

Summary of SC94075, *Adam Dutton v. American Family Mutual Insurance Company*

Appeal from the Jackson County circuit court, Judge Marco A. Roldan

Argued and submitted November 5, 2014; opinion issued February 3, 2015

Attorneys: Dutton was represented by Randall W. Brown of Thorberry, Eischens & Brown LLC in Kansas City, (816) 531-8383. American Family was represented by Susan Ford Robertson and J. Zachary Bickel of The Robertson Law Group LLC in Kansas City, (816) 221-7010; and Christopher J. Carpenter and Tracy M. Hayes of Sanders Warren & Russell LLP in Overland Park, Kansas, (913) 234-6100.

There were several entities that filed briefs as friends of the Court. The Missouri Organization of Defense Lawyers was represented by Dale L. Beckerman and Mimi E. Doherty of Deacy & Deacy LLP in Kansas City, (816) 421-4000. Farmers Insurance Company Inc. was represented by Russell F. Watters and T. Michael Ward of Brown & James PC in St. Louis, (314) 421-3400. The Missouri Insurance Coalition and the National Association of Mutual Insurance Companies were represented by Jill R. Jackson of Ford, Parshall & Baker in Columbia, (573) 449-2613.

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 driver injured in an automobile accident appeals the circuit court's judgment that the state minimum financial responsibility law does not require the insurer of the other driver – who owned and insured another vehicle in addition to the one involved in the accident – to pay the \$25,000 statutory minimum for the vehicle not involved in the accident. In a 6-1 opinion written by Judge Laura Denvir Stith, the Supreme Court of Missouri affirms the circuit court's judgment. The policy's plain language does not require the insurer to provide coverage under the policy covering the vehicle not involved in the accident, and by its terms, the applicable state law only requires coverage of specifically designated vehicles and of other vehicles used by the insured but that are not owned by the insured. The policy in question does not designate the accident vehicle, and the vehicle not involved in the accident was owned by the insured but was not covered under either vehicle's policy.

Judge Richard B. Teitelman dissents without opinion.

Facts: Barbara Hiles, driving a 2007 Nissan Maxima she owned, caused a vehicle accident with Adam Dutton. Hiles also owned a 2003 Ford F-250, which was not involved in the accident. Hiles purchased separate American Family Mutual Insurance Company insurance policies for each of these two vehicles owned by her. Although the Ford was not involved in the accident, Dutton made a settlement demand of \$50,000, which combines the limits of the Nissan policy with what he claims are the minimum policy limits required under the state's motor vehicle financial responsibility law for the Ford policy. American Family agreed to pay Dutton the \$25,000 limit of the Nissan policy but refused to pay the \$25,000 limit of the Ford policy. Dutton and American Family agreed that a declaratory judgment action would be the proper method to determine American Family's liability, if any, under the Ford policy. The circuit court entered judgment for American Family, holding that where a person owns two vehicles but each

is insured under separate policies, and only one of the vehicles is involved in an accident, the policy on the accident vehicle must provide minimum coverage but Missouri's financial responsibility law does not require that minimum coverage also be provided by the policy on the owned but separately insured non-involved vehicle." Dutton appeals.

AFFIRMED.

Court en banc holds: The circuit court properly determined that neither the Ford policy nor Missouri's minimum financial responsibility law requires American Family to provide coverage under the Ford policy for an accident involving the Nissan. First, by its terms, the Ford policy excludes coverage for accidents involving "other owned vehicles." In other words, the coverage provided to Hiles under the Ford policy for her operation of vehicles other than the Ford does not extend to other vehicles she owns but that she does not insure under the Ford policy. The Nissan, which is the vehicle Hiles was operating when she had the accident for which coverage is sought, is owned by her but not insured under the Ford policy. Second, by its terms, the state financial responsibility law only requires coverage of specifically designated vehicles and of other vehicles the insured uses but does not own. The state law, therefore, does not require American Family to provide coverage under the Ford policy because the Nissan is owned by Hiles but is not designated in the Ford policy.