

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**DYLAN MARTIN, BY AND THROUGH HIS NATURAL MOTHER AND NEXT
FRIEND ROSE MARTIN, AND ROSE AND ROY MARTIN,
APPELLANTS**

vs.

**AUTO OWNERS INSURANCE COMPANY,
RESPONDENT**

DOCKET NUMBER WD78545

DATE: JANUARY 12, 2016

Appeal from:

The Circuit Court of Pettis County, Missouri
The Honorable Robert L. Koffman, Judge

Appellate Judges:

Division One: Anthony Rex Gabbert, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin, Judge

Attorneys:

Christopher P. Sweeny, for Appellants

Russell F. Watters, for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

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FRIEND ROSE MARTIN, AND ROSE AND ROY MARTIN, APPELLANTS**

v.

AUTO OWNERS INSURANCE COMPANY, RESPONDENT

WD78545

Pettis County, Missouri

Before Division One: Anthony Rex Gabbert, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin, Judge

Dylan Martin and his parents, Rose and Roy Martin, appeal the trial court's grant of summary judgment to Auto Owners Insurance Company (hereinafter "Owners") on the issue of stacking the underinsured motorist coverages in the Martins' automobile insurance policy, which it ruled the policy clearly and unequivocally did not permit. The Martins claim that ambiguities in the language of the policy should be construed against Owners and that the policy should be interpreted to allow the stacking of underinsured motorist coverages.

REVERSED AND REMANDED.

Division One holds:

Where there is an ambiguity created between an "other insurance" provision of excess coverage and anti-stacking provisions that attempt to take such coverage away, the ambiguity is to be construed against the insurer, and the policies therefore must be allowed to be stacked where the facts of the case would bring the insured within the scope of coverage under the "other insurance" clause.

Opinion by: Victor C. Howard, Judge

Date: January 12, 2016

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