

therefore, there was no conflict between the amount of coverage stated in the certificate of insurance and the amount of coverage provided to nondesignated permissive users under the step-down provision.

¶ 2

BACKGROUND

¶ 3

The plaintiff, David Knebel, filed a complaint against various defendants seeking damages for personal injuries he received during a vehicle collision. He alleged in his complaint that, at the time of the accident, he was a passenger in a vehicle that was owned by Ron Ward Chevrolet-Oldsmobile Co., Inc. (Ron Ward Chevrolet), and that was driven by Carol Spafford. The plaintiff alleged that Spafford drove Ron Ward Chevrolet's vehicle in connection with the business of Scorpius, Inc., doing business as Southern Illinois House of Realty, Inc. He alleged that he sustained personal injuries when another vehicle driven by Kayla Hoffman negligently rear-ended the vehicle in which he was riding.

¶ 4

The vehicle that Hoffman drove was insured by State Farm Insurance (State Farm) with automobile liability policy limit of \$50,000 per person/\$100,000 per accident. State Farm offered the plaintiff the policy limits of \$50,000. The plaintiff's complaint included a claim against Ron Ward Chevrolet's insurance carrier, Universal Underwriters Insurance Co. (Universal Underwriters), seeking a declaratory judgment determining that Universal Underwriters must provide him with underinsured-motorist benefits.

¶ 5

At the time of the accident, Universal Underwriters insured Ron Ward Chevrolet's vehicles pursuant to policy number 247089, entitled "Garage Operations and Auto Hazard." The policy defines an "insured" with respect to an "AUTO HAZARD" to include "[a]ny other person or organization required by law to be an INSURED while using an AUTO covered by this Coverage Part within the scope of YOUR permission."

¶ 6 The plaintiff maintains that this Universal Underwriters policy provides \$500,000 in underinsured-motorist coverage. Universal Underwriters, however, argues that only four corporate owners, designated in the step-down provision in the policy, have underinsured limits of \$500,000. Universal Underwriters maintains that other permissive user passengers of Ron Ward Chevrolet vehicles, such as the plaintiff, are "non-designated" persons under the step-down provision in the policy that provides for underinsured limits for "non-designated" persons in the statutory minimum amount of \$20,000/\$40,000.

¶ 7 The step-down provision provides as follows:
"By marking any boxes in the column below, I reject uninsured and underinsured motorist bodily injury limits that are equal to auto liability limits in my policy, and I thereby elect the specific uninsured and underinsured motorist bodily injury limits that are designated below (greater than the minimum financial responsibility limits required by law but less than the auto liability limit of my Unicover Policy). I understand that no coverage is provided by the Umbrella Coverage Part of my Unicover Policy."

¶ 8 This step-down provision includes check marks next to "GARAGE" and "BASIC AUTO" with specified limits of \$20,000/\$40,000. The provision also includes a check mark next to "DESIGNATED INDIVIDUALS" with a specified limit of \$500,000 for the designated individuals. The policy specifies the names of the "designated individuals" as "Ron & Mona Ward, Todd & Lisa Ward."

¶ 9 Universal Underwriters argues that because its limit with respect to nondesignated individuals is \$20,000/\$40,000, there is no underinsured-motorist coverage available to the plaintiff.

¶ 10 In addition to the terms of the policy, the record also indicates that on

September 1, 2006, Universal Underwriters filed a certificate of insurance with the Illinois Secretary of State representing that it had issued an insurance policy to Ron Ward Chevrolet with garage operations and auto hazard insurance with bodily injury liability limits of \$300,000 to each person and \$300,000 for each occurrence. The certificate of insurance states that the policy is effective for a one-year period that includes the date of the accident. The certificate of insurance further provides that Universal Underwriters will give 10 days written notice to the Secretary of State "in the event of any material change, or cancellation or non-renewal of said policies."

¶ 11 The plaintiff's complaint for a declaratory judgment includes counts against State Farm as the insurer of Spafford's personal automobile with liability and underinsured-motorist coverage limits of \$100,000/\$300,000, against Liberty Mutual Insurance Group as the insurer of the plaintiff's personal automobile with underinsured-motorists limits of \$100,000/\$300,000, and against Rockford Mutual Insurance Co. as the insurer of Spafford's employer, Scorpius, Inc., with underinsured-motorist coverage of \$1 million. The present appeal, however, concerns only the plaintiff's claim against Universal Underwriters with respect to underinsured-motorist coverage under the Ron Ward Chevrolet garage policy.

¶ 12 State Farm filed a counterclaim against Universal Underwriters asking the court to construe the Universal Underwriters policy to provide the plaintiff with \$500,000 in underinsured-motorist coverage. State Farm maintains that Universal Underwriters' step-down provision is ambiguous and violates public policy as expressed by a statute that requires \$100,000/\$300,000 minimum liability limits for dealership garage policies.

¶ 13 The plaintiff and State Farm both filed motions for a judgment on the pleadings and/or a summary judgment. Liberty Mutual Insurance Group filed a

motion joining the plaintiff's and State Farm's motions. Universal Underwriters filed its own motion for a summary judgment directed at State Farm's counterclaim and the plaintiff's complaint.

¶ 14 The circuit court granted Universal Underwriters' request for a summary judgment and denied the motions filed by the plaintiff, State Farm, and Liberty Mutual Insurance Group. The court held that the plaintiff "is not an underinsured motorist under the Universal Policy as the policy is not ambiguous or void as against public policy." The court further held that Universal Underwriters' policy "provides coverage to designated and non-designated individuals in an amount deemed by the legislature to be sufficient for uninsured and underinsured motorist coverage."

¶ 15 The court found that there was no just cause to delay either the enforcement or appeal of its order, and the plaintiff and State Farm filed timely notices of appeal.¹

¶ 16 ANALYSIS

¶ 17 The plaintiff and State Farm seek a reversal of the circuit court's summary judgment in favor of Universal Underwriters. "Summary judgment is proper when the pleadings, depositions, and affidavits demonstrate that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law." *Schultz v. Illinois Farmers Insurance Co.*, 387 Ill. App. 3d 622, 625 (2009), *aff'd*, 237 Ill. 2d 391 (2010). We review the grant of summary judgment *de novo*. *Ioerger v. Halverson Construction Co.*, 232 Ill. 2d 196, 201 (2008).

¶ 18 The plaintiff's and State Farm's arguments in opposition to the circuit court's summary judgment include: (1) that the step-down provision violates Illinois law and public policy; (2) that the step-down provision in Universal Underwriters' policy is

¹State Farm filed an appellant's brief, and we granted the plaintiff's motion to adopt State Farm's brief.

vague, ambiguous, or contains conflicting provisions; and (3) that Universal Underwriters is bound by the certificate of insurance that it filed with the Secretary of State certifying that it provided coverage to Ron Ward Chevrolet in the amount of \$300,000.

¶ 19

I.

¶ 20

Illinois Law and Public Policy

¶ 21

"Whether a provision in a contract, insurance policy, or other agreement is invalid because it violates public policy is a question of law, which we review *de novo*." *Phoenix Insurance Co. v. Rosen*, 242 Ill. 2d 48, 54 (2011). Illinois courts sparingly exercise the power to declare a private contract invalid because the public's interest includes the freedom to form contracts. *Phoenix Insurance Co.*, 242 Ill. 2d at 55. Therefore, a party seeking to invalidate a contract on public policy grounds has a heavy burden to demonstrate that it is clearly contrary to the public policy as declared by the constitution, the statutes, or the decisions of the courts of Illinois or it is manifestly injurious to the public welfare. *Phoenix Insurance Co.*, 242 Ill. 2d at 55. "Terms of an insurance policy that conflict with a statute are void." *State Farm Mutual Automobile Insurance Co. v. Illinois Farmers Insurance Co.*, 226 Ill. 2d 395, 401 (2007).

¶ 22

In analyzing the circuit court's summary judgment, our first task is to consider the relevant public policy expressed by the legislature in our statutes. The most reliable indicator of legislative intent is found in the language of the statute, which is afforded its plain and ordinary meaning. *Id.* There are several statutory provisions that are relevant to our analysis.

¶ 23

Sections 7-203 and 7-601(a) of the Illinois Safety and Family Financial Responsibility Law (625 ILCS 5/7-203, 7-601(a) (West 2008)) require motor vehicles

to be insured with a minimum liability insurance coverage of not less than \$20,000 for the death or bodily injury of one person, \$40,000 for the death or bodily injury of two or more persons, and \$15,000 for property damage occurring in any one motor vehicle accident. Section 7-317(b)(3) of the Illinois Safety and Family Financial Responsibility Law (625 ILCS 5/7-317(b)(3) (West 2008)) requires that an omnibus clause, extending this minimum liability coverage to every permissive user of a motor vehicle, must be read into every liability insurance policy. "[T]he principal purpose behind Illinois' mandatory liability insurance requirement and its omnibus provision 'is to protect the public by securing payment of their damages.'" *State Farm Mutual Automobile Insurance Co.*, 226 Ill. 2d at 404 (quoting *Progressive Universal Insurance Co. of Illinois v. Liberty Mutual Fire Insurance Co.*, 215 Ill. 2d 121, 129 (2005)).

¶ 24 While these sections of the Illinois Safety and Family Financial Responsibility Law address the minimum requirements for liability insurance, provisions within the Illinois Insurance Code establish the requirements for uninsured and underinsured coverage. Liability coverage is different than uninsured or underinsured coverage. *Mercury Indemnity Co. of Illinois v. Kim*, 358 Ill. App. 3d 1, 8-9 (2005).

¶ 25 Section 143a of the Illinois Insurance Code (Insurance Code) (215 ILCS 5/143a (West 2008)) requires that motor vehicle liability policies include uninsured-motorist coverage. Uninsured-motorist coverage must be provided in an amount equal to the liability coverage, unless the insured specifically rejects any additional coverage above the minimum liability limits required by the Illinois Safety and Family Financial Responsibility Law. 215 ILCS 5/143a-2(1) (West 2008). If the uninsured-motorist coverage limits exceed the minimum liability limits required by the Illinois Safety and Financial Responsibility Law, the policy must also include underinsured-

motorist coverage in an amount equal to the uninsured-motorist coverage. 215 ILCS 5/143a-2(4) (West 2008). If the insured's policy provides liability insurance more than the statutory minimum, the insured may elect to reduce his uninsured-motorist coverage and underinsured-motorist coverage to a minimum of \$20,000 per person/\$40,000 per occurrence. *Pajic v. Old Republic Insurance Co.*, 394 Ill. App. 3d 1040, 1042-43 (2009).

¶ 26 The Illinois Supreme Court has noted that, under Illinois law, liability, uninsured- motorist, and underinsured-motorist coverage provisions are "inextricably linked." *Schultz v. Illinois Farmers Insurance Co.*, 237 Ill. 2d 391, 404 (2010). "All three serve the same underlying public policy: ensuring adequate compensation for damages and injuries sustained in motor vehicle accidents." *Phoenix Insurance Co.*, 242 Ill. 2d at 58. Both the uninsured and underinsured motor vehicle provisions contemplate that consumers will select the amount of coverage that they "deem adequate for their own protection as well as for the protection of their additional insureds." *State Farm Mutual Automobile Insurance Co. v. Villicana*, 181 Ill. 2d 436, 444-45 (1998).

¶ 27 Sections 5-101(b)(6) and 5-102(b)(4) of the Illinois Vehicle Code (Vehicle Code) establish a higher minimum liability coverage for automobile dealerships. 625 ILCS 5/5-101(b)(6), 5-102(b)(4) (West 2008). Section 5-101(b)(6) of the Vehicle Code (625 ILCS 5/5-101(b)(6) (West 2008)) concerns new car dealer licencing and provides as follows:

"A Certificate of Insurance *** shall be included with each application covering each location at which he proposes to act as a new vehicle dealer. The policy must provide liability coverage in the minimum amounts of \$100,000 for bodily injury to, or death of, any person, \$300,000 for bodily injury to, or death of, two or more persons in any

one accident, and \$50,000 for damage to property."

¶ 28 Section 5-102(b)(4) provides an identical licensing requirement for dealers of used automobiles. 625 ILCS 5/5-102(b)(4) (West 2008).

¶ 29 Because the vehicle at issue in the present case was owned by Ron Ward Chevrolet, it was required to be covered by the dealer's garage policy with minimum liability limits of \$100,000/\$300,000. The plaintiff's claim at issue in this appeal, however, does not concern liability coverage, but concerns underinsured-motorist coverage. Nothing in the language of sections 5-101(b)(6) and 5-102(b)(4) of the Vehicle Code indicates that those sections' minimum coverage requirements apply to underinsured-motorist coverage in a dealer's garage policy. We believe that, had the legislature intended to increase the minimum uninsured- and underinsured-motorist coverage in a dealer's garage policy, it would have done so with specific language.

¶ 30 Section 143a of the Insurance Code (215 ILCS 5/143a (West 2008)) provides that the minimum uninsured-motorist coverage in an auto insurance policy must comply with the "limits for bodily injury or death set forth in Section 7-203 of the Illinois Vehicle Code" (625 ILCS 5/7-203 (West 2008)). Section 7-203 of the Vehicle Code requires every motor vehicle liability insurance policy issued to provide coverage of not less than \$20,000 for the death or bodily injury of any one person, \$40,000 for the death or bodily injury of two or more persons, and \$15,000 for property damage occurring in any one motor vehicle accident. 625 ILCS 5/7-203 (West 2008). Universal Underwriters' step-down provision, therefore, complies with the minimum \$20,000/\$40,000 uninsured/underinsured-motorist coverage for nondesignated, permissive users of Ron Ward Chevrolet's vehicles covered under the policy.

¶ 31 State Farm argues that the step-down provision violates Illinois public policy

because it excludes permissive occupants of the dealership's vehicle from coverage under the garage policy. We disagree. The step-down provision provides certain named individuals with \$500,000 in uninsured/underinsured-motorist coverage. For other nondesignated individuals, it does not exclude them from the policy, but instead provides only the statutory minimum in uninsured/underinsured-motorist coverage. There is no public policy that requires a dealer's garage policy to provide permissive occupants more than the statutory minimum coverage for underinsured-motorist coverage. Instead, as noted above, the Insurance Code allows an insured to make a written election to specifically reject uninsured/underinsured- motorist coverage in excess of the statutory minimums required for bodily injury. Universal Underwriters' step-down provision is a written election by the insured (Ron Ward Chevrolet) rejecting uninsured/underinsured-motorist coverage in excess of the statutory minimums for nondesignated, permissive users of dealership vehicles.

¶ 32 State Farm cites *Schultz v. Illinois Farmers Insurance Co.*, 237 Ill. 2d 391 (2010), but that case does not support its argument. In *Schultz*, the insurer tried to exclude certain insureds from underinsured-motorist coverage altogether even though the policy provided uninsured-motorist coverage to the same individuals. The court held that the insurer was not permitted under Illinois law to define insureds for underinsured-motorist coverage differently than it did for purposes of liability and uninsured-motorist coverage. *Schultz*, 237 Ill. 2d at 404-05. The present case is distinguishable because the step-down provision provides the minimum uninsured and underinsured coverage for some insureds while providing greater limits for certain designated individuals. Universal Underwriters' step-down provision does not exclude any insureds from coverage, as was the case in *Schultz*. Instead, the step-down provision limits certain insureds to only the statutory minimum for

uninsured/underinsured- motorist coverage.

¶ 33 State Farm maintains that the step-down provision violates public policy because it provides different levels of uninsured/underinsured-motorist coverage to designated and nondesignated individuals. We do not believe that treating designated insureds and nondesignated insureds differently with respect to uninsured-motorist and underinsured-motorist coverage establishes a violation of Illinois public policy since, at the time of the accident in this case, there was no statutory provision in the Vehicle Code or in the Insurance Code that prohibited the step-down provisions in a dealer's garage policy.

¶ 34 In *State Farm Mutual Automobile Insurance Co. v. Illinois Farmers Insurance Co.*, 226 Ill. 2d 395 (2007), the supreme court held that "step-down" provisions which reduced liability coverage for permissive users of covered vehicles to the minimums required by Illinois law did not offend the public policy of this state. The court reasoned that nothing in statutory pronouncements required a liability insurance policy providing the named insured with coverage in excess of the statutory minimum to also provide the same level of coverage to permissive users. *State Farm Mutual Automobile Insurance Co.*, 226 Ill. 2d at 403.

¶ 35 Since *State Farm Mutual Automobile Insurance Co.* was decided, legislation which took effect January 1, 2008, now requires that all policies for private passenger automobiles provide "the same limits of bodily injury liability, property damage liability, uninsured and underinsured motorist bodily injury, and medical payments coverage to all persons insured under that policy, whether or not an insured person is a named insured or permissive user under the policy." 215 ILCS 5/143.13a (West 2008). This statute took effect approximately nine months after the accident in the present case.

¶ 36 Nothing in the above-referenced statutory language that was in effect at the time of the accident supports State Farm's contention that a dealership's garage policy providing designated insureds with underinsured-motorist coverage in excess of the statutory minimum must provide the same level of coverage to nondesignated, permissive users. Accordingly, we cannot find that Universal Underwriters' step-down provision violates Illinois public policy in effect at the time of the accident.

¶ 37

II.

¶ 38

Vague and Ambiguous Insurance Contract

¶ 39

State Farm also argues that Universal Underwriters' step-down provision is vague, is ambiguous, and contains conflicting language because the step-down provision informs the insureds that they are selecting underinsured-motorist coverage for permissive users in an amount "greater than the minimum financial responsibility limits required by law." According to State Farm, the Vehicle Code requires automobile dealerships to maintain liability coverage in the minimum amounts of \$100,000 for bodily injury to, or death of, any one person and \$300,000 for bodily injury to, or death of, two or more persons in any one accident, and \$50,000 for damage to property. 625 ILCS 5/5-101(b)(6), 5-102(b)(4) (West 2008). However, the specified limits of \$20,000/\$40,000 for nondesignated individuals are not greater than those required by law. Accordingly, State Farm concludes that the step-down provision is vague, ambiguous, and self-contradictory.

¶ 40

The interpretation of an insurance policy and the coverage provided under the policy presents questions of law that are appropriate for resolution through a summary judgment. *Crum & Forster Managers Corp. v. Resolution Trust Corp.*, 156 Ill. 2d 384, 391 (1993). In construing the policy language, our primary objective is "to ascertain and give effect to the intentions of the parties as expressed by the words of

the policy." *Central Illinois Light Co. v. Home Insurance Co.*, 213 Ill. 2d 141, 153 (2004). We construe the policy as a whole, giving effect to every provision. *Central Illinois Light Co.*, 213 Ill. 2d at 153. Where the words used in the policy are clear and unambiguous, we afford them their plain, ordinary, and popular meaning. *Id.* Ambiguous policy terms that limit an insurer's liability will be liberally construed in favor of coverage. *Hobbs v. Hartford Insurance Co. of the Midwest*, 214 Ill. 2d 11, 17 (2005). Ambiguity exists in an insurance contract if the language is subject to more than one reasonable interpretation, but we will not strain to find an ambiguity where none exists. *Id.*

¶41 In the present case, we agree with the circuit court that Universal Underwriters' policy is not ambiguous, vague, or conflicting. With respect to uninsured/underinsured coverage, Universal Underwriters' policy includes an "Elective Options Form" that allows the insured to make a written request for uninsured/underinsured-motorist coverage less than the liability limits. The form includes three options. Option 1 reads as follows:

"By marking any boxes in the column below, I elect uninsured and underinsured motorist bodily injury limits that are equal to auto liability limits in my underlying policy, and I understand that no coverage is provided by the Umbrella Coverage Part of my Unicover Policy."

Option 2 reads as follows:

"By marking any boxes in the column below, I reject uninsured motorist bodily injury limits that are equal to auto liability limits in my policy, and I thereby elect the minimum financial responsibility limits mandated by the state of Illinois. By electing minimum limits for uninsured motorist bodily injury coverage (UMBI), I understand that coverage will not be provided for underinsured bodily injury coverage (UIMBI)."

¶ 42 Option 3 of the form, the option chosen by the insured, reads as follows:
"By marking any boxes in the column below, I reject uninsured and underinsured motorist bodily injury limits that are equal to auto liability limits in my policy, and I thereby elect the specific uninsured and underinsured motorist bodily injury limits that are designated below (greater than the minimum financial responsibility limits required by law but less than the auto liability limit of my Uncover Policy)."

¶ 43 On the form, the insured then selected uninsured and underinsured limits of \$20,000/\$40,000 for nondesignated individuals and \$500,000 for certain designated individuals. Therefore, for the designated individuals, the form provided exactly what it purported to provide, *i.e.*, more than the \$20,000/\$40,000 minimum required by law, as it provided \$500,000 in coverage for the designated individuals. However, it also provided less than the \$500,000 in limits provided for by the auto liability limits because the \$500,000 uninsured/underinsured-motorist coverage is applicable only to those designated individuals.

¶ 44 State Farm's argument is based on the incorrect conclusion that the Vehicle Code requires dealership garage policies to provide uninsured- and underinsured-motorist coverage in the amount of \$100,000/\$300,000. As noted above, the requirements of the Vehicle Code with respect to dealership insurance coverage refer to minimum coverages for liability coverage, not uninsured- or underinsured-motorist coverage. 625 ILCS 5/101(b)(6), 5-102(b)(4) (West 2008).

¶ 45 III.

¶ 46 Certificate of Insurance

¶ 47 State Farm argues that Universal Underwriters filed a certificate of insurance with the Illinois Secretary of State representing that it had issued an insurance policy to Ron Ward Chevrolet with garage operations and auto hazard insurance with bodily

injury limits of \$300,000 for each person and \$300,000 for each occurrence. Therefore, State Farm argues, Universal Underwriters is required to provide underinsured coverage of at least \$300,000. We disagree.

¶ 48 The certificate was filed to comply with section 5-101(b)(6) of the Vehicle Code, which requires a certificate of insurance to show that the dealer is in compliance with minimum amounts of "liability coverage." 625 ILCS 5/5-101(b)(6) (West 2008). As noted above, the coverage in the present case does not concern liability coverage, but concerns underinsured-motorist coverage. Section 5-101(b)(6) of the Vehicle Code does not require a certification of minimum amounts of underinsured-motorist coverage.

¶ 49 State Farm cites *John Deere Insurance Co. v. Allstate Insurance Co.*, 298 Ill. App. 3d 371 (1998), in support of its argument. That case, however, is distinguishable because it did not involve underinsured-motorist coverage. Instead, that case concerned alleged conflicts between the limits of liability an insurer asserted in the policy and the limits of liability set forth in the insurer's certificate of insurance. *John Deere Insurance Co.*, 298 Ill. App. 3d at 378. In the present case, the certificate of insurance concerns liability coverage, but the plaintiff's claim on appeal concerns underinsured-motorist coverage. Therefore, there is no conflict between Universal Underwriters' certificate of insurance and the step-down provision in the insurance policy

¶ 50 CONCLUSION

¶ 51 For the foregoing reasons, the circuit court's judgment in favor of Universal Underwriters is affirmed.

¶ 52 Affirmed.

