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IN THE SUPREME COURT OF FLORIDA

CASE NO. 76,800

**FILED**

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DIVERSIFIED SERVICES, INC.,  
a foreign corporation, d/b/a  
BUDGET RENT-A-CAR OF MIAMI,  
INC., a Florida corporation,  
and PALM BEACH DODGE, INC.  
a Florida corporation,

Petitioners,

vs.

ALIDA AVILA, as Personal  
Representataive of the Estate  
of EULOGIO AVILA, Deceased,

Respondent.

PETITIONERS' BRIEF ON THE MERITS

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TABLE OF CONTENTS

|  | <u>PAGE</u> |
|--|-------------|
| INTRODUCTION .....   | 1           |
| STATEMENT OF THE CASE AND FACTS .....  | 2           |
| SUMMARY OF ARGUMENT .....  | <b>7A</b>   |
| STATEMENT OF THE ISSUES  |             |
| I.    WHETHER BUDGET, A SELF-INSURER, IS SUBJECT<br>TO THE UNINSURED MOTORIST STATUTE AND REQUIRED<br>TO OFFER UNINSURED MOTORIST COVERAGE TO ITS<br>RENTERS.  |             |
| II.   ASSUMING ARGUENDO THE UNINSURED MOTORIST<br>STATUTE IS APPLICABLE TO BUDGET, WHETHER<br>BUDGET HAS TO OFFER UNINSURED MOTORIST<br>COVERAGE TO A RENTER WHERE BUDGET AS <b>A</b><br>SELF-INSURER HAD REJECTED UNINSURED MOTORIST<br>COVERAGE WITH THE BUREAU OF FINANCIAL<br>RESPONSIBILITY, DEPARTMENT OF HIGHWAY SAFETY<br>AND MOTOR VEHICLES, HAD REJECTED UNINSURED<br>MOTORIST COVERAGE IN ITS <b>EXCESS</b> LIABILITY<br>POLICY, AND HAD EXPRESSLY ADVISED <b>THE</b> RENTER<br>IN THE RENTAL AGREEMENT THAT BUDGET DID NOT<br>PROVIDE UNINSURED MOTORIST COVERAGE. |             |
| 111.  THE THIRD DISTRICT COMMITTED REVERSIBLE<br>ERROR BY FINDING THE RENTAL AGREEMENT WAS<br>AMBIGUOUS ON THE ISSUE OF WHETHER OR NOT<br>UNINSURED MOTORIST COVERAGE <b>WAS</b> BEING<br>OFFERED TO THE RENTER.   |             |
| ARGUMENT   |             |
| POINT I .....  | a           |
| POINT II .....   | <b>13</b>   |
| POINT III .....  | 17          |
| CONCLUSION .....   | 21          |
| CERTIFICATE OF SERVICE .....   | <b>22</b>   |

TABLE OF CASES

|  | <u>PAGE</u> |
|--|-------------|
| Avila v. St. Paul Fire & Marine Ins. Co.,<br>522 So.2d 397 (Fla. 3d DCA 1988) .....                                  | 3           |
| Bella Vista, Inc. v. Interior & Exterior<br>Specialties, Co., Inc.,<br>436 So.2d 1107 (Fla. 4th DCA 1983) .....      | 18          |
| Euardado v. Greyhound Rent-A-Car, Inc.,<br>340 So.2d 510 (Fla. 3d DCA 1976) .....                                    | 8,15,16     |
| Kohly v. Royal Indemnity Company,<br>190 So.2d 819 (Fla. 3d DCA 1966),<br>cert. den, 200 So.2d 813 (Fla. 1967) ..... | 16          |
| Lipof v. Florida Power & Light company,<br>558 So.2d 1067 (Fla. 4th DCA 1990) .....                                  | 11          |
| McKenzie v. Avis Rent-A-Car System, Inc.,<br>369 So.2d 647 (Fla. 3d DCA 1979) .....                                  | 16          |
| Morpurgo v. Greyhound Rent-A-Car Inc.,<br>339 So.2d 718 (Fla. 1st DCA 1976) .....                                    | 8,15,16     |
| Mountain States Tel. & Tel. Co. v.<br>Aetna Casualty & Surety Co.,<br>116 Ariz. 225, 568 P.2d 1123 (App. 1977) ..... | 10          |
| Newkirk Construction v. Gulf County,<br>366 So.2d 813 (Fla. 1st DCA 1979) .....                                      | 18          |
| O'Sullivan v. Salvation Army,<br>85 Cal.App.3d 58, 147 Cal.Rptr. 729<br>(Second Dist. 1978) .....                    | 10          |
| Robinson v. Hertz Corp.,<br>489 N.E.2d 332, 333 (Ill.3d DCA 1986) .....  | 10          |
| Shelton v. American Re-Insurance Company,<br>210 Va. 655, 173 S.E.2d 820, 822-23 (1970) .....                        | 10          |

Florida Statutes

|                             |        |
|-----------------------------|--------|
| Section 324.021(7) .....    | 12,16  |
| Section 324.171 .....       | 12     |
| Section 627.727(1) .....    | 5,9,11 |
| Section 627.733(3)(b) ..... | 12,16  |

Laws of Florida

|                  |       |    |
|------------------|-------|----|
| Ch. 02-243, §544 | ..... | 9  |
| Ch. 82-386, 866  | ..... | 9  |
| Ch. 84-41, §1    | ..... | 11 |
| Ch. 86-182, §7   | ..... | 11 |

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of EULOGIO AVILA, Deceased,

Respondent.

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PETITIONERS' BRIEF ON THE MERITS

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INTRODUCTION

The parties will be referred to in the position they occupy in this Court and in their proper name. Petitioners, Diversified Services, Inc., a foreign corporation d/b/a Budget Rent-A-Car of Miami, Inc., a Florida corporation, and Palm Beach Dodge, Inc., a Florida corporation ("**Budget**"), were the appellees in the Third District and the defendants in the trial court; respondent, Alida Avila, as personal representative of the Estate of Eulogio Avila, Deceased, was the appellant in the Third District and the plaintiff in the trial court. Reference to the record-on-appeal filed in this Court will be by the use of the symbol "R" followed by the appropriate page number. Reference to Budget's appendix will be by the use of the symbol "BA" followed by the appropriate page number.

### STATEMENT OF THE CASE AND FACTS

Eulogio Avila entered into an automobile rental agreement with Budget on May 25, 1984. (R. 31-32; BA. 5-6). While driving the rental car, Avila **was** fatally injured when his rental vehicle collided with an underinsured automobile. (R. 173-74; BA. 1-2).

Alida Avila, wife of the deceased and personal representative of his estate, brought an action against Budget. (R. 174; BA. 2). In her second amended complaint, Ms. Avila alleged that Budget, in leasing the vehicle to the decedent sold him an insurance policy for liability insurance and personal injury protection without offering underinsured motorist benefits equal to the liability insurance limits or obtaining a written rejection of said underinsured motorist benefits contrary to Section 627.727(1), Fla.Stat. (1983). (R. 108).

It was alleged also that Edward Childress negligently operated a motor vehicle so that it collided with the leased motor vehicle being operated by Eulogio Avila. (R. 107). Next, it was alleged that the motor vehicle operated by Childress was owned by Lillie Collier, and that the damages sustained by the wrongful death of Eulogio Avila far exceeded the policy limits of the defendants, Childress and Collier. (R. 107-08).

In answer to plaintiff's second amended complaint, Budget filed a general denial. (R. 121). Budget stated also that there is no requirement under the financial responsibility law to provide any other coverage except proof of ability to

respond in damages for liability on account of an accident arising out of the use of a motor vehicle in certain minimum amounts. Id.

For further answer Budget stated that the rental agreement did not provide uninsured/underinsured motorist coverage to the decedent. Id. Further, Budget alleged that as "a named insured" in a comprehensive general liability policy for bodily injury liability and for property damage, it had rejected uninsured/underinsured motorist coverage. (R. 121-22), 1

Paragraphs numbered 7 and 7(a) of the Budget rental agreement provided in part:

The insurance coverage referred to in this paragraph 7 does not apply:

(a) To damages caused to any person, including Renter and driver by an uninsured motorist or uninsured motor vehicle . . .

\* \* \* \* \*

This paragraph 7 constitutes the entire agreement between BUDGET and the Renter and driver regarding the terms and conditions of the insurance provided by BUDGET to the

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1. St. Paul Fire & Marine Casualty Ins. Co. ("St. Paul"), issued an excess automobile liability insurance policy which covered Budget for each occurrence in the amount of \$900,000, above the underlying limits of \$100,000. (R. 129, 135-36, 139-47, 156). Prior to Avila's appeal to review the summary final judgment, St. Paul was dismissed from this case by the trial court based upon the exclusion in the St. Paul policy stating that no insurance is afforded for uninsured/underinsured motorist coverage. (R. 51A). An **appeal was** taken by the respondent to the District Court of Appeal of Florida, Third District, and the said final judgment of dismissal of St. Paul was affirmed without opinion. Avila v. St. Paul Fire & Marine Ins. Co., 522 So.2d 397 (Fla. 3d DCA 1988).

Renter and driver and no alteration thereof shall be valid unless agreed to by BUDGET in writing . . . .

(R. 32, 136, 157; BA. 7). 2

Also under paragraph numbered 7 of the rental agreement Budget provided personal injury protection benefits with the maximum deductible allowed by law (should personal injury protection benefits be required under the laws of the state wherein the vehicle was rented), and the renter agreed *to* accept said coverage. (R. 32, 128; BA. 7). In addition, under paragraph numbered 7, Budget agreed to provide to the renter and driver liability insurance coverage with limits of liability equal to the minimum limits required by the financial responsibility laws of the state in which the vehicle is rented. (R. 32, 128; BA. 7).

Another provision under paragraph numbered 7 stated that the liability coverage described "may be afforded, subject to the same terms, conditions, restrictions, and limitations herein described under a bond or self-insurance arrangement in

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2. The Budget rental agreement at pages 31-32 of the record and the Budget rental agreement in the appendix are the same as the Budget rental agreement that was attached to the motion for summary judgment in the trial court and considered by the appellate court. The rental agreement that was attached to the motion for summary judgment was inadvertently misplaced. The Budget rental agreement referred *to* above was also utilized by the respondent in her appendix to her initial brief in the Third District. In an abundance of caution, petitioner will file a motion for the court to allow the Budget rental agreement **set** forth at pages 31-32 of the record and in Budget's appendix to be used **as** the Budget rental agreement referred *to* in the motion for summary judgment.



lieu of, or in combination with, an automobile liability insurance policy. (R. 32, 128; BA. 7).

Budget had received a self-insurer certificate effective October 11, 1983, from the State of Florida. (R. 137).

Budget was a self-insurer up to \$100,000. (R. 129, 135, 137, 156). As a self-insurer, Budget had rejected uninsured motorist coverage by advising the Chief of the Bureau of Financial Responsibility, Department of Highway Safety and Motor Vehicles that Budget was rejecting uninsured motorist coverage. (R. 129, 138, 157).

Also, Budget as an insured under an excess policy, had rejected uninsured/underinsured motorist coverage as appears in the uninsured/underinsured motorist exclusion endorsement in the St. Paul policy. (R. 129-30, 136, 145).

Subsequently, Budget filed its motion for summary judgment with an accompanying affidavit and exhibits. (R. 127-147). After argument on the motion for summary judgment, the trial court granted the motion and entered a summary final judgment. (R. 171-72). Ms. Avila sought review of the summary final judgment in the Third District.

In the opinion, the Third District stated that the issues raised by the appellant are whether the lessor, a self-insurer who sold insurance coverage to the deceased, was required to offer uninsured motorist coverage up to the limits of liability coverage pursuant to Section 627.727(1), Florida

Statutes, and whether the contract drafted by the lessor for the rental and insurance coverage was ambiguous on the coverage issue, thus precluding a summary judgment without consideration of parole evidence. (R. 174; BA. 2).

Concerning the alleged ambiguity in the rental agreement, the Third District stated that the face of the rental agreement reflected that the deceased paid a premium for "Damage Waiver" insurance and for "Personal Accident Insurance" in the amount of \$150,000 as described in a separate certificate of insurance which is "available on request." Id. Then, the Court added:

Although a provision on the reverse side of the agreement declares that the insurance described on the front does not include uninsured motorist coverage, and that it is the entire agreement between the parties, that language is qualified by another provision which nullifies its conclusive effect where an alteration is agreed to by Budget in writing, or the paragraph or portions of the paragraph are unlawful or in conflict with public policy.

(R. 174-75; BA. 2-3).

The Court went on to state that there was a material issue of fact whether the lessee purchased, or had good reason to believe that he was purchasing a policy that would provide benefits in the event of a collision with an uninsured vehicle.

(R. 175; BA. 3).

Budget adverts now to Avila's issue as to whether Budget, **as a** self-insurer, was held to all the obligations of

an insurer including a statutory duty to offer uninsured motorist coverage as part of the sale of liability insurance. (R. 174-75; BA. 2-3).

Regarding the question of whether a self-insurer has the duty to offer uninsured motorist coverage, the Third District found that a legal issue, not specifically addressed by the trial court, was whether the lessor, as a self-insurer up to the first \$100,000, was insulated from a duty to provide uninsured motorist coverage through its lessee by virtue of a rejection of such coverage with its excess carrier. (R. 175-76; BA. 3-4). Thus, the Third District held there is a statutory duty on the part of Budget, a self-insurer to provide uninsured motorist coverage unless insulated from such duty by a rejection of uninsured motorist coverage with its **excess** carrier. (R. 175-76; BA. 3-4).

Additionally, the Third District considered the rental agreement to be an insurance policy by referring to the agreement as a "policy" several times. (R. 174-75; BA. 2-3).

Following the Third District's reversal, a notice to invoke the discretionary jurisdiction of this Court was filed by petitioner, and the Court accepted jurisdiction.

## SUMMARY OF ARGUMENT

### I

Although the Florida District Courts of **Appeal** have repeatedly held that a car rental agency that is a self-insurer may reject uninsured motorist coverage without notification to the renter of the automobile, those cases, however, do not **expressly** consider the issue of whether the uninsured motorist statute is applicable to a self-insurer.

The uninsured motorist statute provides in pertinent part that no motor vehicle liability insurance policy shall be delivered or issued for delivery in this State unless uninsured motor vehicle coverage is provided.

Several jurisdictions that have considered the issue of whether or not their uninsured motorist statutes (with similar language to the Florida statute) are applicable to a self-insurer have held that self-insurers are issued certificates of self-insurance and, therefore, are not subject to the uninsured motorist statute in that a certificate of insurance is not a policy of insurance.

In Florida an automobile rental agency that is self-insured and rents motor vehicles on a daily basis does not fall within the purview of Section 627.727(1), Fla.Stat. (1983), requiring a motor vehicle liability insurance policy to provide uninsured motor vehicle coverage, since a certificate of self-insurance does not constitute a policy of insurance.

## II

In the event that the uninsured motorist statute applies, Budget, as a self-insurer rejected uninsured motorist coverage with the State Bureau of Financial Responsibility, Department of Highway Safety and Motor Vehicles.

In addition, Budget rejected uninsured motorist coverage with its third party excess liability policy.

Significantly, Budget's rental agreement executed by the decedent expressly provided **the** insurance coverage **does** not **apply** to damages caused *to* any person, including renter and driver by an uninsured motorist or uninsured motor vehicle.

In addition to **all of** the foregoing, the Budget insurance director executed an affidavit with exhibits that Budget is a self-insurer, has rejected uninsured motorist coverage as a self-insurer and has rejected uninsured/under-insured motorist coverage with its excess third party liability carrier.

Further, there are several cases where an automobile rental company, which is a self-insurer, unbeknownst to the renter qualified **as** a self-insurer and filed a notice of rejection of uninsured motorist coverage with the State. The appellate courts have unanimously held **that** the rental agency is not required to give notice to the lessee that the company was a self-insurer and did not provide uninsured motorist coverage.

Here, Budget's position is stronger since it gave express notice to the decedent that there was no uninsured motorist coverage.

If Budget has to provide uninsured motorist coverage, the rejection provision of the statute would be repealed by judicial fiat.

### III

As to the rental agreement being ambiguous on the issue of whether or not uninsured motorist coverage was being offered to the renter, the Third District pointed out that a premium was paid by the deceased in the rental agreement for "damage waiver" insurance and for "personal accident insurance" with a \$150,000 benefit which insurance provisions appeared on the face of the rental agreement.

The Third District admitted that a provision in the rental agreement on the reverse side declared that the insurance described on the front of the agreement does not include uninsured motorist coverage, Notwithstanding, the Third District found the provisions, which unambiguously excluded uninsured motorist coverage, were in turn qualified by language in another provision which nullified the conclusive effect of the provisions excluding uninsured motorist coverage, by providing Budget could alter the agreement in writing, or the paragraph or portions of the paragraph proscribing uninsured motorist coverage might be unlawful or in conflict with public policy.

As to the provision dealing with the alteration of the rental agreement, no alteration or modification was alleged and

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proved either orally or in writing. Respondent offered no affidavits or other evidence in proof of modification.

Based on the reasons stated herein, and upon the reasons and authorities to be stated under the points, infra, the decision of the Third District should be quashed.

Argument

POINT I

WHETHER BUDGET, A SELF-INSURER, IS SUBJECT TO THE UNINSURED MOTORIST STATUTE AND REQUIRED TO OFFER UNINSURED MOTORIST COVERAGE TO ITS RENTERS.

In several Florida cases, the appellate courts have held that a self-insurer, such as a car rental agency that unilaterally rejects uninsured motorist coverage effectively waived such coverage against the renter who suffered injuries in an accident with an uninsured motorist while occupying a vehicle rented from the self-insurer. Guardado v. Greyhound Rent-A-Car, Inc., 340 So.2d 510 (Fla. 3d DCA 1976); Morpurgo v. Greyhound Rent-A-Car, Inc., 339 So.2d 718 (Fla. 1st DCA 1976).

It appears in Morpurgo and Guardado that the courts, as well as the parties, proceeded on the assumption that the uninsured motorist statute was applicable to a self-insurer.

Even the Third District in the instant case, as noted in the statement of the case and facts, made a reference to a self-insurer's "duty to provide uninsured motorist coverage to its lessee" and made several references to the rental agreement as "the policy." (R. 174-76; BA. 2-4). Thus, the Third District, in effect, assumed that a self-insurer has the duty to provide uninsured motorist to its lessee without expressly considering the applicability of the uninsured motorist statute to a self-insurer.



Mr. Avila, the decedent, signed Budget's rental agreement on May 25, 1984, for a one-day rental. (R. 31-32; BA. 5-6).

Section 627.727(1), Fla. Stat. (1983), provided in pertinent part:

**No** motor vehicle liability insurance policy shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless uninsured motor vehicle coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting therefrom. However, the coverage required under this section shall not be applicable when, or to the extent that, any insured named in the policy shall reject the coverage in writing. When a motor vehicle is leased for a period of 1 year or longer and the lessor of such vehicle, by the terms of the lease contract, provides liability coverage on the leased vehicle in a policy wherein the lessee is a named insured or on a certificate of a master policy issued to the lessor, the lessee of such vehicle shall have the sole privilege to reject uninsured motorist coverage.

The clear, unequivocal language of the uninsured motorist statute reads that no motor liability insurance policy shall be delivered or issued in this state unless uninsured motor vehicle coverage is provided. It is interesting to note that Ch. 82-243, 6544, Laws of Florida, containing the initial words "[n]o motor vehicle liability insurance" was amended in the same year by the Legislature in Ch. 82-386, §66, Laws of

Florida, to read "[n]o motor vehicle liability insurance policy."

Several sister jurisdictions in construing the applicability of their respective uninsured motorist statutes to a self-insurer focused primarily on the fact that the uninsured motorist statute spoke in terms of "policy of insurance" while no "policy" existed in the case of a self-insurer. Since the self-insurers were issued certificates of self-insurance by the state, the self-insurer was not subject to the uninsured motorist statute, since the certificate was not a policy of insurance. Robinson v. Hertz Corp., 489 N.E.2d 332, 333 (Ill. 3d Dist. 1986); Mountain States Tel. & Tel. Co. v. Aetna Casualty & Surety Co., 116 Ariz. 225, 568 P.2d 1123 (App. 1977); O'Sullivan v. Salvation Army, 85 Cal.App.3d 58, 147 Cal.Rptr. 729 (2nd Dist. 1978); Shelton v. American Re-Insurance Company, 210 Va. 655, 173 S.E.2d 820, 822-23 (1970).

Turning to the statutory language permitting the lessee of a vehicle leased for a period of one year or longer to have the privilege of rejecting uninsured motorist coverage when there is a policy or a certificate of a master policy, the Legislature in Ch. 84-41, §1, Laws of Florida, deleted the following language concerning insurance policies relating to the leasing of motor vehicles for a period of one year or longer:

In a policy wherein the lessee is a named insured or on a certificate of a master policy issued to the lessor."

In 1986, the Legislature in Ch. 86-182, §7, Laws of Florida (1986), broadened and clarified the right of a lessee of a leased vehicle for a period of one year or longer to enjoy the sole privilege to reject uninsured motorist coverage by adding the following language: "[R]egardless of whether the lessor is qualified as a self-insurer pursuant to Section 627.727(1), Fla. Stat. (Fla.Supp. 1986).

At no time has the Legislature amended that part of Section 627.727(1), Fla. Stat. (1983), wherein the mandatory requirement that every motor vehicle liability insurance policy shall be issued or delivered providing uninsured motorist coverage.

Thus, the Legislative scheme reveals a dichotomy within the uninsured motorist statute that makes the offering of uninsured motorist coverage mandatory where the motor vehicle is leased for a period of one year or longer whether or not the lessor is a self-insurer.

On the contrary, the requirements of Section 627.727, Fla. Stat. (1983), are inapplicable to a self-insurer that rents motor vehicles for a term of less than one year.

Thus, the decision of the Fourth District in Lipof v. Florida Power & Light Co., 558 So.2d 1067 (Fla. 4th DCA 1990), is eminently correct as to the following language:

An individual self-insurer is not for most purposes an "insurer" under the Florida Insurance Code. (Citations omitted). Self-insurance is not considered a "policy" of insurance, therefore, the requirements in section 627.727, Florida Statutes (1983), are inapplicable to self-insurers. . . .

Finally, a review of the self-insurer certificate reveals that Budget has qualified under Section 324.171, Florida Statutes (1983), and by such qualifying has complied with the requirements of the Florida Financial Responsibility Law, Section 324.021(7), Florida Statutes (1983) and with personal injury protection coverage under Section 627.733(3)(b), Florida Statutes (1983). (R. 137).

There **is** simply no statutory requirement for a self-insurer, in the automobile rental business to offer a renter uninsured motorist coverage, unless the lease is for a term of one year or more.

Accordingly, it is respectfully submitted that this Court determine whether Budget, an automobile rental company, which is a self-insurer and rents vehicles on a daily basis, falls within the purview of the uninsured motorist statute. It is respectfully submitted further that this Court determine that the uninsured motorist statute is not applicable *to* Budget under the facts and circumstances of this case and quash the decision of the Third District.

POINT II

ASSUMING ARGUENDO THE UNINSURED MOTORIST STATUTE IS APPLICABLE TO BUDGET, WHETHER BUDGET HAS TO OFFER UNINSURED MOTORIST COVERAGE TO A RENTER WHERE BUDGET AS A SELF-INSURER HAD REJECTED UNINSURED MOTORIST COVERAGE WITH THE BUREAU OF FINANCIAL RESPONSIBILITY, DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES, HAD REJECTED UNINSURED MOTORIST COVERAGE IN ITS EXCESS LIABILITY POLICY, AND HAD EXPRESSLY ADVISED THE RENTER IN THE RENTAL AGREEMENT THAT BUDGET DID NOT PROVIDE UNINSURED MOTORIST COVERAGE.

The Third District stated in its opinion that an issue for the trial court to determine is "whether the lessor, as a self-insurer up to the first \$100,000 is insulated from a duty to provide uninsured motorist coverage to its lessee by virtue of a rejection of such coverage with its excess carrier." (R. 176; BA. 4). It is apparent that the Third District has implied that Budget only rejected uninsured motorist coverage in the excess policy, but failed to reject uninsured motorist coverage under its certificate of self-insurance by not notifying the State of a rejection.

On the contrary, the record reflects that on September 29, 1983, Budget notified the Chief of the Bureau of Financial Responsibility, Department of Highway Safety and Motor Vehicles, that Budget was formally rejecting uninsured motorist coverage. (R. 138; BA. 7).

In addition, Budget stated in its rental agreement concerning coverage, in paragraph numbered 7:

The insurance coverage referred to in this paragraph / does not apply:

(a) To damages caused to any person, including Renter and driver by an uninsured motorist or uninsured motor vehicle .... (emphasis added).

(R. 32, 128, 131, 136, 157; BA. 6).

Budget rejected uninsured motorist coverage in a third manner, St. Paul issued an excess automobile liability insurance policy covering Budget above the underlying limits of \$100,000 up to \$900,000 for each occurrence. (R. 135-47). The **excess** insurance policy contained an uninsured/underinsured motorist exclusion endorsement, which endorsement was signed by an officer of Budget. (R. 136, 145). This endorsement reads:

UNINSURED MOTORIST EXCLUSION

It is hereby understood and agreed that no insurance is afforded hereunder for Uninsured/Underinsured Motorist.

(R. 130, 145, 156).

An affidavit was filed by Martin Hernandez, the Director of Corporate Insurance for Budget in support of the motion for a summary judgment, (R. 135-36). Mr. Hernandez stated, inter alia, that 1) Budget is a self-insurer; 2) Budget rejected uninsured motorist coverage as a self-insurer; [pursuant to a letter dated September 29, 1983 to the Bureau of Financial Responsibility, Department of Highway Safety and Motor Vehicles]; and 3) that St. Paul's excess third-party liability policy contained an uninsured/underinsured motorist exclusion. (R. 135-38).

Turning to the Morpurgo case, the issue was whether a rental car company was required to give notice to the renter that it was a self-insurer and did not intend to provide uninsured motorist coverage.

The rental company's standard form contract contained a provision under which the rental company was to obtain and maintain insurance on the rented vehicle in the amount of \$100,000/\$300,000 for bodily injury/property damage without any specific agreement to provide any other insurance. Unbeknownst to the renter at the time the contract was signed, the rental company had qualified as a self-insurer under the Florida Financial Responsibility Law, and had executed and filed with the Florida Insurance Commissioner a notice of rejection of uninsured motorist coverage. The renter's passenger, Morpurgo, was injured in an accident involving an uninsured motorist.

The First District in Morpurgo held that the rental agency **was** not required to give notice to the lessee that the company was a self-insurer and did not provide uninsured motorist coverage.

The Third District in Guardado v. Greyhound Rent-A-Car, Inc., supra, held that a self-insured automobile lessor could effectively waive uninsured motorist coverage and that waiver was effective against the lessee, even though it was not communicated to the lessee.

In both Guardado and Morpurgo the appellate courts pointed out that the problem of uncommunicated waivers of

uninsured motorist coverage is one for legislative action and not judicial fiat. Guardado at 512; Morpurgo at 719; Kohly v. Royal Indemnity Company, 190 So.2d 819, 822 (Fla. 3d DCA 1966), cert. den. 200 So.2d 813 (Fla. 1967).

Here, the position of Budget is much stronger in that Budget gave express notice to the decedent that the insurance coverage it was providing pursuant to paragraph numbered 7 did not apply to damages caused to any person, including the renter and driver by an uninsured motorist or uninsured vehicle. Cf. MacKenzie v. Avis Rent-A-Car System, Inc., 369 So.2d 647 (Fla. 3d DCA 1979).

Quite simply, the Third District overlooked the letter rejecting uninsured motorist coverage under Budget's Certificate of Self-Insurance. (R. 138; BA. 7). Budget, as a self-insurer, and owner of the motor vehicles in question, had rejected uninsured motorist coverage.

Based on the foregoing reasons and authorities, the petitioner respectfully requests the Court to quash the decision of the Third District.



III

THE THIRD DISTRICT COMMITTED REVERSIBLE ERROR BY FINDING THE RENTAL AGREEMENT **WAS** AMBIGUOUS ON THE ISSUE OF WHETHER OR NOT UNINSURED MOTORIST COVERAGE **WAS** BEING OFFERED TO THE RENTER.

The face of the rental agreement reflects that the deceased paid a premium for "damage waiver" insurance and for "personal accident insurance" with a \$150,000 benefit as described in a separate certificate of insurance which is "available on request." (R. 31; BA. 5). The Third District stated there is another provision on the reverse side of the agreement declaring that the insurance described on the front does not include uninsured motorist coverage. (R. 32, 174; BA. 6).

Notwithstanding that the rental contract was unambiguous and that Budget had rejected uninsured motorist coverage, the Third District in order to vitiate the agreement, stated the following:

Although a provision on the reverse side of the agreement declares that the insurance described on the front **does** not include uninsured motorist coverage, and that it is the entire agreement between the parties, that language is qualified by another provision which nullifies its conclusive effect where an alteration is agreed to by Budget in writing, or the paragraph or portions of the paragraph are unlawful or in conflict with public policy.

(R. 174-75; BA. 2-3).

Turning first to the statement by the Third District that the conclusive effect of the provision that there is no uninsured motorist coverage being qualified by another provision where an alteration is agreed to by Budget in writing, is simply not supportable under the facts and circumstances of this case.

The provision on the reverse side of the rental agreement provides:

This paragraph 7 constitutes the entire agreement between BUDGET and the Renter and driver regarding the terms and conditions of the insurance provided by BUDGET to the Renter and driver and no alteration thereof shall be valid unless agreed to by BUDGET in writing.

(R. 174-75; BA. 6)

Thus, the unambiguous language of the rental agreement that insurance coverage is not provided for injuries caused by an uninsured motorist or motor vehicle may be altered, but only if agreed to in writing by Budget. (R. 174-75; BA 6).

There is not a scintilla of evidence oral or written of any agreement by Budget to alter the exclusion of uninsured motorist coverage.

Although a written contract may be modified by a subsequent oral agreement, the party alleging modification, has the burden to prove the modification. Bella Vista, Inc. v. Interior & Exterior Specialties Co., Inc., 436 So.2d 1107, 1108 (Fla. 4th DCA 1983); Newkirk Const. v. Gulf County, 366 So.2d 813, 815 (Fla. 1st DCA 1979).

Again, there is no allegation of a modification of the rental contract concerning uninsured motorist coverage, and there is not a scintilla of evidence to prove any modification of the Budget rental agreement, either orally or in writing.

The Third District attempts again to state that the conclusive language that there is no uninsured motorist coverage is nullified by the language in the contract stating:

If any provisions of this paragraph [on insurance] shall be found to be unlawful, unenforceable, or contrary to public policy, then that portion of this paragraph which is unlawful, unenforceable or contrary to public policy shall be modified to provide the minimum amount of insurance coverage necessary to comply with the law or public policy . . . .

(R. 32, 174, 175; BA. 6).

There is nothing in this record and no holding by the Third District that the exclusion of uninsured motorist coverage in the rental agreement was unlawful, unenforceable, or contrary to public policy.

Therefore, the Third District's holding that there is a material issue of fact whether the lessee purchased, or had good reason to believe that he was purchasing a policy which would provide benefits in the event of a collision with an uninsured vehicle is void of merit.

It should be noted also that personal accident insurance in the amount of \$150,000 does not constitute automobile liability insurance. Therefore, it is not necessary to produce the personal accident insurance policy in support of the summary

judgment simply because respondent contends that personal accident insurance "could include uninsured motorist coverage." (R. 175; BA. 3).

Quite plainly, if Budget, owner of the motor vehicles, can be held responsible for the payment of uninsured motorist coverage, where Budget rejected said coverage with the State; where Budget rejected said coverage in its excess liability policy; and where Budget expressly provided in its rental agreement that the insurance coverage does not apply to damages caused by an uninsured motorist or an uninsured motor vehicle, the provision for rejection of uninsured motorist coverage set forth in the statute has been repealed by judicial fiat.

Accordingly, the decision of the Third District should be quashed.

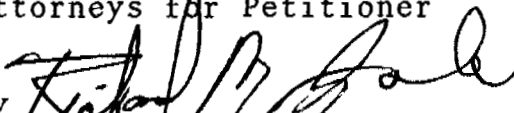
CONCLUSION

Based on the foregoing reasons and authorities, the decision of the Third District should be quashed.

Respectfully submitted,

DUBE' and WRIGHT, P.A.  
Suite 2608, New World Tower  
100 N. Biscayne Boulevard  
Miami, Florida 33132  
(305) 374-7472  
Attorneys for Petitioner

By



RICHARD M. GALE,  
Of Counsel

IN THE SUPREME COURT OF FLORIDA

CASE NO. 76,800

---

DIVERSIFIED SERVICES, INC.,  
a foreign corporation, d/b/a  
BUDGET RENT-A-CAR OF MIAMI,  
INC., a Florida corporation,  
and PALM BEACH DODGE, INC.  
a Florida corporation,

Petitioners,

vs.

ALIDA AVILA, as Personal  
Representataive of the Estate  
of EULOGIO AVILA, Deceased,

Respondent.

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PETITIONERS' APPENDIX

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DUBE' and WRIGHT, P.A.  
Suite 2608, New World Tower  
100 N. Biscayne Boulevard  
Miami, Florida 33132  
(305) 374-7472

RICHARD M. GALE,  
OF COUNSEL

Florida Bar No. 027382

Attorneys for Petitioners

NOT FINAL UNTIL TIME EXPIRES  
TO FILE REHEARING MOTION  
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JULY TERM, A.D. 1990

ALIDA AVILA, as personal  
representative of the Estate  
of EUGLOGIO AVILA, deceased,  
Appellant,

\*\*

\*\*

vs.

\*\*

CASE NO. 89-1971

DIVERSIFIED SERVICES, INC., a  
foreign corporation d/b/a,  
BUDGET RENT-A-CAR OF MIAMI, INC.,  
a Florida corporation; PALM BEACH  
DODGE, INC., a Florida corpora-  
tion; UNIVERSAL CASUALTY

\*\*

\*\*

\*\*

INSURANCE COMPANY, a foreign  
corporation; FLORIDA INSURANCE  
GUARANTY ASSOCIATION; LILLIE M.  
COLLIER; EDWARD EARL CHILDRESS;  
and ST. PAUL FIRE AND MARINE  
INSURANCE COMPANY, a foreign

\*\*

\*\*

\*\*

corporation,

\*\*

\*\*

Appellants.

Opinion filed July 17, 1990.

An Appeal from the Circuit Court for Dade County,  
Mario P. Goderich, Judge.

Wilson & Rodriguez and Carlos A. Rodriguez (Fort Lauderdale),  
for Appellant.

Dube and Wright and Richard M. Gale, for Appellants.

Before HUBBART, FERGUSON and LEVY, JJ.

PER CURIAM.

Eulogio Avila entered into an Automobile Rental  
Agreement with Budget Rent-A-Car of Miami, Inc. He was fatally

BA-1

injured when his rented vehicle collided with an uninsured automobile. Alida Avila, wife of the deceased and personal representative of his estate, brought this action against the lessor alleging entitlement to uninsured motorist benefits or, alternatively, that the lessor sold liability insurance to the deceased without offering uninsured motorist coverage in violation of section 627.727(1), Florida Statutes (1989). Construing the policy, in the absence of supporting affidavits or other evidence, the trial court entered a summary judgment for the defendants. We reverse.

Two issues are raised by the appellant: (1) Whether the lessor, a self-insurer who sold insurance coverage to the deceased, was required to offer uninsured motorist coverage up to the limits of liability coverage pursuant to section 627.727(1), Florida Statutes and (2) whether the contract drafted by the lessor for the rental and insurance coverage was ambiguous on the coverage issue, thus precluding a summary judgment without a consideration of parol evidence.

The face of the Rental Agreement reflects that the deceased paid a premium for "Damage Waiver" insurance and for "Personal Accident Insurance" as described in a separate certificate of insurance which is "available on request." Although a provision on the reverse side of the agreement declares that the insurance described on the front does not include uninsured motorist coverage, and that it is the entire agreement between the parties, that language is qualified by another provision which nullifies its conclusive effect where an alteration is agreed to



8

by Budget in writing, or the paragraph or portions of the paragraph are unlawful or in conflict with public policy.

Avila contends first that the Rental Agreement is ambiguous because Personal Accident Insurance in the amount of \$150,000-- for which a premium is charged--is provided on the front of the agreement, and the coverage could include uninsured motorist coverage. The certificate of insurance was not produced by the lessor in support of its summary judgment motion. A second contention is that the lessor, as an admitted self-insurer, is held to all the obligations of an insurer including a statutory duty to offer uninsured motor vehicle coverage as part of the sale of liability insurance.

The lessor responds that (1) paragraph seven of the agreement expresses in clear terms that there is no coverage for damages caused by an uninsured motorist or an uninsured motor vehicle, (2) it did not sell liability coverage, (3) the lessor's rejection of uninsured motorist coverage in its excess policy with St. Paul Fire and Marine Insurance Company was effective to deny any uninsured motorist coverage to the deceased-lessee, and (4) the \$150,000 Personal Accident Insurance purchased by the deceased was a health insurance policy.

As already noted, the first response relies on qualified language in the policy. There is a material issue of fact whether the lessee purchased, or had good reason to believe that he was purchasing, a policy that would provide benefits in the event of a collision with an uninsured vehicle. There is also a legal issue, not specifically addressed by the trial court,

whether the lessor, as a self-insurer up to the first \$100,000, is insulated from a duty to provide uninsured motorist coverage to its lessee by virtue of a rejection of such coverage with its excess carrier. This court's opinion in Guardado v. Greyhound Rent-A-Car, Inc., 340 So.2d 510 (Fla. 3d DCA 1976), relied on by the lessor, does not answer the question.

In MacKenzie v. Avis Rent-A-Car Sys., Inc., 369 So.2d 647 (Fla. 3d DCA 1979), we held that where there is a reference in the rental agreement to another policy providing coverage without a sufficient identity of the policy, a defendant is not entitled to a summary judgment on the basis of what may or may not be a covered loss by the terms of the referenced policy. See also Riccio v. Allstate Ins. Co., 357 So.2d 420 (Fla. 3d DCA 1978) (in light of evidence that the plaintiff sought to be "fully covered" in purchase of insurance, a fact question remained for the jury on whether the defendant had complied with statute requiring that uninsured motorist coverage be provided).

Reversed and remanded for further consistent proceedings.

RENTER'S SIGNATURE ON THIS RENTAL AGREEMENT WILL BE CONSIDERED AS AUTHORIZATION FOR ANY AND ALL RENTAL CHARGES TO BE SUBMITTED TO THE APPLICABLE CREDIT CARD IMPY



75 97007 55202 7  
EULOGIO AVILA 8655

EDR  
MAY 25 2004

Budget Rent A Car System Licensee  
RENTAL AGREEMENT

DIVERSIFIED SERVICES, INC. d/b/a  
BUDGET RENT A CAR OF MIAMI  
2401 NW LeJeune Rd. P.O. Box 502261  
Miami, Florida 33150-2026  
951 NE 2nd Avenue, Miami, Florida 33132  
Phone 305-358-1808  
 MIAMI INTERNATIONAL AIRPORT  
RENTAL AGREEMENT

AMOUNT: 125.00 APPROVAL CODE: 35 CC: SR  
DATE: 05/25/04  
RENTING LOCATION: MIAMI AIRPORT  
REPLACEMENT CAR

34 CLOTH - 46

35 Annual Date Method Time MP

36 Driver: EULOGIO AVILA

37 Phone No: 3131 DOB: 05/04/43 Super Rez. No.

38 Home Address: MEYER ST

39 City: AMPA State: FL Zip: 33614

40 License No. Exp. Date: 05/04/87 State: FL

41 Firm Name: MODERN FURNITURE CO  
Firm Phone: 313 Corp. Rate No.  
Charge Card No. Res. No.  
Remarks/Agency:

|    |              |           |
|----|--------------|-----------|
| DE | RA           | 0014790   |
| 1  | Car No./Type | M412493   |
| 2  | License No.  | 9922AV    |
| 3  | Make         | ARTES 4DR |
| 4  | Time In      |           |
| 5  | Time Out     | 11:36     |
| 6  | Mileage In   |           |
| 7  | Mileage Out  | 71.0      |
| 8  | Miles Driven |           |

Local Address: 171 SW 3 RD ST Local Phone No: (305) 241-7435  
Additional Driver: ONE License No. Exp. Dt. State  
Signature: NO DAMAGE  
Car Condition: NO DAMAGE

I agree to return this vehicle on or before the date indicated due back. I will return to same location where rented unless otherwise indicated on line below Rental subject to additional fee if not returned to renting location.

I WILL RETURN VEHICLE TO: MIAMI 2601 NW LEJEUNE ROAD MIAMI FL  
DATE: 05/26/04 AUTH BY DATE

**TOTAL LIABILITY**  
I reject the Damage Waiver coverage and agree to pay BUDGET for loss or damage to vehicle (regardless of negligence) provided vehicle is operated or used in conformity with the terms and conditions of the rental agreement.

Corp. Rate \$:

Declines: [initials] Accepts: [initials]

|    |           |          |
|----|-----------|----------|
| 9  | MLS       |          |
| 10 | HRS       | \$ 1.200 |
| 11 | DVS       | \$ 30.00 |
| 12 | WKS       | \$ 0.00  |
| 13 | Rate Code | 00       |

**DAMAGE WAIVER**  
By initiating renter agrees to pay the sum indicated per day for each day or fraction thereof that this rental agreement is in effect and BUDGET agrees to waive all claims against renter for collision damage to vehicle provided it is operated or used in conformity with rental agreement.

Declines: [initials] Accepts: [initials]

|    |                              |  |
|----|------------------------------|--|
| 14 | Total Time & Mileage Charges |  |
| 15 |                              |  |
| 16 | Net time & Mileage Charges   |  |

**Personal Accident Ins.**  
\$100,000.00 With Medical  
By this acceptance renter purchases accident insurance as described in the certificate of insurance (available on request) and agrees to pay premium as shown in the adjoining column.

Declines: [initials] Accepts: [initials]

|    |                       |    |
|----|-----------------------|----|
| 17 | Intercity Fee         |    |
| 18 | Total Taxable Charges |    |
| 19 | Sales Tax             | 5% |

MINIMUM ONE DAY RENTAL: CAR MAY NOT BE DRIVEN OUTSIDE OF THE STATE OF FLORIDA. PARTS AND REPAIR CHARGES WILL NOT BE REFUNDED WITHOUT RECEIPT AND PROPER AUTHORIZATION.

DAILY RATE IS BASED ON 24 HOUR DAY: 081872. ALL PARKING AND TRAFFIC VIOLATIONS ARE SUBJECT TO FINAL AUDIT AND RESPONSIBILITY OF RENTER.

RENTER FURNISHES ALL GASOLINE INCLUDING TANK AND WILL FILL UPON RETURN TANK FULL AT TIME OF RENTAL. ALL CHARGES ARE SUBJECT TO FINAL AUDIT.

**DECLINE** [initials] **ACCEPTS** [initials]

FUEL GAUGE POSITION: FULL IN F 7/8 6/8 5/8 4/8 3/8 2/8 1/8 E

|    |                       |                 |
|----|-----------------------|-----------------|
| 20 | Personal Accident Ins |                 |
| 21 | Per Day               | \$ 2.50         |
| 22 | INTERCITY CHARGE      |                 |
| 23 | Distance Waiver       |                 |
| 24 | DATE DEPOSIT          | \$ 8.95 Par Day |
| 25 | Total Gross Charge    |                 |
| 26 | Less                  |                 |
| 27 | Less                  |                 |
| 28 | Less Deposits         |                 |

I agree to be bound by the terms and conditions on both sides of this rental agreement.

[Signature] Renter's Signature  
[Signature] EMP. NO. 4771  
Authorized BUDGET Representative Signature

TYPE OF PAYMENT: AMT. DUE BUDGET  
CUSTOMER'S INITIALS: CASH REFUND  
CORP. RATE: AMT. DUE CUSTOMER OR TRAVEL AGENT  
MAIL REFUND

|    |                                   |  |
|----|-----------------------------------|--|
| 29 | Less                              |  |
| 30 | Less                              |  |
| 31 | Less Deposits                     |  |
| 32 | AMT. DUE BUDGET                   |  |
| 33 | CASH REFUND                       |  |
| 34 | AMT. DUE CUSTOMER OR TRAVEL AGENT |  |
| 35 | MAIL REFUND                       |  |

ORIGINAL COPY

BA-5

## BUDGET RENT A CAR RENTAL AGREEMENT

BUDGET rents to Renter signing the face of this Agreement the vehicle described subject to all the terms and conditions set forth on both sides of this Rental Agreement and Renter agrees.

1. Vehicle is the property of BUDGET and is in good condition. Renter will return vehicle together with all tires and equipment in the same condition as when received, ordinary wear and tear accepted, to the PLACE and on the DATE/TIME specified or sooner upon demand by BUDGET. BUDGET may peacefully repossess the vehicle without demand at any time if it is illegally parked or used in violation of law or of the Agreement or is apparently abandoned.

2. The following restrictions are cumulative and each shall apply to every use, operation or driving of vehicle. Under no circumstances shall vehicle be used, operated or driven by any person:

- For the transportation of persons or property for hire; or
- Who has given BUDGET a false name, age or address; or
- In any race, speed test or contest or for any illegal purpose; or
- To propel, push or tow any vehicle or trailer; or
- While under the influence of intoxicants or narcotics; or
- Where the odometer of vehicle has been tampered with or disconnected; or
- By any person other than (1) the Renter who signed this agreement, or (2) any additional Renter who signed this agreement.

3. Renter will pay BUDGET on demand all charges including, but not limited to, for time, mileage (as determined by factory installed odometer) minimums, service, Damage Waiver, applicable taxes, or other charges entered on the reverse side hereof. Renter is responsible, and will reimburse BUDGET upon demand, for all loss or damage whatsoever (and regardless of negligence) to vehicle, its equipment and tools. If Renter has directed the billing for charges to another person or company, and upon being billed they shall fail to make payment, Renter will upon demand by BUDGET, promptly pay said charges.

4. Renter or the driver of vehicle shall in no event be deemed the agent or employee of BUDGET in any manner or for any purpose whatsoever.

5. BUDGET shall not be liable for loss of, or damage to, any property left, stored or transported by Renter or any other person in or upon any premises of BUDGET, any service vehicle, or any rental vehicle, either before or after the return thereof to BUDGET, whether or not said loss or damage was caused by, or related to, negligence of BUDGET, its agents or employees. Renter assumes all risk of such loss or damage and waives all claims against BUDGET by reason thereof, and Renter agrees to hold BUDGET harmless from, and to defend and indemnify BUDGET against, all claims based upon or arising out of such loss or damage.

6. Renter agrees to lock the ignition and doors to said vehicle, secure all windows, and remove the keys from the vehicle when it is unattended.

7. BUDGET will provide personal injury protection benefits with the maximum deductible allowed by law (should personal injury protection benefits be required under the laws of the state wherein the vehicle was rented), and Renter does hereby agree to accept said coverage. BUDGET also agrees to provide, to Renter and driver, liability insurance coverage with limits of liability equal to the minimum limits required by the financial responsibility law of the State in which the vehicle is rented. As a condition for this coverage, Renter and driver agree to comply with, and be bound by, all terms, conditions, limitations, and instructions related to said coverage, and deliver to BUDGET every process, pleading or paper of any kind relating to any claim, suit or proceeding received by Renter or driver in connection with any accident or occurrence. Said coverage further requires that Renter and driver shall not aid or abet the assertion of any claim, and shall cooperate with BUDGET and insurer in the investigation and defense of any claim or suit.

In states where permitted by law or regulation (and to the extent so permitted) the liability coverage described above may be afforded, subject to the same terms, conditions, restrictions and limitations herein-described, under a bond or self-insurance arrangement in lieu of, or in combination with, an automobile liability insurance policy.

The insurance coverage referred to in this paragraph 7 does not apply

- To damages caused to any person, including Renter and driver, by an uninsured motorist or uninsured motor vehicle, or for medical expenses incurred by persons sustaining injuries while riding in or on, entering or leaving, the rented vehicle; or
- To any obligation for which Renter or the driver of vehicle, or any insurance carrier as his insurer, may be held liable under any worker's compensation, unemployment compensation, or disability benefits law, or any similar law; or
- To any liability assumed by Renter or by any driver of vehicle under any contract of whatsoever nature; or
- To damage or destruction of property owned by, rented to, in charge of, or transported by, Renter or the driver; or
- While said vehicle is used, driven or operated in violation of the provisions of paragraph 2 (a), (b), (c), (d), (e), (f), or (g), hereof.

This paragraph 7 constitutes the entire agreement between BUDGET and the Renter and driver regarding the terms and conditions of the insurance provided by BUDGET to the Renter and driver and no alteration thereof shall be valid unless agreed to by BUDGET, in writing. If any provisions of this paragraph shall be found to be unlawful, unenforceable, or contrary to public policy, then that portion of this paragraph which is unlawful, unenforceable, or contrary to public policy shall be modified to provide the minimum amount of insurance coverage necessary to comply with the law or public policy, and the remainder of this paragraph shall remain in full force and effect.

8. Renter agrees to pay all costs, expenses and attorney's fees incurred by BUDGET in collecting sums due or in regaining possession of vehicle or in enforcing or recovering any damages, losses or claims, against Renter.

9. If vehicle has been rented by any person who has given to BUDGET a false or a fictitious name, address, or business affiliation, or if Renter fails or refuses to return vehicle to BUDGET within 48 hours following demand upon Renter by BUDGET (which demand shall be deemed delivered to Renter by the deposit of a registered or certified letter in any U.S. mail box addressed to either residence or business address of Renter, as shown on the reverse side hereof), Renter shall be conclusively presumed to be in unlawful possession of said vehicle and under such circumstances, Renter or any releases and discharges BUDGET from any and all claims, suits or demands of every kind or nature whatsoever arising out of, or relating to, any alleged false arrest, false imprisonment, false detention, defamation of character, assault, malicious prosecution, trespass or invasion of civil rights, and in out of, or relating to, the issuance of a warrant for the arrest of Renter, or any person operating vehicle, or arising out of, or relating to any other action by BUDGET, including, but not limited to, self-help which BUDGET deems necessary in order to effect the return of vehicle, or the collection of monies due BUDGET pursuant to the terms of this Rental Agreement.

10. Renter shall be responsible for, and shall pay all fines, penalties and forfeitures imposed for parking or traffic violations, including reasonable attorney's fees, which are incurred while the vehicle is rented to the Renter.

11. No rights of BUDGET under this Rental Agreement may be waived unless in writing and signed or initialed by BUDGET.

### 12. VEHICLE SHALL NOT BE DRIVEN OUTSIDE THE STATE OF FLORIDA, OR OTHERWISE REMOVED.

- If vehicle is driven out of the State of Florida, a charge of \$ 50 (fifty cents) per mile for all miles driven during the entire rental period will be due BUDGET. This charge shall be in addition to the rates agreed upon by Renter at time of rental.

13. This Agreement shall be construed in accordance with, and shall be governed by, the laws of the State wherein the vehicle was rented. Any provision hereof found to be invalid, unenforceable or illegal shall be severable and shall not affect the validity of the remaining portions hereof.

**FOR SERVICE OR IN CASE OF ACCIDENT CALL 305-871-3053.**

**AUTHORIZATION MUST BE OBTAINED PRIOR TO REPAIRS**

**IT IS IMPORTANT FOR YOUR PROTECTION THAT YOU DO NOT SURRENDER THIS COPY.**

This is your only record of this transaction. If payment is made in cash, this is your receipt.

This copy serves as vehicle registration while you are in possession of the vehicle.

**YOU MUST PRESENT THIS COPY OF RENTAL AGREEMENT AT TIME OF CHECK-IN**

BA-6

PREDDY, KUTNER & HARDY

ATTORNEYS AT LAW

L. NORTON PREDDY  
ARNO KUTNER  
C. JACK HARDY  
EDWARD G. RUBINOFF  
TIMOTHY G. ANAGNOST  
STEPHEN T. BROWN  
JOHN A. THOMPSON, JR.  
GLENN P. FALK  
MICHAEL J. PARENTI, III  
JOEL A. RAFLAN  
CHARLES W. RICE  
HOWARD K. CHERNA  
PAUL FREEDMAN  
G. WILLIAM BISSETT  
MARK D. TUCKER  
ROBIN S. TAYLOR

TWELFTH FLOOR CONCORD BUILDING  
66 WEST FLAGLER STREET  
MIAMI, FLORIDA 33130  
MIAMI (305) 358-8200  
HOWARD (305) 452-6377

September 29, 1983

CERTIFIED MAIL #P 273 422 574  
RETURN RECEIPT REQUESTED

Mr. Ralph Cobb, Jr.  
Bureau Chief, Financial Responsibility  
Department of Highway Safety & Motor Vehicles  
Neil Kirkman Building  
Tallahassee, Florida 32301

Re: Diversified Services, Inc. d/b/a Budget Rent-A-Car of Miami  
Diversified Services, Inc. d/b/a Budget Rent-A-Car of West  
Palm Beach  
Self-Insurance Certificate #304  
Our File: 14967 ER

Dear Mr. Cobb:

Pursuant to Florida Statute 627.727, please accept this letter as formal rejection by Diversified Services, Inc. d/b/a Budget Rent-A-Car of Miami and Diversified Services, Inc. d/b/a Budget Rent-A-Car of West Palm Beach of uninsured motorist coverage (Self-Insurance Certificate #304).

We would appreciate you issuing a new certificate which reflects the above-referenced rejection of uninsured motorist coverage and forwarding it directly to:

Mr. Ronald E. Lazarus  
General Manager, Florida Operations  
Diversified Services, Inc. d/b/a Budget Rent-A-Car  
P. O. Box 592263  
Miami, Florida 33159

If there are any questions, please do not hesitate to contact the undersigned.

Thank you for your cooperation and attention to this matter.

Very truly yours,

EDWARD G. RUBINOFF

Edward G. Rubinoff

EGR/lac

cc

Ronald E. Lazarus

THIS COPY FOR

BA-1