

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

AFFIRMATIVE INSURANCE COMPANY,)	No. ED98700
Plaintiff,)	
)	
vs.)	
)	Appeal from the Circuit Court of
JOHN F. BROKER, JR., TRACY BROKER,)	Jefferson County
MALAYNA MENDENHALL, CAMERON)	
MENDENHALL, JULIAN MENDENHALL,)	
Appellants,)	
)	Honorable Gary P. Kramer
and)	
)	
EMPIRE FIRE AND MARINE INSURANCE)	
COMPANY, Respondent.)	Filed: July 30, 2013

This appeal arises out of a petition for declaratory judgment filed by Affirmative Insurance Company (Affirmative) against Empire Fire & Marine Insurance Co. (Empire) and John and Tracy Broeker (Appellants), grandparents and guardians of the children of Trenton and Casey Mendenhall, who died in an automobile accident while driving a vehicle rented from Enterprise Leasing Company of St. Louis (Enterprise). The parties filed cross-motions for summary judgment in an effort to determine whether Appellants were entitled to coverage under insurance policies issued by Affirmative (to Trenton Mendenhall) and Empire (to Enterprise). Appellants appeal the trial court's order granting Empire summary judgment and holding that Empire's policy neither provided excess coverage for Appellants' nor required Empire to pay Appellants the statutory mandatory minimum of \$25,000.

AFFIRM.

Division Four Holds: The trial court did not err when it determined that the Empire policy did not: (1) provide excess coverage for Appellants' loss because of a household exclusion; or (2) entitle Appellants to payment of \$25,000 pursuant to the Missouri Motor Vehicle Financial Responsibility Law.

Opinion by: Patricia L. Cohen, J.
Lawrence E. Mooney, P.J., and Robert G. Dowd, Jr., J., concur.

Attorney for Appellants: Timothy J. Gallagher

Attorney for Respondent: Russell F. Watters

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.