

**OPINION SUMMARY**

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

NATHANIEL JAMES MANNER	)	No. ED96143
Plaintiff/Appellant,	)	Appeal from the Circuit Court
v.	)	of St. Charles County
NICHOLAS BRIAN SCHIERMEIER,	)	Honorable Nancy L. Schneider
CON-TECH FOUNDATIONS, LLC,	)	Date: December 27, 2011
HELMET CITY, INC., and	)	
JAFRUM INTERNATIONAL, INC.,	)	
Defendants,	)	
AMERICAN FAMILY MUTUAL INSURANCE	)	
COMPANY, and AMERICAN STANDARD	)	
INSURANCE COMPANY,	)	
Defendants/Respondents.	)	

Plaintiff sought \$400,000.00 in underinsured-motorist benefits under the terms of four vehicle liability insurance policies for injuries suffered in a collision while driving his Yamaha motorcycle. The trial court entered summary judgment in favor of the insurers, and plaintiff appeals. The issue on appeal is whether the owned-vehicle exclusion in the underinsured-motorist coverage endorsement attached to three of the policies (the Ford Ranger, Ford F150, and Suzuki policies) applies to exclude underinsured-motorist coverage.

**AFFIRMED IN PART; REVERSED AND REMANDED IN PART.**

Division Two Holds:

1. The term "person" as used in the owned-vehicle exclusion is not ambiguous and includes an "insured person" because the word "person" is used throughout the policy in clauses that would be meaningless if "person" did not include an "insured person."
2. The term "owned" as used in the owned-vehicle exclusion does not require a certificate of title.
3. Because "person" is not ambiguous and does not exclude plaintiff, and because plaintiff was occupying the Yamaha, which he "owned" but did not insure under those policies, the owned-vehicle exclusion in the Ford Ranger and Ford F150 policies excludes coverage for plaintiff's bodily injury.
4. The question of whether plaintiff was a "resident" of his father's house, as additionally required in the owned-vehicle exclusion in the Suzuki policy, is a factual issue that was disputed in plaintiff's response to the summary judgment motion and that depends on credibility determinations. Therefore, summary judgment based on the application of the owned-vehicle exclusion in this policy was erroneous.

5. Whether the Yamaha policy provides underinsured-motorist coverage or not depends on whether the owned-vehicle exclusion in the Suzuki policy applies.

Opinion by: Kathianne Knaup Crane, P.J.  
Lawrence E. Mooney, J. and Kenneth M. Romines, J., concur.

Attorneys for Appellant: Maurice B. Graham and Gretchen Garrison

Attorney for Respondents: Robert J. Wulff

**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.**