STATE OF MICHIGAN

COURT OF APPEALS

SHERRY LYNN SPEARS,

Plaintiff/Counter-Defendant-Appellant,

v

CNA INSURANCE COMPANY, d/b/a CONTINENTAL INSURANCE COMPANY,

Defendant/Counter-Plaintiff-Appellee,

and

CHRISTOPHER KOVAC,

Defendant.

UNPUBLISHED
July 26, 2002

No. 231103
Washtenaw Circuit Court
LC No. 00-000290-NO

Before: Murray, P.J., and Sawyer and Zahra, JJ.

PER CURIAM.

Plaintiff claims an appeal from the trial court's order granting defendant's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff owned a vehicle that was insured under a policy issued by defendant. The policy included uninsured motorist coverage. Plaintiff was inside a gas station paying for her purchase when she saw defendant Christopher Kovac entering her vehicle. Plaintiff reached her vehicle and grabbed the outside mirror; however, she fell to the ground and was run over as the vehicle left the station. Plaintiff sustained severe injuries in the incident.

Plaintiff filed suit seeking payment of uninsured motorist benefits. Defendant moved for summary disposition pursuant to MCR 2.116(C)(8), arguing that plaintiff did not state a claim on which relief could be granted because her injuries were not caused by the operator of an "uninsured motor vehicle" as that term was defined by the policy. The trial court granted the motion, finding that while plaintiff was a "covered person" as defined by the policy, her vehicle was not an "uninsured motor vehicle" as defined by the policy.

We review a trial court's decision on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

An insurance contract should be read as a whole and meaning given to all terms. *Auto-Owners Ins Co v Churchman*, 440 Mich 560, 566; 489 NW2d 431 (1992). An insurance contract is clear and unambiguous if it fairly admits of but one interpretation. *Farm Bureau Mutual Ins Co v Nikkel*, 460 Mich 558, 567; 596 NW2d 915 (1999). If the language of an insurance contract is clear, its construction is a question of law for the court. *Henderson v State Farm Fire & Casualty Co*, 460 Mich 348, 353; 596 NW2d 190 (1999). An insurance contract is ambiguous if, after reading the entire contract, its language can be reasonably understood in different ways. *Nikkel, supra*, 566-567. Ambiguities are to be construed against the insurer. *State Farm Mutual Auto Ins Co v Enterprise Leasing Co*, 452 Mich 25, 38; 549 NW2d 345 (1996). Similarly, exclusionary clauses are to be strictly construed against the insurer. *Fire Ins Exchange v Diehl*, 450 Mich 678, 687; 545 NW2d 602 (1996).

Plaintiff argues that the trial court erred by granting defendant's motion for summary disposition. She asserts that defendant created an ambiguity in the policy by providing coverage if the insured was struck by her own vehicle but carried uninsured motorist coverage, but then excluding a vehicle owned by the insured or insured under the policy from the definition of an "uninsured motor vehicle." We disagree and affirm.

Under defendant's policy, the entitlement to uninsured motorist benefits required both that the claimant be a "covered person" as that term was defined by the policy and that the vehicle involved be an "uninsured motor vehicle" as that term was defined by the policy. It was undisputed that plaintiff qualified as a "covered person" because she was struck by her own vehicle and because that vehicle had uninsured motorist coverage. The policy defined an "uninsured motor vehicle" as a vehicle to which no insurance applied or to which insurance applied but for which coverage had been denied. However, immediately following this definition, the policy stated that an "uninsured motor vehicle" did not include any vehicle owned by the insured or insured under the policy.

Contrary to plaintiff's assertion, the entire definition of "uninsured motor vehicle" did not allow defendant to classify a vehicle as both insured and uninsured at the same time. An insurance contract must be read as a whole, and meaning must be given to all terms in the policy. *Churchman, supra*. A court must take care to avoid reading an ambiguity into a policy where one does not exist. *Moore v First Security Casualty Co*, 224 Mich App 370, 374; 568 NW2d 841 (1997). The trial court correctly found that under the plain and unambiguous terms of defendant's policy, plaintiff's vehicle did not qualify as an "uninsured motor vehicle." Summary disposition was correct.

Affirmed.

/s/ Christopher M. Murray
/s/ David H. Sawyer
/s/ Brian K. Zahra