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2013 IL App (4th) 120281-U

NO. 4-12-0281

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED  
January 15, 2013  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

HASTINGS MUTUAL INSURANCE	)	Appeal from
COMPANY,	)	Circuit Court of
Plaintiff-Appellant and	)	Logan County
Cross-Appellee,	)	No. 09MR46
v.	)	
TILDEN L. CARPENTIER, JR., as Special	)	
Administrator for the Estate of KATHERINE L.	)	
CARPENTIER; ZACHARY L. RICKORD;	)	
THOMAS McGLASSON, as Special	)	
Administrator for the Estate of CHRISTOPHER J.	)	
McGLASSON; ROGER McCARTY and	)	
PAMEILA McCARTY, as Special Administrators	)	
for the Estate of KATELYN A. McCARTY; and	)	
CLARK E. SCHOONOVER,	)	
Defendants-Appellees and	)	
Cross-Appellants,	)	
and	)	
DAVID CONRADY and LISA CONRADY,	)	
Individually and as Special Administrators for the	)	
Estate of ROSS CONRADY; and TRI PORK,	)	Honorable
INC.,	)	Thomas M. Harris, Jr.,
Defendants.	)	Judge Presiding.

PRESIDING JUSTICE STEIGMANN delivered the judgment of the court.  
Justices Knecht and Turner concurred in the judgment.

**ORDER**

¶ 1 *Held:* The appellate court affirmed, rejecting (1) an insurance company's challenge to the trial court's finding that the insured's farm owners' umbrella policy applied to a vehicle accident covered by an underlying farm owners' automobile policy, and (2) an insured's cross-appeal, challenging the trial court's finding that the farm owners' personal vehicle policy did not cover the accident.

¶ 2 In February 2008, Ross Conrady, a high school student, and Katherine Carpentier, Christopher McGlasson, and Katelyn McCarty died as a result of injuries sustained when the pickup truck Ross was driving—a 2002 Ford F-150—crashed. (Tri Pork, Inc., a livestock operation controlled by Ross's family, owned the truck.) Zachary Rickord and Clark Schoonover were injured in that accident, but they survived. Wrongful death and personal injury claims followed.

¶ 3 In January 2009, plaintiff, Hastings Mutual Insurance Company (hereinafter, Hastings), the Conradys' insurance company, filed an amended complaint for declaratory judgment, in which Hastings sought a finding on four separate insurance policies that its policies did not cover the accident. In a series of orders issued from late 2011 through early 2012, the trial court found, in pertinent part, that (1) coverage for Ross's estate was specifically excluded from the Conradys' personal automobile policy and (2) the Conradys' farmowners umbrella policy provided coverage for the accident as to Tri Pork based on the "underlying insurance" provision of that policy.

¶ 4 Hastings appeals, arguing that the trial court erred by finding that the Conradys' farmowners umbrella policy provided coverage for the accident as to Tri Pork. The families and Tri Pork cross-appeal, arguing that the court erred by finding that the Conradys' personal automobile policy did not provide additional coverage for claims flowing from the accident. We affirm.

¶ 5 I. BACKGROUND

¶ 6 In February 2008, Ross, Katherine, Christopher, and Katelyn died as a result of injuries sustained when the truck Ross was driving crashed. Zachary and Clark were injured in

that accident but survived. Wrongful death and personal injury claims followed.

¶ 7 In January 2009, Hastings filed an amended complaint for declaratory judgment, in which it sought a declaration of insurance coverage regarding the following four policies: (1) whether David and Lisa Conradys' personal automobile policy (No. APV 5156749) covered the February 2008 accident; (2) whether the Conradys' farmowners policy issued to Tri Pork (No. FO 9705773) covered the February 2008 accident; (3) whether the Conradys' farmowners umbrella policy issued to Tri Pork (No. ULP 9707545) covered the February 2008 accident; and (4) whether the Conradys' homeowners policy (No. HO 5160276) covered the February 2008 accident. Hastings sought a summary-judgment, finding that its policies did not cover the accident. In December 2009, defendants, Tilden L. Carpentier, Jr., Zachary L. Rickord, Thomas McGlasson, Roger and Pameila McCarty, Clark E. Schoonover, the Conradys, and Tri Pork, responded and filed their motions for summary judgment to the contrary.

¶ 8 In a series of orders issued from late 2011 through early 2012, the trial court found that (1) as to count I (the Conradys' personal automobile policy) (a) coverage for Ross's estate was specifically excluded from the Conradys' personal automobile policy and (b) although David and Lisa were insured under their personal policy, the limits of liability could not be "stacked" with another insurance policy issued by Hastings; (2) as to count II (the Conradys' farmowners policy), the farmowners policy did not provide coverage to any party for the events surrounding the accident; (3) as to count III (the Conradys' farmowners umbrella policy issued to Tri Pork), the farmowners umbrella policy provided coverage for the accident as to Tri Pork based on the "underlying insurance" provision of the policy; and (4) as to count IV (the Conradys' homeowners policy), the Conradys' homeowners policy did not provide coverage for the

accident, a fact to which the parties had earlier stipulated.

¶ 9 This appeal and cross-appeal followed.

¶ 10 II. Hastings' Appeal

¶ 11 Hastings argues that the trial court erred by finding that the Conradys' farmowners umbrella policy provided coverage for the accident as to Tri Pork. Specifically, Hastings contends that the court erred by granting summary judgment because the farmowners umbrella policy is an "integrated agreement," which must be interpreted according to its four corners, and identifies only one policy—the farmowners policy, which does not afford automobile coverage—in the schedule of underlying insurance. We disagree.

¶ 12 A. Summary Judgment and the Standard of Review

¶ 13 "Summary judgment is appropriate 'if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.'" *Irwin Industrial Tool Co. v. Department of Revenue*, 238 Ill. 2d 332, 339-40, 938 N.E.2d 459, 465 (2010) (quoting 735 ILCS 5/2-1005(c) (West 2008)). "When reviewing a grant of summary judgment, this court must determine whether, when viewed in the light most favorable to the nonmoving party, the pleadings, depositions, admissions, and affidavits on file reveal any genuine issues of material fact and, if not, whether the moving party is entitled to judgment as a matter of law." *Brugger v. Joseph Academy, Inc.*, 202 Ill. 2d 435, 446, 781 N.E.2d 269, 275 (2002). When the trial court grants summary judgment, our review is *de novo*. *Simmons v. Reichardt*, 406 Ill. App. 3d 317, 322, 943 N.E.2d 752, 756 (2010).

¶ 14 B. The Trial Court's Findings As to the Farmowners Umbrella Policy

¶ 15 As part of its December 2011 extensive written order, the trial court found that the Conradys' farmowners umbrella policy provided coverage for the accident as to Tri Pork based on the underlying insurance provision of that policy, outlining its rationale as follows:

"At the time of the subject accident[,] Tri Pork, Inc. was insured through a farmowners policy (FO 9705773) and a farm umbrella policy (UPL 9707545). Tri Pork was also identified as an additional insured in the personal auto policy (APV 5156756) issued to David Conrady, herein referred to as the '756' policy. At issue is whether there was an existing underlying insurance for Tri Pork in order for it to be provided coverage under the farm umbrella policy. The farm umbrella policy provided liability limits of \$1,000,000. Hastings argues that the underlying insurance identified in Schedule A of the farm umbrella's declarations is the Tri Pork farmowners policy, a policy which does not provide auto coverage. Thus[,] Hastings argues since the underlying insurance does not provide coverage for the subject accident, neither does the farm umbrella policy.

The primary issue to be resolved relative to the farm umbrella centers on the following language contained in the policy's declarations:

'SCHEDULE OF UNDERLYING INSURANCE - SCHEDULE A

IT IS AGREED THAT THE FOLLOWING

UNDERLYING INSURANCE:

A. IS IN FORCE AS COLLECTIBLE  
INSURANCE AT THE INCEPTION OF THE  
CURRENT POLICY PERIOD FOR THE LIMITS  
SPECIFIED IN THIS SCHEDULE A; AND  
B. INSURES ALL LAND MOTOR VEHICLES  
OWNED OR HIRED BY THE INSURED AT  
INCEPTION OF THE CURRENT POLICY  
PERIOD.

THE INSURED FURTHER AGREES TO  
MAINTAIN EACH POLICY OF UNDERLYING  
INSURANCE IN FULL EFFECT AND AT THE  
LIMIT OF LIABILITY SHOWN, WHILE THIS  
POLICY IS IN EFFECT. FAILURE TO  
MAINTAIN THE REQUIRED UNDERLYING  
INSURANCE WILL NOT INVALIDATE THIS  
POLICY, BUT, THIS POLICY WILL APPLY AS  
THOUGH THE REQUIRED UNDERLYING  
INSURANCE WERE IN FORCE AND  
COLLECTIBLE AT THE TIME OF THE  
OCCURRENCE.

\* \* \*

TYPE OF POLICY MINIMUM PRIMARY

LIMITS FARMERS COMPREHENSIVE  
LIABILITY

BODILY INJURY & PROPERTY DAMAGE

(CSL)\$500,000 EACH OCCURRENCE'

The defendants argue that the underlying insurance as described in the umbrella's declarations is in fact the '756' policy and since the '756' was in effect at the time of the accident, the umbrella's underlying insurance requirement is satisfied. They argue, in the alternative, the if the '756' policy does not constitute the underlying insurance[,] the farmowners policy should be reformed to provide auto coverage due to a mutual mistake by the parties in its writing. In addition, as an alternative argument they assert that the language of the umbrella policy excuses the actual procurement of underlying insurance and in that event the umbrella's coverage would be available at the point where the defendant's liability exceeds \$500,000.

Hastings points to the declarations' specification of 'farmers comprehensive liability' being the type of policy which constitutes the underlying insurance as dispositive of the issue of whether the umbrella policy affords coverage for this auto accident since only the farmowners policy satisfies this description. Thus, Hastings

argues, since the farmowners policy does not provide coverage for the accident, neither does the umbrella.

There is a glaring inconsistency within Schedule A for which Hastings offers no satisfactory explanation. In the paragraphs preceding the identification of the 'Type of Policy', the parties to the insurance contract confirm that the underlying insurance:

'A. IS IN FORCE AS COLLECTIBLE  
INSURANCE AT THE INCEPTION OF THE  
CURRENT POLICY PERIOD FOR THE LIMITS  
SPECIFIED IN THIS SCHEDULE A; AND  
B. INSURES ALL LAND MOTOR VEHICLES  
OWNED OR HIRED BY THE INSURED AT  
INCEPTION OF THE CURRENT POLICY  
PERIOD.'

If Hastings is correct that the farmowners policy is the underlying insurance mentioned in Schedule A, the above quoted language is inexplicable since the farmowners policy clearly is not a policy that 'insures all land motor vehicles owned [\*\*\*] owned by the insured at the inception of the current policy period.' The parties agree that, as written, the farmowners policy provides no auto coverage whatsoever. If the farmowners policy did not provide underlying

auto coverage to Tri Pork, this court considers whether another policy did. As explained below[,] it is this court's opinion that the necessary auto coverage is provided by the '756' policy such that the '756' policy constitutes the 'underlying insurance' specified in Schedule A of the farm umbrella policy.

According to the evidence, the farm umbrella policy was issued on December 6, 2007[,] and was effective as of November 19, 2007. The '756' policy was originally issued on November 13, 2007[,] with an effective date of November 14, 2007. The original declarations for the '756' policy identify both David Conrady and Tri Pork as named insured. This policy was subsequently revised by Hastings, apparently without notice to David Conrady or Tri Pork, such that Tri Pork was removed as a named insured and instead was identified as an additional insured. The revised or amended '756' was issued on December 7, 2007[,] with an effective date of December 3, 2007.

The '756' policy provided auto coverage with limits of liabilities of \$250,000 per person and \$500,000 per accident. The farm umbrella required the underlying insurance to provide 'minimum primary limits' of \$500,000 for 'each occurrence'. Thus[,] in this respect the '756' policy satisfies the farm umbrella's underlying insurance requirements.

The '756' policy declarations identify the [2002] Ford F-[1]50 involved in the accident as a 'vehicle covered' (it appears that the '756' policy insured all of Tri Pork's vehicles) and Ross B. Conrady, the driver of [the] vehicle at the time of the accident, as a covered driver. Whether Tri Pork is considered a 'named insured' or an 'additional insured', it was an 'insured' under the '756' policy. To find otherwise would be nonsensical. A court will not adopt an interpretation that leads to an absurd result. [Citation.] According to the 'INSURING AGREEMENT' at Part A of the '756' policy, Hastings will pay for 'bodily injury' for which any 'insured' becomes legally responsible because of an accident. Therefore, pursuant to the requirements of Schedule A, the '756' policy was in force as collectible insurance at the inception of the umbrella's then current policy period.

Obviously[,] the '756' policy provided coverage for this accident[,] given that its limits were interpled by Hastings. Further, the '756' policy meets all of the requirements of 'underlying insurance' as generically described in the farm umbrella's declarations. It was 'in force as collectible insurance at the inception of the current policy period for the limits specified' in Schedule A and there is no dispute that it insured 'all land motor vehicles owned [\*\*\*] by the insured at the inception of the policy

period.'

Hastings argues that 'the Tri Pork umbrella policy does not apply to this occurrence for the simple reason that the umbrella policy, by its very terms, only applies in instances where underlying insurance *as that term is defined in the umbrella policy* applies to the loss.' (Plaintiff's Supplement to Motion for Declaratory Summary Judgment at p. 9 (emphasis in original)).

The umbrella policy defines 'underlying insurance' at Paragraph 27 \*\*\* of the policy as:

'A policy that provides liability insurance coverages for the required limits of liability as indicated in the Schedule of Underlying insurance in the Declarations.'

In this court's opinion, the '756' policy fits this umbrella policy's definition of 'underlying insurance'.

In a further attempt to avoid coverage[,] Hastings points to the following exclusion contained at p. 6 of the farm umbrella policy:

#### 'EXCLUSIONS

We do not cover

\* \* \*

17. Injury arising out of the ownership, maintenance, operation, use, loading or unloading

or entrustment to others of any auto, unless covered by underlying insurance. Our coverage is no broader than the underlying insurance except for our liability limit.'

As pointed out though, if the '756' policy is considered to be the underlying insurance for the farm umbrella policy, then the injury arising out of the subject occurrence is 'covered by underlying insurance.'

While Schedule A describes the 'type of policy' constituting the underlying insurance as 'Farmers Comprehensive Liability' (which admittedly does not describe the '756' policy), it does not identify the underlying insurance by name or by policy number. Hastings suggests Schedule A clearly identifies the Tri Pork farmowners policy as the underlying insurance. But even if the farmowners policy was identified by name and policy number under Schedule A's 'type of policy', it does not 'insure [] all land motor vehicles owned [\*\*\*] by the insured at the inception of the current policy period.' At a minimum, this constitutes an ambiguity in the insurance contract's language that must be resolved in favor on the insured, Tri Pork.

'An insurance policy provision is ambiguous if it is subject to more than one reasonable interpretation.

When a policy provision is ambiguous, all doubt must be resolved in favor of the insured.' [Citation.]

When an insurance contract is unambiguous, the court may not consider any evidence beyond the four corners of the policy for construing the contract. [Citation.] However, where an ambiguity exists, the court may look to other materials. [Citations.] The deposition testimony of the individuals involved in the procurement of insurance for Tri Pork leads this court to conclude that it was their intent that Tri Pork would ultimately be provided with \$1,500,000 in auto liability coverage. Therefore, an examination of this extrinsic evidence also supports the court's conclusion that the '756' policy is underlying insurance for the umbrella policy.

Because this court finds that the '756' policy constitutes 'underlying insurance' as set forth in Schedule A of the farm umbrella's declarations, it is not necessary to reach the additional arguments of the parties as far as a 'failure to maintain' vs. 'failure to procure' the underlying insurance, or as to reformation of the farmowners policy to provide auto coverage consistent with Schedule A's requirements.

Accordingly, this court finds that the '756' policy constitutes the requisite underlying insurance such that the Tri Pork

farm umbrella's coverage applies to the subject auto accident.

Hastings' motion for declaratory summary judgment is therefore denied[,] and the defendants' motion for declaratory summary judgment is granted as they relate to the Tri Pork farm umbrella policy." (Emphases in original.)

¶ 16 C. This Court's View of the Farmowners Umbrella Policy

¶ 17 Initially, we note that the policy described by the trial court as "the '756' policy" was not a part of Hastings' January 2009 amended complaint for declaratory judgment that is the subject of this appeal because it unquestionably covered Tri Pork for injuries suffered as a result of the accident. Equally unquestionable is the fact that the underlying farmowners policy does not cover Tri Pork for the for injuries suffered as a result of the accident because that policy did not provide automobile coverage. Accordingly, we are left to resolve whether the farmowners umbrella policy includes the policy ending in "756" under its umbrella as a "policy of underlying insurance." Hastings posits, of course, that the underlying farmowners policy is *the* "policy of underlying insurance" under Tri Pork's umbrella policy. For the reasons that follow, we conclude that the policy ending in "756"—that is, Tri Pork's automobile policy—is the "policy of underlying insurance" under Tri Pork's farmowners umbrella policy.

¶ 18 Here, the parties' contract—the farmowners umbrella policy—begins with the following declaration:

"SCHEDULE OF UNDERLYING INSURANCE - SCHEDULE A

IT IS AGREED THAT THE FOLLOWING UNDERLYING  
INSURANCE:

A. IS IN FORCE AS COLLECTIBLE INSURANCE AT THE INCEPTION OF THE CURRENT POLICY PERIOD FOR THE LIMITS SPECIFIED IN THIS SCHEDULE A; AND

B. INSURES ALL LAND MOTOR VEHICLES OWNED OR HIRED BY THE INSURED AT INCEPTION OF THE CURRENT POLICY PERIOD.

THE INSURED FURTHER AGREES TO MAINTAIN EACH POLICY OF UNDERLYING INSURANCE IN FULL EFFECT AND AT THE LIMIT OF LIABILITY SHOWN, WHILE THIS POLICY IS IN EFFECT. FAILURE TO MAINTAIN THE REQUIRED UNDERLYING INSURANCE WILL NOT INVALIDATE THIS POLICY, BUT, THIS POLICY WILL APPLY AS THOUGH THE REQUIRED UNDERLYING INSURANCE WERE IN FORCE AND COLLECTIBLE A THE TIME OF THE OCCURRENCE.

\* \* \*

TYPE OF POLICY	MINIMUM PRIMARY LIMITS
FARMERS COMPREHENSIVE LIABILITY	
BODILY INJURY & PROPERTY DAMAGE (CSL)	
\$500,000 EACH OCCURRENCE"	

Defendants contend that "the following underlying insurance" listed as "Farmers Comprehensive Liability" above—which is not accompanied by a policy number—refers to Tri Pork's automotive

coverage from the policy ending in "756," given that the description of the policy from subsection "B" above notes that the umbrella policy "insures all land motor vehicles owned or hired by the insured at the inception of the current policy period." Hastings responds that the reference in subsection "B" to "Farmers Comprehensive Liability" clearly refers to the underlying farmowners policy, which, as written, does not provide automobile liability coverage and, thus, is not "underlying insurance" for purposes of the umbrella policy.

¶ 19 Here, Hastings—the party that drafted the umbrella policy in this case—could have clearly manifested its intent that the "Farmowners Comprehensive Liability" policy listed in Schedule A referred to Tri Pork's underlying general farmowners policy by listing the policy number along with that policy description. It did not do so. Accordingly, this court, like the trial court below, is left to determine whether that policy was referring to Tri Pork's general farmowners policy or Tri Pork's vehicle policy, both of which are "comprehensive liability" policies. In that regard, the policy is ambiguous—that is, the umbrella policy is unclear on its face because it is subject to more than one reasonable interpretation.

¶ 20 In *Founders Insurance Co. v. Munoz*, 237 Ill. 2d 424, 433, 930 N.E.2d 999, 1003-04 (2010), the Supreme Court of Illinois outlined the standards we must apply when interpreting an insurance policy, as follows:

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

provision will be applied as written, unless it contravenes public policy. [Citations.] The rule that policy provisions limiting an insurer's liability will be construed liberally in favor of coverage only applies where the provision is ambiguous. [Citations.] A policy provision is not rendered ambiguous simply because the parties disagree as to its meaning. [Citation.] Rather, an ambiguity will be found where the policy language is susceptible to more than one reasonable interpretation. [Citations.] While we will not strain to find an ambiguity where none exists ([citation]), neither will we adopt an interpretation which rests on 'gossamer distinctions' that the average person, for whom the policy is written, cannot be expected to understand ([citation]). When construing the language of an insurance policy, we must assume that every provision was intended to serve a purpose. Thus, an insurance policy must be considered as a whole; all of the provisions, rather than an isolated part, should be examined to determine whether an ambiguity exists. [Citations.]"

¶ 21 Considering the umbrella policy as a whole—"all of the provisions, rather than an isolated part"—as previously stated, an ambiguity exists because (1) no account number is listed, identifying the underlying policy or policies and (2) both of Tri Pork's policies include "comprehensive coverage" for the farm operation with \$500,000 limits. Despite the ambiguity, Schedule A provides insight into which policy underlies the umbrella policy. Subsection "B" of

Schedule A describes the underlying policy as being subject to the limits specified in Schedule A (\$500,000) and "INSURES ALL LAND MOTOR VEHICLES OWNED OR HIRED BY THE INSURED AT INCEPTION OF THE CURRENT POLICY PERIOD." Given that we must construe ambiguous policy provisions limiting an insurer's liability "liberally in favor of coverage," we conclude that the "Farmers Comprehensive Liability" policy listed in Schedule A refers to Tri Pork's automobile policy ending in "756." Were we to conclude, as Hastings claims, that the parties intended the underlying policy to be the general farmowners policy—which did not include automobile coverage—we would not be "assum[ing] that every provision was intended to serve a purpose." *Founders Insurance Co.*, 237 Ill. 2d at 433, 930 N.E.2d at 1004.

¶ 22

### III. DEFENDANTS' CROSS-APPEAL

¶ 23

Defendants cross-appeal, arguing that the trial court erred by finding that the Conradys' personal automobile policy (No. APV 5156749) did not provide additional coverage for claims flowing from the accident. We disagree.

¶ 24

#### A. The Conradys' Personal Automobile Policy

¶ 25

The Conradys' personal automobile policy ending in "749" provided coverage for David and Lisa (as named insured) as to their 2005 Lincoln Aviator and 2006 Pontiac G6. The "749" policy provided coverage, as follows:

"A. We will pay damages for 'bodily injury' or 'property damage' for which any 'insured' becomes legally responsible because of an auto accident. \* \* \*

B. 'Insured' as used in the Part means:

1. You or any 'family member' for the ownership,

maintenance or use of any auto or 'trailer'."

¶ 26 The "DEFINITIONS" section of the "749" policy defined "you" and "family member" as follows:

"A. Throughout this policy, 'you' and 'your' refer to:

1. The 'named insured' \*\*\*; and
2. The spouse if a resident of the same household.

\* \* \*

F. 'Family member' means a person related to you by blood, marriage or adoption who is a resident of your household."

¶ 27 The "EXCLUSIONS" section of the "749" policy, however, outlined a number of policy exclusions, including the following:

"B. We do not provide Liability Coverage for the ownership, maintenance or use of:

\* \* \*

3. Any vehicle, other than 'your covered auto',  
which is:

- a. Owned by any 'family member'; or
- b. Furnished or available for the regular use  
of any 'family member'.

However, this exclusion (B.3.) does not apply to you while you are maintaining or 'occupying' any vehicle which is:

- a. Owned by a 'family member'; or
- b. Furnished or available for the regular use of a 'family member'."

(The "DEFINITIONS" section of the "749" policy defined "your covered auto," in pertinent part, as "[a]ny vehicle shown in the Declarations"—which, under the policy, included only the Conradys' Lincoln and Pontiac.)

¶ 28 B. The Trial Court's Findings as to the Conradys' Personal Automobile Policy

¶ 29 In April 2010, the trial court entered the following order in which it concluded that the Conradys' personal automobile policy ending in "749" provided coverage for the accident, as follows:

"Regarding Hastings Policy No. APV 5156749, a personal auto policy issued to David and Lisa Conrady, Hastings argues no coverage is provided given that the 2002 Ford pick-up truck was not listed as a covered auto and also that Ross Conrady was not a listed driver. The operative language of the policy is contained at 'PART A – LIABILITY COVERAGE' in an amendment to the policy:

'We will pay damages for "bodily injury" or "property damage" for which any "insured" becomes legally responsible because of an auto accident.'

The term 'insured' is defined to mean: 'You or any "family member" for the ownership, maintenance or use of any auto or

"trailer".' A 'family member' is defined as 'a person related to you by blood, marriage or adoption who is a resident of your household.' The term 'you' is defined to included a named insured. Here, it seems clear that David Conrady, Lisa Conrady, and their son, Ross Conrady, are all 'insureds' as defined by the policy. It also seems clear that unless an exclusion applies, liability coverage under this policy is available if David, Lisa, and/or Ross (in this case, Ross's Estate) become legally responsible for bodily injury because of an auto accident. Hastings points to the following exclusion contained in Part C of the amendment"

'We do not provide Liability Coverage for any "insured" for "bodily injury" to you or any "family member".'

This exclusion does not apply, however, because the claims are not based on bodily injury to David, Lisa, or Ross. Instead, they are based on bodily injuries to others who are not the 'insureds' or their 'family members'."

¶ 30 In March 2012, the trial court modified its order regarding the policy ending in "749" to reflect its view that, on reconsideration, the "749" policy did not provide coverage for the accident, as follows: "[T]he Court specifically finds that Exclusion B.3. of policy APV 5156749 applies to the accident \*\*\* and bars coverage under that policy to the Estate of Ross Conrady."

¶ 31 C. Our Review of the Conradys' Personal Automobile Policy

¶ 32 Initially, we note that because defendants' cross-appeal comes to us as a challenge to the trial court's entry of summary judgment, our review continues *de novo*. See *Simmons*, 406 Ill. App. 3d at 322, 943 N.E.2d at 756 (reviewing *de novo* the trial court grant of summary judgment).

¶ 33 Our review of the Conradys' personal automobile policy ending in "749" reveals that the trial court's March 2012 order accurately reflected the parties' intent under that policy.

Read with the appropriate definitions inserted, the "749" policy reads as follows:

"A. [Hastings] will pay damages for 'bodily injury' or 'property damage' for which [Ross (a 'family member')] becomes legally responsible because of an auto accident.

\* \* \*

[EXCLUSIONS]

B. [Hastings does] not provide Liability Coverage for the ownership, maintenance or use of:

\* \* \*

3. Any vehicle, other than '[Lincoln and Pontiac],

which is:

- a. Owned by any 'family member'; or
- b. Furnished or available for the regular use of any 'family member'.

However, this exclusion (B.3.) *does not* apply to

[David and Lisa (the named insured)] while [David and Lisa] are maintaining or 'occupying' any vehicle which is:

- a. Owned by a 'family member'; or
- b. Furnished or available for the regular use of a 'family member'." (Emphasis added.)

In other words, the "749" policy covered Ross for liability resulting from accidents involving the Lincoln and Pontiac. The exception to the exclusion in section B.3. applied only to "you"—that is, David and Lisa—as that term was defined under the policy. Put more succinctly, the exception to the general exclusion to all vehicles except the Lincoln and Pontiac would have been applied to David and Lisa if they had occupied the Ford F-150 because they were "named insured" but did not apply to Ross because he was not a "named insured."

¶ 34 Accordingly, we conclude that the trial court did not err by granting summary judgment in favor of Hastings as to the "749" policy.

¶ 35 In closing, we note that as part of their cross-appeal, defendants claimed that the anti-stacking provision of the Conradys' personal automobile policy was inapplicable under the facts of this case. We need not address defendants' contention in this regard, however, given that we have concluded that the Conradys' personal automobile policy does not cover the accident in this case.

¶ 36 We also mention in closing our appreciation for the trial court's extraordinarily thoughtful written order, which we found very helpful.

IV. CONCLUSION

¶ 37

¶ 38

For the reasons stated, we affirm the trial court's judgment.

¶ 39

Affirmed.