

**Summary of SC89844, *Morris Jones and Pamela Brown v. Mid-Century Insurance Co.***  
Appeal from the Scott County circuit court, Judge David A. Dolan

**Attorneys:** Jones and Brown were represented by Phillip J. Barkett Jr. of Cook, Barkett, Maguire & Ponder L.C. in Cape Girardeau, (573) 335-6651. Mid-Century was represented by William Sneckenberg and Matthew L. McBride of Sneckenberg, Thompson & Brody LLP in Chicago, (312) 782-9320; and Jeffrey P. Hine of Osburn, Hine, Kuntze, Yates & Murphy LLC in Cape Girardeau, (573) 651-9000.

*This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.*

**Overview:** A couple appeal the circuit court's judgment in favor of their insurance company, which reduced their payments under their underinsured motorist coverage by the amounts they had received from the driver who caused the accident in which they were injured. In a unanimous decision written by Chief Justice Laura Denvir Stith, the Supreme Court of Missouri reverses the judgment and remands (sends back) the case for further proceedings. The insurance policy is ambiguous. Two provisions of the policy seem to provide up to the \$100,000 policy limit per person, but under the insurer's interpretation of a third provision, the insurer never actually would be required to pay its policyholders the full amount of underinsured motorist coverage its policy ostensibly provides. This Court will not rewrite the policy in the way requested by the insurer and will resolve the ambiguities in favor of coverage.

**Facts:** Pamela Brown and Morris Jones were injured in 2004 in an accident with a vehicle driven by Sarah McGee. The parties stipulated that Brown and Jones each suffered in excess of \$150,000 in total damages. McGee's insurer paid the policy limits of \$50,000 to Brown and \$50,000 to Jones. Brown and Jones then each filed claims under the underinsured motorist coverage provision in their policy so each could recover the remaining \$100,000 in damages owed to each. Their insurance provider at the time, Mid-Century Insurance Co., paid each of them \$50,000 in underinsured motorist coverage, claiming it was liable only for \$50,000 to each because subsection (f) of its policy allows it to deduct from its coverage any amounts received from the tortfeasor (the person who caused the harm, here, McGee). It made the payments to Brown and Jones with the understanding that each reserved the right to seek the additional \$50,000 apiece in coverage. Brown and Jones each sued Mid-Century to recover the remaining \$50,000 owed to each in underinsured coverage. The trial court entered judgment in Mid-Century's favor, finding the policy unambiguously reduced the amount identified as the coverage amount per person – \$100,000 – by the amount already received by each – \$50,000. Brown and Jones appeal.

**REVERSED AND REMANDED.**

**Court en banc holds:** Mid-Century's insurance policy is ambiguous. The declarations page for and subsection (b) of the liability limits section of the policy both state that coverage for an underinsured motorist is provided up to \$100,000, and the total amount of liability would be \$100,000 under either subsection (a) or (b) of the policy. Mid-Century's contention that subsection (f) entitles it to reduce coverage by the amount already paid to the insured, however, conflicts with the clear intent of subsections (a) and (b) and, at worst, is misleading. Such an interpretation essentially would require this Court to insert additional words into subsections (a) and (b) to reduce coverage by the amount otherwise recovered. This Court, however, does not rewrite insurance policies to add language or take away coverage that provisions of the policy reasonably seem to provide. Accordingly, subsection (f) cannot be construed to mean that any amount paid to the policyholder must be deducted from the coverage limit. To the extent that the provisions of subsections (a), (b) and (f) are inconsistent, the policy is ambiguous, and those ambiguities are resolved in favor of coverage.