IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
November 30, 2022 Session

TENNESSEE FARMERS MUTUAL INSURANCE COMPANY v. CHARLIE SATTERFIELD ET AL.

Appeal from the Chancery Court for Sevier County
No. 21-1-011 Telford E. Forgety, Jr., Chancellor

No. E2022-00496-COA-R3-CV

The appellant, an insurance provider, sought a declaratory judgment against the policy holder, his wife, and his grandson, relieving the insurance company of the duty to defend and indemnify the policy holder, his wife, and his grandson against a complaint brought by the conservator of the grandson's girlfriend for varying claims of negligence. The insurance provider filed a motion for summary judgment, asserting that the grandson constituted a "covered person" under the grandfather's policy as an authorized driver and that the grandson's girlfriend constituted a "person residing in the same household as a covered person," triggering the policy's household exclusion. Pursuant to the household exclusion, which excluded liability coverage for bodily injury to "any covered person or any person residing in the same household as a covered person," the insurance provider claimed that it owed no duty to defend or indemnify the policy holder, his wife, and his grandson. The trial court granted the insurance provider's motion for summary judgment in part and denied it in part. The court determined that the grandson constituted a "covered person" solely with respect to the negligence claims brought against him in the complaint but not with respect to the negligent entrustment claim brought against the policy holder and his wife. Therefore, having found that the girlfriend constituted a "person residing in the same household as a covered person," the court determined that the insurance provider owed no duty to defend and indemnify the grandson but that it did owe a duty to the policy holder and his wife given that the girlfriend did not reside in their household. The insurance provider has appealed. Upon a thorough examination of the insurance policy, we reverse the portion of the trial court's judgment denying the insurance provider's motion for summary judgment with respect to the negligent entrustment claim and remand for the trial court to consider the affirmative defense of estoppel raised by the policy holder and his wife.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed in Part, Reversed in Part; Case Remanded

THOMAS R. FRIERSON, II, J., delivered the opinion of the court, in which JOHN W. MCCLARTY and KRISTI M. DAVIS, JJ., joined.

Janet Strevel Hayes and Mikel A. Towe, Knoxville, Tennessee, for the appellant, Tennessee Farmers Mutual Insurance Company.

Steven E. Marshall, Sevierville, Tennessee, for the appellees, Charlie E. Satterfield and Geraldine Satterfield.

OPINION

I. Factual and Procedural Background

This case originates from a tort action initiated by Tava Barnard ("Conservator"), the conservator and father of Alexis Barnard, against Charlie E. Satterfield ("Grandfather") and his grandson, John Dawson Satterfield ("Grandson").[1] In an amended complaint ("Barnard Complaint") filed in the Sevier County Circuit Court ("circuit court") on November 7, 2020, Conservator alleged that Grandson had been driving Grandfather's vehicle with the latter's permission on June 21, 2020. Conservator further averred that Grandson lost control of the vehicle and crossed the center median of the highway, resulting in a collision with an oncoming vehicle. The approaching vehicle struck the front passenger side of Grandfather's vehicle where Ms. Barnard, Grandson's girlfriend, had been sitting. As a consequence of the car accident, Ms. Barnard suffered serious injuries, including a traumatic brain injury. By reason of these injuries, Conservator was appointed in a separate proceeding to manage Ms. Barnard's affairs.

Conservator alleged that Grandson had been driving under the influence of alcohol and had acted negligently. In addition, Conservator claimed that Grandfather was liable to Ms. Barnard for "negligent entrustment" of his vehicle to Grandson, an allegedly "incompetent user." Conservator sought a judgment in the amount of five million dollars in compensatory damages, as well as two-and-one-half million dollars in punitive damages.[2]

[1] Due to the common surname of several persons involved in the facts of the case, we will refer to Charlie E. Satterfield as "Grandfather," Geraldine Satterfield as "Grandmother," and John Dawson Satterfield as "Grandson." Due to John P. Satterfield's tangential role in the action, we will refer to him by his full name when necessary.

[2] On June 9, 2021, Conservator filed a second amended complaint, more specifically outlining causes of action for (1) negligence by Grandson, (2) negligence *per se* by Grandson, and (3) negligent entrustment by Grandfather and his wife, Geraldine Satterfield ("Grandmother"). Conservator alleged that Grandfather and Grandmother knew Grandson was incompetent to use an automobile due to his "pattern of using intoxicants or being under the influence of intoxicants while driving."

In view of the pending litigation, Tennessee Farmers Mutual Insurance Company ("Tennessee Farmers"), the automobile insurer for Grandfather, filed in the Sevier County Chancery Court ("trial court") on January 26, 2021, a "Complaint for Declaratory Judgment" ("Complaint"), naming Grandfather and Grandson as defendants. Tennessee Farmers asserted that the damages sought in the Barnard Complaint were not covered by Grandfather's policy due to operation of its household exclusion. According to the Complaint, Grandfather's insurance policy states in relevant portion:[3]

> We do not provide liability coverage under this Part A and B;
>
> . . .
>
> 12. for any person or entity for *bodily injury* or *property damage* to any *covered person* or any person residing in the same household as a *covered person*;
>
> . . .
>
> 17. for punitive damages[.]

The subject insurance policy defines a "covered person" as "you or any family member for the maintenance or use of any auto or trailer" and "any person using your covered auto with your permission and within the scope of your permission." In the trial court, Tennessee Farmers asserted that Grandson constituted a "covered person" pursuant to the policy because Grandfather had given him permission to use the vehicle. Tennessee Farmers further averred that Ms. Barnard had resided in the same household as Grandson.[4] Accordingly, Tennessee Farmers contended that the household exclusion did not permit liability coverage to Grandfather and Grandson for Ms. Barnard's injuries because Ms. Barnard had been residing in the household of a "covered person." Tennessee Farmers requested that the trial court declare, in pertinent part, that: (1) Grandfather's policy does not provide coverage for the allegations set forth in the Barnard Complaint, (2) John P. Satterfield's policy does not provide coverage for the allegations set forth in the Barnard Complaint,[5] and (3) Tennessee Farmers maintains no obligation to defend or indemnify Grandfather or Grandson against the Barnard lawsuit.

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[3] Based upon the record, Grandfather appears to be the policy holder and named insured under the terms of the insurance policy. On the policy declaration, Grandmother is listed as a driver in addition to Grandfather.

[4] Tennessee Farmers included as an attachment Conservator's "Petition for a Conservatorship," which listed Ms. Barnard's residence and mailing address as the address attributed to Grandson.

[5] Tennessee Farmers additionally averred that John P. Satterfield, son to Grandfather and father to Grandson, maintained an automobile insurance policy with the insurance company. Tennessee Farmers

On March 19, 2021, Grandfather filed an answer to the Complaint, admitting most of the allegations. Grandfather specifically admitted that (1) he, Grandson, and John P. Satterfield confirmed previously during the course of Tennessee Farmers' investigation that Ms. Barnard and Grandson shared a permanent residence at the same address and (2) he and Grandson confirmed previously during the course of the investigation that Grandson was driving the vehicle owned by Grandfather with permission and within the scope of that permission at the time of the accident. Grandfather, however, denied the following allegations included in the Complaint:

> 26. Tennessee Farmers alleges and avers that the damages sought in the Barnard Complaint are not covered by [Grandfather's] Policy or John [P. Satterfield's] Policy pursuant to the following exclusions ("the Exclusions")[.]
>
> 27. Under the terms of both [Grandfather's] Policy and John's Policy, no liability coverage is available for any person "for *bodily injury* . . . to any *covered person* or any person residing in the same household as a *covered person*."
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> * * *
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> 29. The Exclusions within [Grandfather's] Policy and John's Policy do not allow coverage for the alleged bodily injuries and damages outlined in the Barnard Complaint, as Alexis K. Barnard was "residing in the same household as a covered person."
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> * * *
>
> 31. Tennessee Farmers therefore alleges and avers that [Grandfather] and [Grandson] are not entitled to any insurance coverage under the policy for any allegations or damages set forth in the Barnard Complaint.

Grandfather also raised as affirmative defenses that the liability coverage exclusions as set forth in the policy were (1) ambiguous and should be construed against Tennessee Farmers and (2) contrary to public policy and therefore unenforceable.

On March 22, 2021, Grandson filed an answer, denying the same allegations of the Complaint as identified in Grandfather's answer. As an affirmative defense, Grandson

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referenced John P. Satterfield's policy in the Complaint, motion for judgment on the pleadings, and Rule 56.03 statement of undisputed material facts. John P. Satterfield is not named as a party to the lawsuit and is not a party to this appeal, and the trial court found in its final order that his policy was not at issue.

likewise argued that the exclusions set forth in the policy were contrary to public policy and therefore unenforceable.

On April 12, 2021, Tennessee Farmers filed a motion for judgment on the pleadings pursuant to Tennessee Rule of Civil Procedure 12.03. Concomitantly, Tennessee Farmers filed a memorandum of law in support of its motion, citing Tennessee Supreme Court decisions upholding "household and family exclusion clauses in automobile insurance contracts" as "valid and enforceable." *See Purkey v. Am. Home Assur. Co.*, 173 S.W.3d 703, 709 (Tenn. 2005) ("[W]e conclude that family or household exclusions in automobile liability insurance policies do not violate Tennessee law or public policy.") Tennessee Farmers further emphasized that the household exclusion included in Grandfather's automobile insurance policy was triggered because Grandson constituted a "covered person" and Ms. Barnard had resided in the Grandson's household at the time of the accident. Grandfather filed a response, positing, *inter alia*, that Tennessee Farmers should be "estopped from denying coverage to [him] in the underlying action" due to oral representations made to him by Tennessee Farmers' insurance agents that his insurance policy provided to him "full liability coverage."

Grandfather subsequently filed an amended answer on June 24, 2021, through which he asserted, and characterized as affirmative defenses, "breach of contract, misrepresentation, constructive fraud, bad faith refusal to pay a legitimate insurance claim pursuant to Tenn. Code Ann. § 56-7-105, and for deceptive and unfair business practices in violation of the Tennessee Consumer Protection Act." In support, Grandfather argued that Tennessee Farmers had "no legitimate reason" for denying his claim and that as a result of this denial, he had suffered unnecessary expenses and costs in defending against Tennessee Farmers' action. Grandfather further asserted that Tennessee Farmers' actions constituted "intentional, outrageous, willful, negligent and grossly negligent acts" that entitled him to recover punitive damages. According to Grandfather, the insurance policy constituted an "adhesion contract" and contained terms which were "beyond the expectation of an ordinary person, oppressive and unconscionable."

Through the amended answer, Grandfather attached an affidavit, averring that he had maintained insurance policies with Tennessee Farmers since 1979 and dealt with numerous Tennessee Farmers insurance agents. According to Grandfather, he or his wife always paid their insurance premiums in person at the Sevierville or Kodak office. In addition, each time he or his wife visited a Tennessee Farmers' office, one or both of them would orally confirm with an insurance agent that they maintained "full coverage" for any accident that might occur while anyone was driving one of their vehicles with their permission. Moreover, Grandfather averred that he had relied on the statements made by Tennessee Farmers' insurance agents.

On August 4, 2021, Tennessee Farmers filed a motion to amend the Complaint to add Geraldine Satterfield ("Grandmother"), Grandfather's wife, as a party defendant.[6] Tennessee Farmers named Grandmother as a defendant because Conservator had named her as a defendant in the underlying tort case. Grandfather opposed Tennessee Farmers' motion, arguing that Grandmother was not the registered owner of the vehicle driven by Grandson and had not afforded Grandson permission to drive the vehicle. There does not appear within the record an order entered by the trial court granting or denying Tennessee Farmers' motion to amend its complaint; however, on October 25, 2021, Tennessee Farmers filed the amended complaint attached to its motion seeking leave to amend.

On February 10, 2022, Tennessee Farmers filed a motion for summary judgment, memorandum of law in support, and a Tennessee Rule of Civil Procedure 56.03 statement of undisputed material facts. Grandfather and Grandmother (collectively, "the Satterfields") filed responses to Tennessee Farmers' motion and statement of undisputed material facts. They admitted as undisputed the facts contained in Tennessee Farmers' Rule 56.03 statement, including that Grandson was a "covered person" under the policy and that Ms. Barnard resided at the same residence as Grandson. However, in their memorandum of law in support, the Satterfields argued, *inter alia*, that Ms. Barnard was only temporarily residing with Grandson and his parents and had no intention of permanently residing or forming a social unit with them. In a reply to the Satterfields' response, Tennessee Farmers included as exhibits the "Examinations Under Oath" of Grandson and John P. Satterfield. In the Examinations, both Grandson and John P. Satterfield stated that Ms. Barnard had resided with Grandson for more than two years prior to the automobile accident.

Following a hearing, the trial court entered a final judgment on April 19, 2022, granting in part and denying in part Tennessee Farmers' motion for summary judgment. The court ordered that Tennessee Farmers was entitled to summary judgment with respect to all claims and damages set out within the Barnard Complaint against Grandson. The court specifically determined that Ms. Barnard had been residing in the same household as Grandson for more than two years and that Grandson was a "covered person" under Grandfather's policy. Furthermore, the court found that due to Ms. Barnard's shared residence with Grandson, Tennessee Farmers maintained no duty to defend or indemnify Grandson. The court, however, denied Tennessee Farmers' motion for summary judgment relative to the negligent entrustment claim instituted against the Satterfields. The court accordingly determined that Tennessee Farmers maintained a duty to defend and indemnify the Satterfields with respect to the negligent entrustment claim because Ms. Barnard had

[6] On August 4, 2021, Conservator filed a motion to intervene in the action between Tennessee Farmers and Grandfather and Grandson. Therein, Conservator asserted that Ms. Barnard had not been a member of the Satterfields' household and had not intended to permanently reside with Grandson at the time of the accident. Conservator consequently requested that he be allowed to intervene on Ms. Barnard's behalf to protect her interests or, alternatively, that the trial court appoint him as *amicus curiae*. The court denied Conservator's motion with respect to both requests.

not been residing in their household. Lastly, the court granted Tennessee Farmers' motion for summary judgment concerning all claims for punitive damages sought against the Satterfields and Grandson. In support of its decision, the court incorporated by reference its oral ruling. Tennessee Farmers timely appealed the court's decision concerning the negligent entrustment claim against the Satterfields.

II. Issue Presented

Tennessee Farmers raises one issue on appeal, which we have restated slightly as follows:

> Whether the trial court erred by denying in part Tennessee Farmers' motion for summary judgment based upon its conclusion that the household exclusion did not apply to the claim of negligent entrustment.

III. Standard of Review

The grant or denial of a motion for summary judgment is a matter of law; therefore, our standard of review is *de novo* with no presumption of correctness. *See Rye v. Women's Care Ctr. of Memphis, MPLLC*, 477 S.W.3d 235, 250 (Tenn. 2015); *Dick Broad. Co. of Tenn. v. Oak Ridge FM, Inc.*, 395 S.W.3d 653, 671 (Tenn. 2013) (citing *Kinsler v. Berkline, LLC*, 320 S.W.3d 796, 799 (Tenn. 2010)). As such, this Court must "make a fresh determination of whether the requirements of Rule 56 of the Tennessee Rules of Civil Procedure have been satisfied." *Rye*, 477 S.W.3d at 250. As our Supreme Court has explained concerning the requirements for a movant to prevail on a motion for summary judgment pursuant to Tennessee Rule of Civil Procedure 56:

> [W]hen the moving party does not bear the burden of proof at trial, the moving party may satisfy its burden of production either (1) by affirmatively negating an essential element of the nonmoving party's claim or (2) by demonstrating that the nonmoving party's evidence *at the summary judgment stage* is insufficient to establish the nonmoving party's claim or defense. We reiterate that a moving party seeking summary judgment by attacking the nonmoving party's evidence must do more than make a conclusory assertion that summary judgment is appropriate on this basis. Rather, Tennessee Rule 56.03 requires the moving party to support its motion with "a separate concise statement of material facts as to which the moving party contends there is no genuine issue for trial." Tenn. R. Civ. P. 56.03. "Each fact is to be set forth in a separate, numbered paragraph and supported by a specific citation to the record." *Id.* When such a motion is made, any party opposing summary judgment must file a response to each fact set forth by the movant in the manner provided in Tennessee Rule 56.03. "[W]hen a motion for summary judgment is made [and] . . . supported as provided in [Tennessee

> Rule 56],” to survive summary judgment, the nonmoving party “may not rest upon the mere allegations or denials of [its] pleading,” but must respond, and by affidavits or one of the other means provided in Tennessee Rule 56, “set forth specific facts” *at the summary judgment stage* “showing that there is a genuine issue for trial.” Tenn. R. Civ. P. 56.06. The nonmoving party “must do more than simply show that there is some metaphysical doubt as to the material facts.” *Matsushita Elec. Indus. Co.,* 475 U.S. [574,] 586, 106 S. Ct. 1348, [89 L.Ed.2d 538 (1986)]. The nonmoving party must demonstrate the existence of specific facts in the record which could lead a rational trier of fact to find in favor of the nonmoving party. If a summary judgment motion is filed before adequate time for discovery has been provided, the nonmoving party may seek a continuance to engage in additional discovery as provided in Tennessee Rule 56.07. However, after adequate time for discovery has been provided, summary judgment should be granted if the nonmoving party’s evidence *at the summary judgment stage* is insufficient to establish the existence of a genuine issue of material fact for trial. Tenn. R. Civ. P. 56.04, 56.06. The focus is on the evidence the nonmoving party comes forward with at the summary judgment stage, not on hypothetical evidence that theoretically could be adduced, despite the passage of discovery deadlines, at a future trial.

Rye, 477 S.W.3d at 264-65. “Whether the nonmoving party is a plaintiff or a defendant—and whether or not the nonmoving party bears the burden of proof at trial on the challenged claim or defense—at the summary judgment stage, ‘[t]he nonmoving party must demonstrate the existence of specific facts in the record which could lead a rational trier of fact to find in favor of the nonmoving party.’” *TWB Architects, Inc. v. The Braxton, LLC*, 578 S.W.3d 879, 889 (Tenn. 2019) (quoting *Rye*, 477 S.W.3d at 265). Pursuant to Tennessee Rule of Civil Procedure 56.04, the trial court must “state the legal grounds upon which the court denies or grants the motion” for summary judgment, and our Supreme Court has instructed that the trial court must state these grounds “before it invites or requests the prevailing party to draft a proposed order.” *See Smith v. UHS of Lakeside, Inc.*, 439 S.W.3d 303, 316 (Tenn. 2014).

In addition, the issue before this Court engages an analysis of contract construction, and as such, we note:

> Summary judgment is a preferred vehicle for disposing of purely legal issues. Because the construction of a written contract involves legal issues, construction of the contract is particularly suited to disposition by summary judgment. Because only questions of law are involved in this issue, there is no presumption of correctness regarding the trial court’s grant of summary judgment. Therefore, our review of the trial court’s grant of summary judgment is de novo on the record before this Court.

Jerles v. Phillips, No. M2005-1494-COA-R3-CV, 2006 WL 2450400, at *7 (Tenn. Ct. App. Aug. 22, 2006) (internal citations omitted).

IV. Construction of Household Exclusion Clause

In its final judgment, the trial court determined that Tennessee Farmers owed the Satterfields a duty to defend and indemnify them against the claim of negligent entrustment set forth in the Barnard Complaint. The court also determined that the household exclusion did not apply to the negligent entrustment claim against the Satterfields, reasoning that Ms. Barnard had not been a person residing in the Satterfields' household and that Grandson was not a "covered person" with respect to the negligent entrustment claim. The court further explained that Conservator had not alleged that Grandson "negligently entrusted anything." Notwithstanding this ruling, the court concluded that Grandson constituted a "covered person" with respect to the other claims of negligence involving his operation of Grandfather's vehicle and therefore granted Tennessee Farmers' motion for summary judgment relative to those claims instituted against Grandson.

We first consider that the Satterfields did not deny in their response any of the facts propounded by Tennessee Farmers in its statement of undisputed material facts. Significantly, whether Grandson constituted a "covered person" as someone who had been granted permission to drive the vehicle and whether Ms. Barnard resided with Grandson are facts undisputed by the Satterfields. Furthermore, on appeal, the Satterfields neither challenge the trial court's findings nor argue that Ms. Barnard did not constitute a "person residing in the same household as a *covered person*." In addition, the Satterfields do not contend that the household exclusion violates public policy as they previously argued in their trial court filings. As this Court has previously explained, a household exclusion's "purpose is to safeguard the insurance company against collusion by relieving it from the obligation to cover claims filed by persons to whom the insured, on account of close family ties, would be naturally partial in case of injury," and "Tennessee courts have consistently held that such exclusions are valid and not contrary to public policy." *Tenn. Farmers Mut. Ins. Co. v. Estate of Archie*, No. W2016-01287-COA-R3-CV, 2016 WL 7403794, at *3 (Tenn. Ct. App. Dec. 21, 2016). Ergo, the sole issue before this Court is whether the trial court properly interpreted the insurance policy, which is purely a legal question.

On appeal, Tennessee Farmers posits that the trial court erred by ignoring the plain language of the household exclusion. According to Tennessee Farmers, the court read language into the policy that does not exist. On this point, Tennessee Farmers postulates that instead of concluding that liability coverage would be unavailable for claims raised by a person residing in the same household as a "covered person," the court effectively limited this policy to persons residing in the same household as the "alleged tortfeasor" in contravention of the plain meaning of the clause. Conversely, the Satterfields contend:

> Read correctly, the exclusion only applies to the extent "a" covered person whose negligence causes the injury resides with the victim of the negligence. It does not apply to "any" covered person who does not reside with the victim but whose independent negligence is a substantial contributing factor to the injury. A link must exist between the "residing with" element of the exclusion and the "negligence of" element for the exclusion to apply.

Upon our thorough examination of the insurance policy, we agree with Tennessee Farmers that the trial court's and the Satterfields' interpretation is contrary to the plain language of the household exclusion clause at issue in the instant action.

Inasmuch as this dispute centers upon the parties' competing interpretations of the household exclusion clause, resolution of the dispositive issue requires examination of the insurance policy language. Concerning contract interpretation, this Court has previously explained:

> "Tennessee law is clear that questions regarding the extent of insurance coverage present issues of law involving the interpretation of contractual language." *Garrison v. Bickford*, 377 S.W.3d 659, 663 (Tenn. 2012) (citing *Clark v. Sputniks, LLC*, 368 S.W.3d 431, 436 (Tenn. 2012); *Maggart v. Almany Realtors, Inc.*, 259 S.W.3d 700, 703 (Tenn. 2008)). Therefore, our standard of review is de novo with no presumption of correctness afforded to the trial court's conclusion. *Id.* (citing *U.S. Bank, N.A. v. Tenn. Farmers Mut. Ins. Co.*, 277 S.W.3d 381, 386 (Tenn. 2009).
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> > "[I]nsurance policies are, at their core, contracts." *Allstate Ins. Co. v. Tarrant*, 363 S.W.3d 508, 527 (Tenn. 2012) (Koch, J., dissenting). As such, courts interpret insurance policies using the same tenets that guide the construction of any other contract. *Am. Justice Ins. Reciprocal v. Hutchison*, 15 S.W.3d 811, 814 (Tenn. 2000). Thus, the terms of an insurance policy "'should be given their plain and ordinary meaning, for the primary rule of contract interpretation is to ascertain and give effect to the intent of the parties.'" *Clark*, 368 S.W.3d at 441 (quoting *U.S. Bank,* 277 S.W.3d at 386-87). The policy should be construed "as a whole in a reasonable and logical manner," *Standard Fire Ins. Co. v. Chester-O'Donley & Assocs.*, 972 S.W.2d 1, 7 (Tenn. Ct. App. 1998), and the language in dispute should be examined in the context of the entire agreement, *Cocke Cty Bd. of Highway Comm'rs v. Newport Utils. Bd.*, 690 S.W.2d 231, 237 (Tenn. 1985).

> In addition, contracts of insurance are strictly construed in favor of the insured, and if the disputed provision is susceptible to more than one plausible meaning, the meaning favorable to the insured controls. *Tata v. Nichols*, 848 S.W.2d 649, 650 (Tenn. 1993); *VanBebber v. Roach*, 252 S.W.3d 279, 284 (Tenn. Ct. App. 2007). However, a "strained construction may not be placed on the language used to find ambiguity where none exists." *Farmers-Peoples Bank v. Clemmer*, 519 S.W.2d 801, 805 (Tenn. 1975).

Id. at 663-64.

S. Tr. Ins. Co. v. Phillips, 474 S.W.3d 660, 664-65 (Tenn. Ct. App. 2015).

Our "initial task" in construing the policy is to determine whether the language is ambiguous. *Kafozi v. Windward Cove, LLC*, 184 S.W.3d 693, 698 (Tenn. Ct. App. 2005). With respect to this analysis, this Court has elucidated:

> If the language is clear and unambiguous, the literal meaning of the language controls the outcome of the dispute. [*Planters Gin Co. v. Fed. Compress & Warehouse Co., Inc.*, 78 S.W.3d 885, 890 (Tenn. 2002).] A contract is ambiguous only when its meaning is uncertain and may *fairly* be understood in more than one way. *Id*. (emphasis added). If the contract is found to be ambiguous, we then apply established rules of construction to determine the intent of the parties. *Id*. Only if ambiguity remains after applying the pertinent rules of construction does the legal meaning of the contract become a question of fact. *Id*.

Id. at 698-99. This Court has also previously set forth the following principles to guide it in considering whether contract language is ambiguous:

> Contractual language is ambiguous when it is susceptible to more than one interpretation and reasonably intelligent persons could come to different conclusions as to the meaning of the contract. However, an ambiguity arises in a contract only when contractual terms are susceptible to fair and honest differences, and when both of the interpretations advanced are reasonable.
>
> A word or expression in the contract may, standing alone, be capable of two meanings and yet the contract may be unambiguous. Thus, in determining whether or not there is such an ambiguity as calls for interpretation, the whole instrument must be considered, and not an isolated part, such as a single sentence or paragraph. The language in a contract must be construed in the context of that instrument as a whole, and in the

circumstances of that case, and cannot be found to be ambiguous in the abstract.

Fisher v. Revell, 343 S.W.3d 776, 780 (Tenn. Ct. App. 2009) (quoting 77 C.J.S. *Contracts* § 304 (citations omitted)).

The pertinent terms of Grandfather's liability coverage through the insurance policy are as follows:

PART A AND B
LIABILITY COVERAGE

You have this coverage if "A and B" appears under "Coverages" in the Declarations.

Definitions of Words and Terms as Used in this PART A and B

The words defined below are used throughout this Part A and B as they are defined here. Whenever the defined words are used in this Part, they appear in italicized type so that **you** can find them easily.

1. *Covered person* means:

a. **you** or any **family member** for the maintenance or use of any **auto** or **trailer**;

b. any person using **your covered auto** with **your** permission and within the scope of **your** permission[.]

* * *

What is Covered

We will pay compensatory damages up to **our** limit of liability for this Coverage A and B for *bodily injury* and *property damage* for which any *covered person* becomes legally liable to pay because of an automobile *accident* arising out of the maintenance or use of an **auto** or **trailer.**

As **we** consider appropriate, **we** will settle, tender **our** limit of liability for, or defend with attorneys hired and paid by **us** any claim or suit seeking damages against a *covered person* for which coverage is provided.

We have no duty to defend any claim or suit:

1. for which coverage is not provided by this policy, or

2. after we have paid or deposited in court **our** limit of liability for this Coverage A and B for the *accident* that is the basis of the claim or suit.

* * *

What is Not Covered

We do not provide liability coverage under this Part A and B:

* * *

12. for any person or entity for *bodily injury* or *property damage* to any *covered person* or any person residing in the same household as a *covered person*;

* * *

17. for punitive damages[.][7]

We determine that this language is unambiguous and not susceptible to more than one interpretation. Therefore, "the literal meaning of the language controls the outcome" of this dispute. *See Planters Gin Co. v. Fed. Compress & Warehouse Co., Inc.*, 78 S.W.3d 885, 890 (Tenn. 2002). "Covered person" is clearly defined by the policy to include not only the policy holder but also any person using the policy holder's covered vehicle within the scope of the policy holder's permission. Thus, inasmuch as it is undisputed that Grandson was using the vehicle with Grandfather's permission and within the scope of his permission, Grandson constituted a "covered person" under the terms of the policy.

The Satterfields do not contest that Grandson constituted a "covered person." The trial court also determined that Grandson was a "covered person," albeit with respect to only the negligence claims initiated against him. However, the court's conclusion that a person is only a "covered person" with respect to the claims brought against him is unsupported by the plain language of the policy. Therefore, the court erred in finding Grandson to be a "covered person" with respect to some claims but not all. No language is present in the insurance policy to suggest that a person's qualification as a "covered person" depends on whether the person is the alleged tortfeasor.

[7] Certain words have been bolded or italicized to accurately reflect the appearance of the language in the policy.

The Satterfields have advanced and the trial court has implicitly established a different definition of "covered person" in the household exclusion than the one provided by the policy. The policy clearly defines "covered person" to include any person using the covered vehicle within the scope of the policy holder's permission. However, instead of applying this definition with respect to all claims raised by Conservator, the court narrowed the definition of "covered person" to refer only to the alleged tortfeasor. Predicated on this erroneous interpretation, the court's rationale was thus: because the Satterfields were the alleged tortfeasors in relation to the negligent entrustment claim and Ms. Barnard did not reside in their household, the household exclusion did not act to bar coverage for the negligent entrustment claim. Similarly, on appeal, the Satterfields have argued that a "link" must exist between the "covered person's negligence and the injured person's residence." However, no such connection is required by the explicit terms of the policy or implied in the definition of "covered person" or the household exclusion. We therefore agree with Tennessee Farmers that the trial court created a distinction in the definition of "covered person" where none exists in the policy.

The household exclusion outlined in paragraph 12 under the heading, "What is Not Covered," is also unambiguous. According to the policy language, Tennessee Farmers does not provide liability coverage for any person or entity for bodily injury or property damage to "any *covered person* or any person residing in the same household as a *covered person*." Again, the parties do not dispute on appeal that Ms. Barnard resided in the same household as Grandson or that she constituted a "person residing in the same household as a *covered person*." Therefore, based upon the unambiguous language of the household exclusion clause, Tennessee Farmers maintained no duty to provide liability coverage for Ms. Barnard's injuries. *See Tenn. Farmers Mut. Ins. Co. v. Estate of Archie*, 2016 WL 7403794, at *3 (stating that "Tennessee courts have determined that household exclusion clauses similar to the one at issue in this case are not ambiguous" in relation to a household exclusion nearly identical to the one at issue in the case at bar).

The trial court predicated its ruling on the distinction between the Satterfields as the alleged tortfeasors for the negligent entrustment claim and Grandson as the alleged tortfeasor for the other negligence claims. However, as the language of the household exclusion makes clear, it is not the Satterfields' or Grandson's status as tortfeasor(s) or whether Ms. Barnard resided with the tortfeasor(s) that establishes whether Tennessee Farmers must provide liability coverage for her injuries. Rather, Ms. Barnard's status as a person "residing in the same household as a *covered person*" dictates whether Tennessee Farmers must provide liability coverage for her injuries. The plain terms of the policy and household exclusion do not change based upon the type of claim raised. By reason of the plain terms of the policy, all claims, regardless of the tortfeasor, are excluded for any bodily injury or damage to Ms. Barnard given her residence in the same household as a covered person. Simply stated, her status as such bars coverage for her claims. We therefore conclude that the trial court has incorrectly interpreted the plain language of the policy.

The Satterfields rely on *GRE Ins. Grp. v. Reed*, No. 01A01-9806-CH-00300, 1999 WL 548498 (Tenn. Ct. App. July 12, 1999), in support of their contention that the household exclusion should not apply to the negligent entrustment claim against them. Upon our review, we conclude that the Satterfields' reliance on *GRE* is misplaced. In that case, one of the insureds permitted a third party to use the insured vehicle. *Id.* at *1. The authorized driver proceeded to intentionally hit another person with the vehicle. *Id.* GRE Insurance Group filed a declaratory judgment action against the authorized driver, the insureds, and the victim, contending that it was not required to provide either a defense or liability coverage to the insureds or authorized driver due to the coverage exclusion that provided: "We do not provide Liability Coverage for any person: 1. who intentionally causes bodily injury or property damage." *Id.* at *3. The trial court determined that the exclusion applied to the authorized driver but not to the insureds given that the claim against them was one of negligent entrustment rather than an intentional act. *Id.* at *1. GRE Insurance Group appealed. *Id.* at *2. The GRE Court affirmed the trial court and concluded that the language of the policy was unambiguous. *Id.* at *5. Based upon the plain language of the exclusion, liability coverage was unavailable for "a particular person, not a particular injury," and that person was <u>any person who intentionally caused bodily injury or property damage.</u> *Id.* In that case, the only person who had intentionally caused bodily injury was the authorized driver rather than the insured.

However, *GRE* differs in material ways from the case at bar. In contrast to the policy language in *GRE*, the language of the household exclusion in this case clearly does not limit the exclusion to the tortfeasor but rather applies more broadly for bodily injury or property damage to "any *covered person* or any person residing in the same household as a *covered person*." Furthermore, the Court in *GRE* analyzed different language for a different type of policy exclusion, which produced an outcome unique to the facts of that case and with little application to the facts of the present case. Therefore, *GRE* is only pertinent to this action inasmuch as the *GRE* Court followed and applied the plain meaning of the policy language, instead of imposing a "strained construction" upon the policy language. *See S. Tr. Ins. Co. v. Phillips*, 474 S.W.3d at 665 (quoting *Farmers-Peoples Bank v. Clemmer*, 519 S.W.2d 801, 805 (Tenn. 1975)).

On appeal, the Satterfields also assert that Tennessee Farmers should be "estopped from denying coverage to [them] in the underlying action," contending that they relied upon the oral assurances from Tennessee Farmers' insurance agents that they would be "fully covered" in the event of an automobile accident. Considering that the trial court disposed of Tennessee Farmers' motion for summary judgment based upon the undisputed material facts and its interpretation of the insurance policy without addressing the affirmative defense of estoppel raised by the Satterfields, we remand the case for the trial court to consider and address their estoppel defense.

V. Conclusion

For the foregoing reasons, we reverse the portion of the trial court's judgment denying Tennessee Farmers' motion for summary judgment with respect to the negligent entrustment claim brought against the Satterfields. We remand for the trial court to consider the affirmative defense of estoppel presented by the Satterfields in their initial response to Tennessee Farmers' motion for summary judgment. Costs on appeal are assessed to the appellees, Charlie E. Satterfield and Geraldine Satterfield.

s/ Thomas R. Frierson, II
THOMAS R. FRIERSON, II, JUDGE