" arising out of a claim which was not first made during the Policy Period shown in the Declarations, or occurrence(s) which took place before or after the Policy Period shown in the Declarations or would not be covered under the provisions of this Policy, this insurance applies as if such payments had not been made.
7. The Limits of Insurance shown in ITEM 4. of the Declarations apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the Policy Period shown in the Declarations, unless the Policy Period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the preceding period for purposes of determining the Limits of Insurance.

SECTION III. DEFINITIONS

A. "Ultimate Net Loss"

"Ultimate Net Loss" means the total sum, after reduction for all recoveries including other valid and collectible insurance, excepting only the "Underlying Insurance" scheduled under ITEM 5. of the Declarations, actually paid or payable due to a claim or suit for which you or an Insured are liable either by a settlement to which we agreed or a final judgment.

The term "Ultimate Net Loss" shall also include defense costs when such defense costs are included within the limits of insurance of any applicable "Underlying Insurance".

B. "Underlying Insurance"

"Underlying Insurance" means the Policy(ies) and/or self-insured retention identified in ITEM 5. of the Declarations. "Underlying Insurance" shall include:

1. The First Underlying Insurance Policy(ies) scheduled in ITEM 5.A. of the Declarations;

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2. Any Additional Underlying Insurance Policy(ies) scheduled in ITEM 5.B. of the Declarations; and
3. Any renewal or replacement of such Policy(ies).

SECTION IV. CONDITIONS

A. Appeals

If the Insured or underlying insurer elects not to appeal a judgment or award in excess of the limits of the "Underlying Insurance," we may do so at our expense. We will not be liable for any judgment or award that exceeds the Limits of Insurance stated in ITEM 4. of the Declarations.

B. Bankruptcy or Insolvency

Your or an Insured's bankruptcy, insolvency or inability to pay will not relieve us from our obligations under this Policy.

In the event of bankruptcy, insolvency or refusal or inability to pay, of any underlying insurer or insurer providing other insurance, the insurance afforded by this Policy will not drop down or replace such "Underlying Insurance" or other insurance, but will apply as if all limits of any "Underlying Insurance" or other insurance are fully available and collectible.

C. Cancellation

1. You may cancel this Policy. You must mail or deliver advance written notice to us stating when the cancellation is to take effect.
2. We may cancel this Policy. If we cancel because of non-payment of premium, we must mail or deliver to you not less than ten (10) days advance written notice stating when the cancellation is to take effect. If we cancel for any other reason, we must mail or deliver to you not less than thirty (30) days advance written notice stating when the cancellation is to take effect. Mailing that notice to you at your mailing address shown in ITEM 1. of the Declarations will be sufficient to prove notice.
3. The Policy Period will end on the day and hour stated in the cancellation notice.
4. If we cancel, earned premium will be calculated pro rata based on the time this Policy was in force.
5. If you cancel, earned premium will be more than a pro rata of the Advanced Premium as shown on ITEM 6. of the Declarations; it will be based on the time this Policy was in force and increased by the applicable short rate cancellation table and procedure.
6. Premium adjustment may be made at the time of cancellation or as soon as practicable thereafter but the cancellation will be effective even if we have not made or offered any refund due you. Our check or our representative's check, mailed or delivered, shall be sufficient tender of any refund due you.
7. The first Named Insured in ITEM 1. of the Declarations shall act on behalf of all other Insured(s) with respect to the giving and receiving of notice of cancellation and the receipt of any refund that may become payable under this Policy.
8. Any of these provisions that conflict with a law that controls the cancellation of the insurance in this Policy is changed by this statement to comply with that law.

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D. Changes

You must promptly notify us of any newly acquired or formed organizations, or coverage or limit changes made after the inception date of this Policy to the First Underlying Insurance Policy(ies) as scheduled in ITEM 5.A. of the Declarations.

Coverage under this Policy will apply to newly acquired or formed organizations only if we endorse the organization as an Insured onto this Policy. Any newly acquired or formed organizations endorsed onto this Policy may be subject to an additional premium and to a premium audit.

E. Coverage Territory

Any claim or suit for loss or damage occurring within the Coverage Territory must be brought within the United States of America.

Coverage Territory shall be deemed to be anywhere in the world with the exception of any country or jurisdiction which is subject to trade or other economic sanction or embargo by the United States of America.

Payments under this Policy shall only be made in full compliance with all United States of America economic or trade sanction laws or regulations, including, but not limited to, sanctions, laws and regulations administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC").

F. Defense

We have no duty to defend any claim or suit and will not be obligated to assume charge of the investigation, settlement or defense of any claim, suit or proceeding instituted against you or any Insured for loss or damages to which this insurance may apply. We will have the right and opportunity to participate or associate in the investigation, settlement or defense of any claim, suit or proceeding against you or an Insured for loss or damage to which this insurance may apply. If we exercise such right, which is at our sole discretion, we will do so at our own expense.

G. Maintenance of "Underlying Insurance"

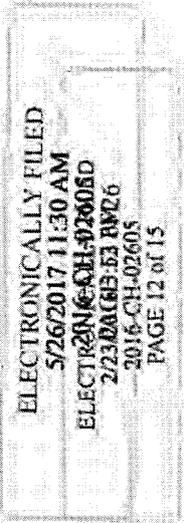
You agree to maintain all "Underlying Insurance" in full force and effect during our Policy Period stated in ITEM 2. of the Declarations, except for the reduction of the aggregate limits of the "Underlying Insurance" due to payment of claim(s) or suit(s) for loss or damage to which this insurance may apply. If you fail to comply with this condition precedent, then the insurance provided by this Policy shall only apply as though such "Underlying Insurance" had been in full force and effect by you.

H. Notification of Accidents or Occurrences

1. You or an Insured must see to it that we are notified as soon as practicable of an accident, occurrence or wrongful act which is reasonably likely to result in a claim or suit to which this insurance may apply.

To the extent possible, notice will include:

- a. How, when and where the accident, occurrence or wrongful act took place;
- b. The names and addresses of any injured persons and witnesses;
- c. The nature and location of any loss, injury or damage arising out of the accident, occurrence or wrongful act.



- 2. If a claim is made or a suit is brought against an Insured that is reasonably likely to involve this Policy, you or an Insured must notify us in writing as soon as practicable.
- 3. You and an Insured must:
 - a. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or suit;
 - b. Authorize us to obtain records and other information;
 - c. Cooperate with us in the investigation, settlement or defense of the claim or suit; and
 - d. Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the Insured because of loss or damage to which this insurance may also apply.
- 4. No Insured will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

I. Other Insurance

If other insurance applies to "Ultimate Net Loss" that is also covered by this Policy, this Policy will apply excess of, and will not contribute to, the other insurance. Nothing herein will be construed to make this Policy subject to the terms, conditions and limitations of such other insurance. However, other insurance does not include:

- 1. "Underlying Insurance";
- 2. Insurance that is specifically written as excess over this Policy; or
- 4. Insurance held by a person(s) or organization(s) qualifying as an additional insured in "Underlying Insurance", but only when the written contract or agreement between you and the additional insured requires a specific limit of insurance that is in excess of the Underlying Limits of Insurance. However, the Limits of Insurance afforded the additional insured in this paragraph shall be the lesser of the following:
 - a. The minimum limits of insurance required in the contract or agreement between you and the additional insured; or
 - b. The Limits of Insurance shown in the Declarations of this Policy.

Other insurance includes any type of self-insurance or other mechanism by which an Insured arranges for the funding of legal liabilities.

J. Premium

The first Named Insured shown in ITEM 1. of the Declarations shall be responsible for payment of all premiums when due.

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The Advanced Premium shown in ITEM 6. of the Declarations is a flat premium for this Policy Period, unless Estimated Exposure, Rate Per and Audit Period are completed on the Declarations. In that case a Premium Audit Endorsement will be attached to the Policy.

Earned Premium in a Policy Period shall be subject to the Minimum Premium and the Minimum Earned Premium as stated in the Declarations, if applicable.

K. Transfer of Rights of Recovery Against Others to Us

If the Insured has rights to recover all or part of any payment we have made under this Policy, those rights are transferred to us. The Insured must do nothing after loss to impair them. At our request, the Insured will bring suit or transfer those rights to us and help us enforce them. Reimbursement of recovery(ies), minus expenses incurred by us in the process of recovery, will be first made to any interest (including the Insured) who has paid any amounts in excess of the limits of this Policy; then next to us; and then finally to all other interests (including the Insured and the underlying insurer) with respect to the remaining amounts, if any.

L. Unintentional Errors or Omissions

Your failure to disclose all hazards existing as of the inception date of this Policy shall not prejudice you with respect to the coverage afforded by this Policy provided such failure or any omission is not intentional.

M. When "Ultimate Net Loss" is Payable

Coverage under this Policy will not apply unless and until the Insured or the Insured's "Underlying Insurance" has paid or is obligated to pay the full amount of the limits of the "Underlying Insurance" scheduled in ITEM 5. of the Declarations. If other insurance applies, coverage under this Policy will not apply until the other insurance has paid or is obligated to pay the full amount of its limit of insurance.

When the "Ultimate Net Loss" is determined, we will pay on behalf of the Insured the amount of "Ultimate Net Loss" to which this insurance applies.

SECTION V. EXCLUSIONS

This insurance shall not apply to:

A. Asbestos

1. "Ultimate Net Loss" arising out of the manufacture of, mining of, use of, sale of, installation of, removal of, distribution of or exposure to asbestos, asbestos products, asbestos fibers or asbestos dust;
2. Any obligation of the Insured to indemnify any party because of damages arising out of such "Ultimate Net Loss" as a result of the manufacture of, mining of, use of, sale of, installation of, removal of, distribution of or exposure to asbestos, asbestos products, asbestos fibers or asbestos dust; or
3. Any obligation to defend any suit or claim against the Insured seeking damages, if such suit or claim arises from "Ultimate Net Loss" as a result of the manufacture of, mining of, use of, sales of, installation of, removal of, distribution of or exposure to asbestos, asbestos products, asbestos fibers or asbestos dust.

B. Auto Coverages

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"Ultimate Net Loss" arising out of or resulting from any first party physical damage coverage; no-fault law; personal injury protection or auto medical payments coverage; or uninsured or underinsured motorist law.

C. Nuclear

"Ultimate Net Loss"

1. a. With respect to which the Insured is also an Insured under a nuclear energy liability policy issued by Nuclear Energy Liability-Property Insurance Assoc., Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an Insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - b. Resulting from the "hazardous properties" of "Nuclear Material" and with respect to which (1) any person or any organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the Insured is, or had this Policy not been available would be, entitled to indemnity from the United States of America or any agency thereof, under any agreement entered into by the United States of America or any agency thereof, with any person or organization.
2. "Ultimate Net Loss" resulting from the hazardous properties of "Nuclear Material", if:
 - a. The "Nuclear Material" (1) is at any "nuclear facility" owned by the Insured or operated by the Insured or on the Insured's behalf, or (2) has been discharged or dispensed therefrom;
 - b. The "Nuclear Material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by the Insured or on the Insured's behalf, or
 - c. The "Ultimate Net Loss" arises out of the furnishing by the Insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "Nuclear Facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion c. applies only to property damage to such "Nuclear Facility" and any property thereat.
3. As used in this exclusion:
 - a. "Hazardous Properties" includes radioactive, toxic or explosive properties;
 - b. "Nuclear Material" means "Source Material", "Special Nuclear Material" or "By-Product Material;"
 - c. "Source Material", "Special Nuclear Material" and "By-product Material" have the meanings given them in the Atomic Energy Act of 1954 or any law amendatory thereof;
 - d. "Spent Fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;
 - e. "Waste" means any waste material (1) containing "By-Product Material" and (2) resulting from the operation by any person or organization of a "Nuclear Facility" included within the definition of "Nuclear Facility" below;
 - f. "Nuclear Facility" means:

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CLERK DOROTHY BROWN

- (1) Any nuclear reactor;
 - (2) Any equipment or device designed or used for (i) separating the isotopes of uranium or plutonium, (ii) processing or utilizing "Spent Fuel", or (iii) handling, processing or packaging wastes;
 - (3) Any equipment or device used for the processing, fabricating, or alloying of "Special Nuclear Material" if at any time the total amount of such material in the Insured's custody at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
 - (4) Any structure, basin, excavation, premises or place prepared or used for storage or disposal of waste, and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.
- g. "Nuclear Reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.
- h. "Ultimate Net Loss" includes all forms of radioactive contamination of property.

D. Pollution

- 1. "Ultimate Net Loss" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants at any time.
- 2. Loss, cost or expense arising out of any:
 - a. Request, demand, order or statutory or regulatory requirement that any Insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants; or
 - b. Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of pollutants.

This exclusion does not apply if valid "Underlying Insurance" for the pollution liability risks described above exists or would have existed but for the exhaustion of the applicable limits of the Underlying Insurance. Coverage provided under this Policy will follow the terms, definitions, conditions, exclusions and limitations of the First Underlying Insurance Policy(ies).

E. Workers Compensation and Similar Laws

"Ultimate Net Loss" for any obligation of the Insured under any worker's compensation, disability benefits or unemployment compensation law or any similar law.

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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

Illinois Changes – Cancellation and Nonrenewal

Policy Number: 1000005129

Effective Date: 11/01/2013 at 12:01 A.M.

Named Insured: CITY OF CHICAGO HEIGHTS

A. SECTION IV. CONDITIONS, condition C. Cancellation is deleted in its entirety and replaced with the following:

C. Cancellation

1. The first Named Insured shown in the Declarations may cancel this Policy by mailing to us advance written notice of cancellation.
2. We may cancel this Policy by mailing to you written notice stating the reason for cancellation. If we cancel:
 - a. For nonpayment of premium, we will mail the notice at least 10 days prior to the effective date of cancellation.
 - b. For a reason other than nonpayment of premium, we will mail the notice at least:
 - (1) 30 days prior to the effective date of cancellation if the Policy has been in effect for 60 days or less.
 - (2) 60 days prior to the effective date of cancellation if the policy has been in effect for more than 60 days.
3. If this policy has been in effect for more than 60 days or is a renewal or continuation policy, we may cancel only for one or more of the following reasons:
 - a. Nonpayment of premium;
 - b. The policy was obtained through a material misrepresentation;
 - c. Any Insured has violated any of the terms and conditions of the Policy;
 - d. The risk originally accepted has measurably increased;

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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

- e. Certification to the Director of Insurance of the loss of reinsurance by the insurer that provided coverage to us for all or a substantial part of the underlying risk insured; or
- f. A determination by the Director of Insurance that the continuation of the Policy could place us in violation of the insurance laws of this State.

- 4. Notice of cancellation will state the effective date of cancellation. The Policy Period will end on that date.
- 5. If this Policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund will be less than pro rata. The cancellation will be effective even if we have not offered a refund.

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The following conditions are added to **SECTION IV. CONDITIONS:**

Nonrenewal

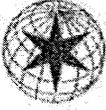
If we decide not to renew or continue this Policy, we will mail you and your agent or broker written notice, stating the reason for nonrenewal, at least 60 days before the end of the Policy Period. If we offer to renew or continue and you do not accept, this Policy will terminate at the end of the current Policy Period. Failure to pay the required renewal or continuation premium when due shall mean that you have not accepted our offer.

If we fail to mail proper written notice of nonrenewal and you obtain other insurance, this Policy will end on the effective date of that insurance.

Mailing Of Notices

We will mail cancellation and nonrenewal notices to you, and the agent or broker, at the last addresses known to us. Proof of mailing will be sufficient proof of notice.

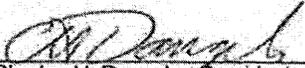
All other terms and conditions of this Policy remain unchanged.



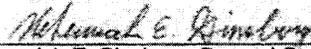
Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

Signed for the Company as of the Effective Date above:



Charles H. Dangelo, President



Nehemiah E. Ginsburg, General Counsel

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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

Auto Coverage – Exclusion of Terrorism

Policy Number: 1000005129

Effective Date: 11/01/2013 at 12:01 A.M.

Named Insured: CITY OF CHICAGO HEIGHTS

Any endorsement addressing acts of terrorism (however defined) in any "Underlying Insurance" does not apply to this Policy.

A. The provisions of this endorsement:

1. Apply only to loss or damage arising out of the ownership, maintenance or use of any auto that is a covered auto under this Policy; and
2. Supersede the provisions of any other endorsement addressing terrorism attached to this Policy only with respect to injury or damage arising out of the ownership, maintenance or use of any auto that is a covered auto.

B. The following definition is added to SECTION III. DEFINITIONS and applies under this endorsement wherever the term terrorism is enclosed in quotation marks:

1. "Terrorism" means activities against persons, organizations or property of any nature:
 - a. That involve the following or preparation for the following:
 - (1) Use or threat of force or violence; or
 - (2) Commission or threat of a dangerous act; or
 - (3) Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
 - b. When one or both of the following applies:
 - (1) The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
 - (2) It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

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Dallas, TX 1-866-519-2522

C. The following exclusion is added to SECTION V. EXCLUSIONS:

Exclusion of Terrorism

This insurance shall not apply to loss or damage caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". Any loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such

injury or damage. But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or
3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or
5. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
6. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
 - a. Physical injury that involves a substantial risk of death; or
 - b. Protracted and obvious physical disfigurement; or
 - c. Protracted loss of or impairment of the function of a bodily member or organ.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the thresholds in Paragraph C.5. or C.6. above are exceeded.

With respect to this exclusion, Paragraphs C.5. and C.6. above describe the threshold used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the

XS - 341 (10/08)

Page 2 of 3

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2/23/2016 3:31 PM
2016-CH-02605
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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

purpose of determining whether this exclusion will apply to that incident. When the exclusion applies to an incident of "terrorism", there is no coverage under this Policy.

In the event of any incident of "terrorism" that is not subject to this exclusion, coverage does not apply to any loss or damage that is otherwise excluded under this Policy.

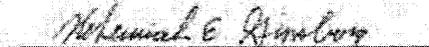
All other terms and conditions of this Policy remain unchanged.

Signed for the Company as of the Effective Date above:

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5/26/2017 11:30 AM
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2/23/2016 16:33 PM 0.6
2016-CH-02605
PAGE 7 of 11



Charles H. Dangelo, President



Nehemiah E. Ginsburg, General Counsel

**Starr Indemnity & Liability Company**

Dallas, TX 1-866-519-2522

Exclusion of Terrorism**Policy Number:** 1000005129**Effective Date:** 11/01/2013 at 12:01 A.M.**Named Insured:** CITY OF CHICAGO HEIGHTS**A. The following definitions are added to SECTION III. DEFINITIONS:****1. "Terrorism" means activities against persons, organizations or property of any nature:****a. That involve the following or preparation for the following:**

- (1) Use or threat of force or violence; or
- (2) Commission or threat of a dangerous act; or
- (3) Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and

b. When one or both of the following applies:

- (1) The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
- (2) It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

2. "Any loss or damage" means any loss or damage covered under any Policy or "Underlying Insurance" to which this endorsement is applicable, and includes but is not limited to bodily injury, property damage, personal and advertising injury, injury or environmental damage as may be defined in any applicable Policy or "Underlying Insurance".**B. The following exclusion is added to SECTION V. EXCLUSIONS:****Terrorism**

This policy shall not apply to "any loss or damage" caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". "Any loss or damage" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such loss or damage. **But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":**

XS - 346 (10/08)

Page 1 of 3

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2016-CH-02605
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Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or
3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or
5. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
6. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
 - a. Physical injury that involves a substantial risk of death; or
 - b. Protracted and obvious physical disfigurement; or
 - c. Protracted loss of or impairment of the function of a bodily member or organ.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the thresholds in Paragraphs B.5. or B.6. above are exceeded.

With respect to this exclusion, Paragraphs B.5. and B.6. above describe the threshold used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this exclusion will apply to that incident. When the exclusion applies to an incident of "terrorism", there is no coverage under this Policy.

In the event of any incident of "terrorism" that is not subject to this exclusion, coverage does not apply to "any loss or damage" that is otherwise excluded under this Policy.

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Starr Indemnity & Liability Company

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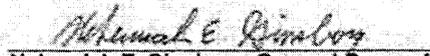
All other terms and conditions of this Policy remain unchanged.

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Signed for the Company as of the Effective Date above:



 Charles H. Dangelo, President



 Nehemiah E. Ginsburg, General Counsel



Starr Indemnity & Liability Company

CLAIM REPORTING PROCEDURES

All claims for **Starr Excess Liability Program**, regardless of severity or location should be reported to the YORK Claims Intake Center. The YORK Claims Intake Center is ready to accept new losses and provides three ways for you to submit new loss reports:

1. Email: 4869excessclaims@yorkrsg.com
2. Fax: (973) 404-1040
3. Telephone: 1-866-391-9675 (YORK)

To expedite the handling of your new claim, the following information must be provided when reporting a claim:

1. York Client Code: 4869
2. Complete Policy Numbers

The York Claims Intake Center will review all claims notices upon receipt and assign to the York handling branch office. A claim acknowledgement will then be transmitted to the designated individuals advising of the York claim number and the adjuster assigned to the claim.

Key Contacts:

Sonia Acevedo, Manager, Claims Intake Center Tel: (973) 404-1134
Sonia.acevedo@yorkisg.com

Maria Alford, Director of Client Relations Tel: (845) 831-3175
Maria.alford@yorkisg.com Cell: (973) 289-8586

Paul Lettieri, Claim Director Tel: (646) 227-6742
Paul.letteri@starrcompanies.com Cell: (646) 217-1258

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PAGE 1 of 2
CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK DOROTHY BROWN

Notice of Appeal

(10/18/17) CCA 0256 A

APPEAL TO THE APPELLATE COURT OF ILLINOIS
FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

COUNTY DEPARTMENT, CHANCERY DIVISION/DISTRICT

Rodell Sanders and the City of Chicago Heights

Plaintiff/ Appellant Appellee

v.

Illinois Union Ins. Co. and Starr Indemnity and
Liability Co.

Defendant/ Appellant Appellee

Reviewing Court No.: 1-18-0158

Circuit Court No.: 16 CH 2605

City of Chicago Heights

NOTICE OF APPEAL

(Check if applicable. See IL Sup. Ct. Rule 303(a)(3).

Joining Prior Appeal Separate Appeal Cross Appeal

Appellant's Name: City of Chicago Heights

Appellee's Name: Illinois Union & Star Indemnity

Atty. No.: 59943 Pro Se 99500

Atty. No.: To be provided Pro Se 99500

Atty Name: Paulette A. Petretti

Atty Name: To be provided by Appellees

Address: 180 N. Stetson, Suite 3100

Address: _____

City: Chicago State: IL

City: _____ State: _____

Zip: 60601

Zip: _____

Telephone: (312) 565-3100 x245

Telephone: _____

Primary Email: ppetretti@edlawyer.com

Primary Email: _____

Secondary Email: dwilliams@edlawyer.com

Secondary Email: _____

Tertiary Email: emculty@edlawyer.com

Tertiary Email: _____

An appeal is taken from the order or judgment described below:

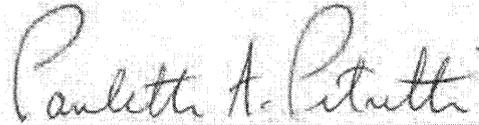
Date of the judgment/order being appealed: 1/2/18

Name of judge who entered the judgment/order being appealed: Judge Celia Gamrath

Relief sought from Reviewing Court:

Plaintiff-Appellant City of Chicago Heights appeals the Circuit Court's January 2, 2018 Opinion & Order granting
Defendants Illinois Union Ins. Co. and Starr Indem. and Liab. Co's Rule 2-619 Motion to Dismiss. Plaintiff-
Appellant asks the Appellate Court to reverse the Cir. Court's decision and remand the case for further proceedings

I understand that a "Request for Preparation of Record on Appeal" form (CCA 0025) must be completed and the initial payment of \$110 made prior to the preparation of the Record on Appeal. The Clerk's Office will not begin preparation of the ROA until the Request form and payment are received. Failure to request preparation of the ROA in a timely manner, i.e., at least 30 days before the ROA is due to the Appellate Court, may require the Appellant to file a request for extension of time with the Appellate Court. A "Request for Preparation of Supplemental Record on Appeal" form (CCA 0023) must be completed prior to the preparation of the Supplemental ROA.



To be signed by Appellant or Appellant's Attorney
Attorney for City of Chicago Heights

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2016-CH-02605
PAGE 2 of 2

Notice of Appeal

(10/18/17) CCA 0256 A

APPEAL TO THE APPELLATE COURT OF ILLINOIS
FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

COUNTY _____ DEPARTMENT, CHANCERY _____ DIVISION/DISTRICT _____

RODELL SANDERS and THE CITY OF
CHICAGO HEIGHTS

Plaintiff/ • Appellant Appellee

v.

ILLINOIS UNION INS. CO. and STARR
INDEMNITY AND LIABILITY CO.,

Defendant/ Appellant • Appellee

Reviewing Court No.: _____

Circuit Court No.: 16 CH 2605

NOTICE OF APPEAL

(Check if applicable. See IL Sup. Ct. Rule 303(a))(3).

Joining Prior Appeal Separate Appeal Cross Appeal

Appellant's Name: Rodell Sanders

• Atty. No.: 41295 Pro Se 99500

Atty Name: Russell Ainsworth of Loevy & Loevy

Address: 311 North Aberdeen, Third Floor

City: Chicago State: IL

Zip: 60515

Telephone: 312-243-5900

Primary Email: russell@loevy.com

Secondary Email: tony@loevy.com

Tertiary Email: lauren@loevy.com

Appellee's Name: _____

Atty. No.: _____ Pro Se 99500

Atty Name: _____

Address: _____

City: _____ State: _____

Zip: _____

Telephone: _____

Primary Email: _____

Secondary Email: _____

Tertiary Email: _____

An appeal is taken from the order or judgment described below:

Date of the judgment/order being appealed: 1/2/18

Name of judge who entered the judgment/order being appealed: Judge Celia Gamrath

Relief sought from Reviewing Court:

Plaintiff-Appellant Rodell Sanders appeals the circuit court's January 2, 2018 opinion and order granting Defendants Illinois Union Insurance and Starr Indemnity's motion to dismiss under Rule 2-619. Plaintiff-Appellant asks that the Appellate Court reverse the circuit court's decision and remand the case for further proceedings.

I understand that a "Request for Preparation of Record on Appeal" form (CCA 0025) must be completed and the initial payment of \$110 made prior to the preparation of the Record on Appeal. The Clerk's Office will not begin preparation of the ROA until the Request form and payment are received. Failure to request preparation of the ROA in a timely manner, i.e., at least 30 days before the ROA is due to the Appellate Court, may require the Appellant to file a request for extension of time with the Appellate Court. A "Request for Preparation of Supplemental Record on Appeal" form (CCA 0023) must be completed prior to the preparation of the Supplemental ROA.

Russell Anonorte (LL)

To be signed by Appellant or Appellant's Attorney

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1/16/2018 10:53 AM
2016-CH-02605
PAGE 2 of 2

Within five days of acceptance by the Court, the undersigned states that thirteen copies of the Brief bearing the court's file-stamp will be sent to the above court.

/s/ Agelo L. Reppas
Agelo L. Reppas

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

/s/ Agelo L. Reppas
Agelo L. Reppas