

Am I Covered When I Rent a Car?

Ted A. Kinney, CIC CPCU ARM AAI
Kinney Training & Consulting, LLC
Dublin, OH

1

Sample Rental Car Contract (Budget)

- * Definitions or conditions
 - * Vehicle – includes tires, tools, equipment and accessories – no warranty of merchantability is expressed or applied
 - * Vehicle return – renter must return the vehicle in the same operating condition
 - * Repossession of vehicle – the vehicle may be repossessed at the renters cost if not returned by the due date, is illegally parked, used in violation of the law, is abandoned, or if the renter gave false or misleading information at the time of rental
 - * Authorized drivers – the renter and listed authorized drivers

2

Sample Rental Car Contract (Budget)

- * “Use restrictions”
 - * Operation by an unauthorized driver
 - * Operation in a wanton or willful manner – reckless conduct
 - * Operation under the influence of alcohol or drugs or other substances that would impair driving ability
 - * Operation in any felony act including transportation of drugs or contraband
 - * Using the vehicle to tow or push anything, carry persons or property for hire, engaging in speed contests
 - * Obtaining the vehicle by fraud or misrepresentation
 - * Operation of the vehicle outside the continental U.S. without prior authorization

3

Sample Rental Car Contract (Budget)

- * "Use restrictions"
 - * Operation of the vehicle off regularly maintained roadways
 - * Using the vehicle to carry hazardous or explosive substances
 - * Transporting weight in excess of the vehicle's maximum payload capacity
 - * Using the vehicle where there is insufficient clearance of height or width
 - * Operation of a vehicle or truck by someone who does not know how to operate a stick driven vehicle
 - * Improper loading of the vehicle
 - * Leaving the keys in the vehicle or not locking or securing the vehicle

4

Sample Rental Car Contract (Budget)

- * Liability insurance
 - * Renter must have a liability policy with at least the state financial responsibility minimum
 - * Budget's insurance is excess and the limit is the state financial responsibility minimum
 - * Other liability insurance can be purchased
 - * The driver agrees to defend and indemnify the rental location and affiliates from all loss, liability and expense resulting from the use or possession of the vehicle

5

Sample Rental Car Contract (Budget)

- * Loss damage waiver
 - * Unless purchased, the renter is responsible for:
 - * The full value of loss or damage regardless of acts of nature or fault
 - * Loss of turn-back value, loss of use, attorney fees, and other related costs and expenses (e.g. storage fees, TPA fees, etc.)
 - * "Turnback" is a sales incentive that most auto manufacturers offer to fleet purchasers. Under a fleet purchase contract, manufacturers agree to buy back a rental car at a "turnback" price significantly higher than what a fleet purchaser could get by selling the auto at auction or a retail outlet. If an automobile has more than minor damage, however, the fleet purchaser loses the turnback right
 - * LDW is void if "use restrictions" are violated or if the renter does not report collision, theft or vandalism damage to the rental location and the police within 24 hours
 - * Note: The LDW/CDW may not cover all causes of loss and may be offered with deductibles or a maximum limits

6

Sample Rental Car Contract (Budget)

- * Advantages of purchasing the Loss Damage Waiver
 - * The insured can turn in the damaged vehicle and walk away – the rental company will repair it
 - * The insured is not responsible for loss of turn-back value, loss of use or other charges/expenses
 - * Protection applies regardless of the size or use of the vehicle (subject to the “use restrictions”)
 - * The insured does not have to involve his insurance company
 - * Provides protection in the event the insured does not carry physical damage coverage of a PAP

7

Coverage Under the ISO PAP

- * Liability
 - * Coverage is provided for “you” and “family members” for the ownership, maintenance or use of any auto
 - * “Insured” status is not provided to the owner of a non-owned auto (i.e. the rental car company)
 - * Remember, the rental contract requires the renter to “defend and indemnify the rental location and affiliates from all loss, liability and expense resulting from the use or possession of the vehicle”
 - * This is a contractual liability exposure, not an insurance exposure
 - * ISO does not specifically exclude contractual liability but there is a question whether the policy would respond to this requirement (some non-ISO policies do exclude contractual liability)

8

PAP Liability Insuring Agreement

- * We will pay damages for "bodily injury" or "property damage" for which any "insured" becomes legally responsible because of an auto accident. Damages include prejudgment interest awarded against the "insured". We will settle or defend, as we consider appropriate, any claim or suit asking for these damages. In addition to our limit of liability, we will pay all defense costs we incur. Our duty to settle or defend ends when our limit of liability for this coverage has been exhausted by payment of judgments or settlements. We have no duty to defend any suit or settle any claim for "bodily injury" or "property damage" not covered under this poli-cy.

9

Coverage Under the ISO PAP

- * Liability
 - * Exclusions which cause concern
 - * Property damage to property rented to the insured (this would exclude damage to the rental car)
 - * Any vehicle used for business (except private passenger auto, pickup or van or "trailer" used with a described vehicle)
 - * Vehicles with fewer than four wheels or vehicles designed for use mainly off public roads
 - * Someone who does not own or lease a vehicle should
 - * Purchase liability coverage from the rental car company; or
 - * Purchase PP 03 22 Named Non-Owner Coverage (can provide liability, medical payments, UM/UIM, and physical damage coverage)

10

Coverage Under the ISO PAP

- * Liability
 - * Exclusions which cause concern
 - * Vehicles furnished or available for regular use of "you" or "family members"
 - * When does a vehicle become furnished for available for regular use? – some carriers put a 30-day limit on coverage
 - * If the named insured or resident spouse (you) has a PAP, a PP 03 06 Extended Non-Owned Coverage – Vehicles Furnished or Available for Regular Use endorsement can be used for liability and medical payments
 - * If the named insured or resident spouse (you) does not have a PAP, or if the insured is a "family member", write PP 03 22 Non-Owner Coverage and remove the "furnished or available" exclusion

11

Coverage Under the ISO PAP

- * Medical Payments
 - * You and "family members" are covered while "occupying", or as a pedestrian struck by, a vehicle designed for use on public roads
 - * Exclusions that cause concern:
 - * Occupying any motorized vehicle with fewer than four-wheels
 - * Occupying any vehicle located for use as a residence or premises
 - * Vehicles furnished or available for your regular use or the regular use of "family members"
 - * PP 03 06 Extended Non-Owned Coverage – Vehicles Furnished or available for regular use – you
 - * PP 03 22 Named Non-Owner Coverage – family members or someone who does not own or lease a vehicle

12

Coverage Under the ISO PAP

- * Uninsured Motorists
 - * You or "family members" are covered for bodily injury if struck by the owner or operator of an "uninsured motor vehicle"
 - * No bodily injury insurance or bond
 - * To which a bodily injury liability bond or policy applies at the time of the accident. In this case its limit for bodily injury liability must be less than the minimum limit for bodily injury liability specified by the financial responsibility law of the state in which "your covered auto" is principally garaged.
 - * Unidentified hit and run vehicle – some states say direct contact not required if the facts are proved by testimony from a person not making a UM claim
 - * BI insurance or bond applies but the carrier denies coverage or is or becomes solvent

13

Coverage Under the ISO PAP

- * Coverage for Damage to Your Auto
 - * Covers direct and accidental damage to a "non-owned auto"
 - * The broadest coverage of any "your covered auto" applies to a "non-owned auto"
 - * A "non-owned auto" is:
 - * A private passenger auto, pickup truck or van, or "trailer" not owned by or furnished or available for the regular use of you or a "family member" while in the custody of or being operated by you or a "family member" (what if your insured rents a large truck to move on the weekend?)
 - * Any non-owned auto used as a temporary substitute for "your covered auto" which is out of use because of breakdown, repair, servicing, loss or destruction

14

Coverage Under the ISO PAP

- * Transportation Expenses
 - * Covers expenses for which the named insured/resident spouse are legally responsible up to \$900 (no more than \$30 a day for loss of use)
 - * Can be increased using PP 03 02 Optional Transportation Expenses Coverage endorsement
 - * The extension does not apply to "family members"

15

Coverage Under the ISO PAP

- * Coverage for Damage to Your Auto
 - * Exclusions which cause concern:
 - * "Maintenance" exclusions (wear & tear, freezing, mechanical or electrical breakdown, road damage to tires)
 - * Damage to a "trailer", camper body or motor home including facilities and equipment
 - * Custom furnishings in excess of \$1,500
 - * PP 13 18 Excess Custom Equipment Coverage can be used to increase the limit

16

Coverage for Damage to Your Auto

- * Loss payment
 - * The policy pays the lesser of the ACV (book value) or the cost to repair or replace with like kind and quality
 - * Would this replace the vehicle in the event of a total loss?
 - * Would it pay the "full value" of the vehicle?
 - * Coverage for non-owned "trailers" is \$1,500 (can't be increased)
- * Coverage territory
 - * U.S., territories and possessions, Puerto Rico and Canada
 - * International water or airspace between ports in the coverage territory
 - * What if your insured rents a car in Germany?

17

Credit Card Coverage

- * Some people feel that credit card coverage takes care of rental car contract obligations
- * Credit card coverage is for physical damage only
- * Possible credit card limitations
 - * Coverage may be excess over the renter's PAP or LDW/CDW
 - * Coverage may not be available in certain countries – e.g. Australia, Ireland, Israel, Italy, Jamaica, New Zealand

18

Credit Card Coverage

- * Certain vehicles might not be covered
 - * Expensive vehicles - \$50,000 or more
 - * Exotic cars
 - * Trucks, pickups, cargo vans, custom vans
 - * Full-sized vans
 - * Customized or modified vehicles (except for the physically handicapped)
 - * Used for hire or commercial purposes
 - * Recreational vehicles

19

Credit Card Coverage

- * Certain loss may not be covered
 - * Operation in violation of the rental contract (void if "use restrictions" are violated)
 - * Pre-existing conditions, damage, defects
 - * Operating under the influence of alcohol or drugs
 - * War or military action
 - * Intentional damage

20

Credit Card Coverage

- * Certain loss may not be covered
 - * Confiscation by an authority
 - * Freezing, mechanical or electrical breakdown
 - * Theft of or damage to tires
 - * Off-road operation of the vehicle

21

Credit Card Coverage

- * Certain charges may not be paid
 - * Value added or similar taxes
 - * Depreciation
 - * Legal fees
 - * Storage fees

22

Coverage Under the ISO BAP

- * Written to protect the named insured listed in the declarations – referred to as “you”
- * Who is an “insured”
 - * “You” for any covered “auto” as designated by the coverage symbol – for rental cars, the most pertinent symbols are
 - * 1 – Any “auto” – this would cover the named insured’s liability exposure for any “auto” (owned, leased, hired, rented, borrowed or even unknown liability exposures) – used for liability coverage only

23

Coverage Under the ISO BAP

- * Who is an “insured”
 - * “You” for any covered “auto” as designated by the coverage symbol – for rental cars, the most pertinent symbols are
 - * 8 – Only those “autos” you lease, rent, hire or borrow (except “autos” leased, hired rented or borrowed from any “employees”; partners; members of an LLC; or members of their households)
 - * 9 – Only those “autos” you do not own, lease, hire, rent or borrow that are used in connection with your business (including “autos” owned by “employees”; partners; members of an LLC; or members of their households only while used in your business or personal affairs)

24

Coverage Under the ISO BAP

- * Have you ever had a hired auto claim paid on an unendorsed BAP?
- * CA 20 54 Employee Hired Autos Endorsement
 - * Provides coverage for employees who rent autos in their own name, while performing duties related to the business of their employer
 - * Provides primary liability coverage
 - * Can provide physical damage coverage if symbol 8 is used for physical damage

25

Coverage Under the ISO BAP

- * "Auto" means a land motor vehicle, "trailer" or semi-trailer designed for travel on public roads; or any other vehicle subject to auto insurance laws where it is licensed or principally garaged
- * "Trailer" includes semi-trailer

26

Coverage Under the ISO BAP

- * Who is an "insured"
 - * Any one else using with your permission a covered "auto" you own, hire or borrow except:
 - * The owner or anyone else from whom you hire or borrow a covered "auto" unless it is a "trailer" connected to a covered "auto" you own (the rental company is not an "insured")
 - * Anyone liable for the conduct of an "insured" but only to the extent of that liability (vicarious liability)
 - * CA 20 48 – Designated Insured endorsement

27

Coverage Under the ISO BAP

- * Automatic Liability coverage for:
 - * "Trailers" with a GVW rating of 3,000 pounds or less designed primarily for travel on public roads

28

Coverage Under the ISO BAP

- * Automatic Liability coverage for:
 - * Temporary substitute "autos" – "autos" you do not own while used with permission of the owner as a temporary substitute for a covered "auto" that is out of service because of its:
 - * Breakdown
 - * Repair
 - * Servicing
 - * Loss, or
 - * Destruction
 - * There is no physical damage coverage unless Symbol 8 – physical damage is written

29

Coverage Under the ISO BAP

- * Liability exclusions
 - * Contractual liability
 - * No coverage for liability assumed in a contract or agreement except
 - * Liability assumed in an "insured contract"; or
 - * Liability the "insured" would have in absence of the contract or agreement

30

Coverage Under the ISO BAP

- * Liability exclusions
 - * Contractual liability
 - * The definition of “insured contract” includes 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 “auto” (except to the extent it obligates you or an “employee” to pay for “property damage” to the rented or leased “auto”)

31

Coverage Under the ISO BAP

- * Liability exclusions
 - * “Property damage” to or “covered pollution cost or expense” for property in the “insured’s” care, custody or control

32

Some Questions to Ask When a Client Calls Regarding Rental Cars

- * What type of vehicle are you renting?
- * Is the vehicle being used for pleasure or business use?
- * Where will you be renting or using the vehicle?
- * How long will you be renting the vehicle?
- * What types of expenses does the rental car contract obligate you to pay?
- * Who will be driving the vehicle?

33

Some Questions to Ask When a Client Calls Regarding Rental Cars

- * Will the vehicle be rented in the name of an individual or a business?
- * Are you aware of the rental contract's "use restrictions"?
- * Do you understand the advantages of purchasing the rental company's "loss damage waiver"?
- * Are you relying on your credit card to provide coverage?
- * This is not an exhaustive list of questions – it is important to understand that insurance policies, rental car contracts and credit cards provide widely varying coverage

34



35
