

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**MILDRED A. JENSEN,**

**v.**

**ALLSTATE INSURANCE COMPANY,**

**AND DWIGHT DOUGLAS, PERSONAL REPRESENTATIVE  
OF THE ESTATE OF WOODROW W. JENSEN, DECEASED,**

**RESPONDENT,**

**APPELLANT,**

**RESPONDENT.**

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**DOCKET NUMBER WD72266  
MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE: July 19, 2011**

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Appeal From:

Jackson County Circuit Court  
The Honorable Marco Antonio Roldan, Judge

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Appellate Judges:

Division Four: Lisa White Hardwick, P.J., James M. Smart, Jr., J., and Gregory B. Gillis, Sp.J.

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Attorneys:

Bruce Alan Copeland, Joplin, MO and Neal Stauffer, Tulsa OK for **respondents**.  
Robert J. Luder and John Vaught, Overland Park, KS for **appellant**.

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MISSOURI APPELLATE COURT OPINION SUMMARY

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MILDRED A. JENSEN,

RESPONDENT,

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ALLSTATE INSURANCE COMPANY,

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RESPONDENT.

No. WD72266

Jackson County

Division Four: Lisa White Hardwick, P.J., James M. Smart, Jr., J., and Gregory B. Gillis, Sp.J.

Woodrow Jensen and his wife, Mildred Jensen, were involved in an automobile accident. As a result of the accident Mildred was injured and Woodrow died. Both Mildred and Woodrow were named insureds under a motor vehicle policy issued by Allstate Insurance Company, which was in effect at the time of the accident. The policy provided \$50,000 of liability for bodily injury per person. After that accident, Mildred, as a claimant, contended her husband's negligence caused her injuries and demanded the \$50,000 policy limit from Allstate. Allstate offered \$25,000 as its limit of liability, noting that the policy included a "household exclusion" providing that capped liability coverage for claims of household members at the \$25,000 minimum required by the Missouri Motor Vehicle Financial Responsibility Law ("MVFRL"). The policy's household exclusion read in pertinent part:

Allstate will not pay for damages an **insured person** is legally obligated to pay because of:

....

8. **bodily injury** to any person related to an **insured person** by [], marriage[.]

Mildred rejected Allstate's position and filed suit in the Newton County Circuit Court, where she received a judgment against her husband's estate. Mildred then commenced a statutory garnishment proceeding in the Circuit Court of Jackson County against Allstate, pursuant to section 379.200, seeking to reach and apply the insurance money to the satisfaction of the judgment. The Jackson County Circuit Court entered judgment in favor of Mildred, determining that \$50,000 was the amount due under the policy because \$50,000 was the per person limit of liability. The court found the household exclusion did not apply to Mildred's bodily injuries by its express terms because the policy defined "**you**" and "**your**" to mean the policyholder named on the Policy Declarations and Mildred was named as such on the Policy Declarations. Alternatively, the trial court, in construing the ordinary meaning of the policy against Allstate,

found that when analyzing the term "any person" in the context of the whole policy and Mildred's injuries, it became ambiguous. This was because the Allstate policy designated Mildred with the defined terms "**you**," "**your**" and "**insured person**" and since there was no definition of "any person," a lay person could reasonably find there to be two different interpretations of the policy – either coverage or noncoverage. Allstate then filed a Motion to Amend or Modify Judgment, disagreeing with the court's determination of coverage and the language of the court's judgment. Allstate's Motion was deemed overruled after 90 days. Allstate appealed.

**REVERSED.**

**Division Four holds:** The trial court erred in finding Allstate's policy ambiguous. The language of the policy, read in isolation, and even more so when read in the context of the entire policy, was unambiguous. The exclusion language can reasonably be understood by an ordinary person, and consistent with the entire policy, as reading:

Allstate will not pay for damages [Woodrow] is legally obligated to pay because of:

**bodily injury to any person related to [Woodrow] by blood, marriage or adoption and residing in [Woodrow's] household (subject to the limitation of the MVFRL).**

An ordinary policyholder understands from a review of the entire policy that when the "any person" language appears by itself, without any qualifiers, it means "any person" and is not ambiguous at all in the context of the pattern established in the drafting and setting forth of other exclusions in the policy. The trial court, in trying to apply the principle of considering the particular language in light of the whole policy, failed to note the pattern established in the exclusions in the liability section and carried through in the remainder of the policy, and failed to note that the phrase "any person" appears multiple other places and means exactly *any person* without limitation except when it expresses a limitation. The provision is not ambiguous.

Opinion by James M. Smart, Jr., Judge

July 19, 2011

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