

MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT

ASHLEY A.N. LINDSEY, APPELLANT,

v.

**JOSHUA D PRUITT, RESPONDENT; STEVEN PRUITT, RESPONDENT; AND
HAULERS INSURANCE COMPANY, INC., RESPONDENT.**

No. WD 68968

Benton County

Before Division Two Judges: Smart, Jr., PJ, Newton and Holliger, JJ

Ashley Lindsey was injured while a passenger in a car driven by the son of Steven Pruitt. The car was owned by Jim's 66, an auto shop which also sold used cars. The owner of Jim's 66, Eichler, had loaned the car to Steven Pruitt while his truck was in for repairs. The shop was insured under a general liability policy issued by Haulers Insurance Company. Haulers' policy includes as an "insured" a person driving the vehicle with the permission of the named "insured" and who is not a customer (if the policy defines Eichler as an auto dealership *and* the permittee has his own insurance). The policy itself identifies Eichler as an auto dealership in the declarations, and the Pruitts had insurance coverage. Lindsey sought to recover from that policy in an equitable garnishment action against Haulers. The trial court granted summary judgment in favor of Haulers, and Lindsey appeals.

AFFIRMED.

Division Two holds:

Neither Steven Pruitt nor his son is an "insured" under the policy. Lindsey failed to meet her burden to prove that the Pruitts were not customers, who are not covered under the policy. Lindsey's argument that Jim's 66 is not an auto dealership is irrelevant because the policy is concerned only with whether the shop is referred to as an auto dealer in the declarations, and Jim's 66 is identified as such in the declarations.

Opinion by: Ronald R. Holliger, Judge

Date: November ,4 2008

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