

**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE**

ERICKA J. SAUVAIN, AMY LEIGH SAUVAIN, by Next Friend, ERICKA J. SAUVAIN, and  
BONNIE S. HUGHES,

Respondents,

v.

ACCEPTANCE INDEMNITY INSURANCE COMPANY,

Appellant.

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**DOCKET NUMBER WD76356**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** April 22, 2014

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**APPEAL FROM**

The Circuit Court of Clay County, Missouri  
The Honorable Anthony Rex Gabbert, Judge

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**JUDGES**

Division One: Martin, P.J., and Pfeiffer and Mitchell, JJ.

CONCURRING.

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**ATTORNEYS**

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Michael W. Blanton  
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## MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

ERICKA J. SAUVAIN, AMY LEIGH )  
SAUVAIN, by Next Friend, ERICKA J. )  
SAUVAIN, and BONNIE S. HUGHES, )  
)  
Respondents, )  
v. )  
)  
ACCEPTANCE INDEMNITY )  
INSURANCE COMPANY, )  
)  
Appellant. )

**OPINION FILED:  
April 22, 2014**

**WD76356**

**Clay County**

**Before Division One Judges:** Cynthia L. Martin, Presiding Judge, and Mark D. Pfeiffer and Karen King Mitchell, Judges

Acceptance Indemnity Insurance Company (“Acceptance”) issued USA Cars, Inc. (“USA Cars”) a “garage” insurance policy insuring USA Cars from loss on certain “autos” that were “owned” by USA Cars.

David H. Bowman, Sr. (“Bowman Sr.”) signed a purchase agreement to purchase a vehicle from USA Cars; however, no representative for USA Cars signed the purchase agreement, and the agreement expressly stated that the signature of both parties was required before there would be a binding contract between the parties. Notwithstanding this fact, Bowman Sr. paid the sales price in full, was given a receipt and the car keys by USA Cars, and drove the vehicle off the lot that day. However, no title was provided by USA Cars to Bowman Sr. at that time. USA Cars still had not delivered title to Bowman Sr. five weeks later when his son was driving the vehicle and was involved in a fatal head-on collision. Ericka J. Sauvain, Amy Leigh Sauvain, and Bonnie S. Hughes (collectively, “Plaintiffs”), the surviving family members of the person killed in the head-on collision and the injured passenger, brought suit in the Circuit Court of Clay County, Missouri (“trial court”), against Bowman Sr.’s son and obtained a judgment against him.

Thereafter, Plaintiffs brought an equitable garnishment action against Acceptance to garnish insurance proceeds they claimed were to be provided under the terms of the USA Policy. Plaintiffs alleged that the Acceptance policy covered the vehicle because the vehicle was titled to and owned by USA Cars on the date of the accident. Plaintiffs and Acceptance filed opposing summary judgment motions as to the policy coverage on the day of the accident.

In a previous appeal, we concluded that the trial court erred in granting Plaintiffs' motion for summary judgment and that it was for the fact-finder, and not the trial court on summary judgment motion, to determine whether Bowman Sr. and USA Cars intended "to effect the sale" based on the facts in this case. *Sauvain v. Acceptance Indem. Ins. Co.*, 339 S.W.3d 555 (Mo. App. W.D. 2011).

Upon remand, the trial court entered its judgment, concluding, as fact-finder, that Bowman Sr. and USA Cars did not intend a transfer of ownership of the vehicle as of the date of the collision, that the vehicle was covered by the Acceptance policy, and that Bowman Jr. was an insured under the policy. Acceptance appeals.

**AFFIRMED.**

**Division One holds:**

While this court agrees with Acceptance that there was substantial evidence in the record that would have supported "a conclusion" contrary to that of the trial court, we do not believe that the evidence supported *only* Acceptance's conclusion that the parties intended to transfer ownership of the vehicle on the date Bowman Sr. signed the purchase agreement, paid the sales price, and took possession of the vehicle. Instead, accepting as true the evidence and inferences from it that are favorable to the judgment, the trial court's judgment is supported by substantial evidence and is not against the great weight of the evidence.

**Opinion by: Mark D. Pfeiffer, Judge**

April 22, 2014

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THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.