

STATE OF MICHIGAN
COURT OF APPEALS

YUAN LEI, by BRIAN GOETZ, as Next Friend,
Plaintiff-Appellee,

UNPUBLISHED
February 16, 2016

v

PROGRESSIVE MICHIGAN INSURANCE
COMPANY,

No. 325168
Washtenaw Circuit Court
LC No. 13-000436-NI

Defendant-Appellant,

and

DONNA MCBRIDE, STATE FARM MUTUAL
AUTOMOBILE INSURANCE COMPANY,
CITIZENS INSURANCE COMPANY OF
AMERICA, and HOME-OWNERS INSURANCE
COMPANY,

Defendants.

Before: O'CONNELL, P.J., and OWENS and BECKERING, JJ.

PER CURIAM.

Defendant Progressive Michigan Insurance Company (Progressive) appeals as of right the trial court's order denying its motion for summary disposition under MCR 2.116(C)(10). The trial court concluded that plaintiff, Yuan Lei, was "related" to her step-grandmother Marilyn Goetz under the definition provided in Marilyn's insurance policy, and entered a judgment in favor of Lei that imposed liability on Progressive. We reverse.

I. BACKGROUND FACTS

On November 9, 2012, Lei was struck by a car while crossing a street on foot. Lei's mother, Yufang Cai, and her father, Kai Zhi Lei, were divorced. Lei lived part of the time with her mother and her stepfather, Brian Goetz, in Marilyn's home. Marilyn died about three months before Lei's accident, but her insurance policy through Progressive continued after her death.

Kai Zhi Lei has an insurance policy through Citizens Insurance Company that undisputedly covers Lei. However, his policy is limited, and Lei suffered significant injuries.

Lei also sought to recover under Merilyn’s policy, which provided uninsured and underinsured motorist benefits to her relatives. Merilyn’s policy defines “insured person” as “you or a relative,” and defines “a relative” as “a person residing in the same household as you, and related to you by blood, marriage, or adoption, and includes a ward, stepchild, or foster child. . . .”¹

Progressive moved for summary disposition, contending that Merilyn’s policy did not cover Lei because Lei was not related to Merilyn as a step-child, but rather was Merilyn’s step-grandchild. The trial court denied the motion, stating, “given the Court’s review of the specific language clearly the child is a step-grandchild and the child is clearly related to the original policy holder . . . by marriage, in the sense that she is the grandchild as a result of the marriage[.]” Progressive now appeals.

II. STANDARDS OF REVIEW

This Court reviews de novo the trial court’s decision on a motion for summary disposition. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999). When a party moves the trial court for summary disposition under MCR 2.116(C)(8) and (10) and the trial court considered documents outside the pleadings when deciding the motion, we review the trial court’s decision under MCR 2.116(C)(10). *Hughes v Region VII Area Agency on Aging*, 277 Mich App 268, 273; 744 NW2d 10 (2007). A party is entitled to summary disposition under MCR 2.116(C)(10) if “there is no genuine issue as to any material fact, and the moving party is entitled to judgment . . . as a matter of law.”

This Court reviews de novo the interpretation of contractual language. *Wilkie v Auto-Owners Ins Co*, 469 Mich 41, 47; 664 NW2d 776 (2003). We also review de novo the legal effect of a contractual provision. *DeFrain v State Farm Mut Auto Ins Co*, 491 Mich 359, 366-367; 817 NW2d 504 (2012).

“[A]n insurance contract must be enforced in accordance with its terms.” *Henderson v State Farm Fire & Cas Co*, 460 Mich 348, 354; 596 NW2d 190 (1990). We construe contractual terms in context. *Id.* We must interpret a contract in a way that gives every word, phrase, and clause meaning, and must avoid interpretations that render parts of the contract surplusage. *Klapp v United Ins Group Agency Inc*, 468 Mich 459, 468; 663 NW2d 447 (2003). If no reasonable person could dispute the meaning of the contract’s plain language, we must enforce that language as written. *Rory v Continental Ins Co*, 473 Mich 457, 468; 703 NW2d 23 (2005).

III. ANALYSIS

Progressive contends that its uninsured motorist policy does not cover Lei under these circumstances because she is Merilyn’s step-grandchild and therefore not “a relative” as defined in the contract. We agree.

¹ While the policy uses bold font to indicate terms that it defines in other sections, we have omitted this emphasis in this opinion.

Uninsured motorist coverage permits a motorist to obtain coverage from his or her insurance company to the extent that the insured could make a third-party claim against an uninsured at-fault driver. *Id.* at 465. Because uninsured motorist coverage is not mandatory under Michigan law, we look to the contractual language to determine the extent of coverage. *Id.* at 465-466.

The dispute in this case centers on the meaning of “relative” under the contract. We may consult a dictionary definition to determine the commonly understood meaning of undefined terms. See *Griffith v State Farm Mut Auto Ins Co*, 472 Mich 521, 526; 697 NW2d 895 (2005). However, when a contract defines a term, we must afford that term its stated meaning. *Farm Bureau Mut Ins Co of Mich v Nikkel*, 460 Mich 558, 567; 596 NW2d 915 (1999). While the parties reference several outside sources to support their arguments that a step-grandchild is or is not a relative, including dictionaries and outside statutes, we may look no further than the contract in this case because the contract defines the term “a relative.”

The contract provides that “a relative” is “a person residing in the same household as you, and related to you by blood, marriage, or adoption, and includes a ward, stepchild, or foster child.” The word “includes” may be a term of enlargement or limitation, *Frame v Nehls*, 452 Mich 171, 178-179; 550 NW2d 739 (1996), or may signal the presence of an illustrative list. *Samantar v Yousuf*, 560 US 305, 317; 130 S Ct 2278; 176 L Ed 2d 1047 (2010). The word “and” usually indicates a conjunction that means as well as or in addition to. *Gen Motors Corp v Dep’t of Treasury*, 290 Mich App 355, 390; 803 NW2d 698 (2010).

In this case, the word “includes” follows the word “and.” If the phrase “related to you by . . . marriage . . .” included not only the marriage, but all additional relationships formed out of the marriage relationship, there would be no need to specify that stepchildren are also relatives under the policy. Thus, if this Court interpreted the phrase “related to you by . . . marriage . . .” to include step-relationships, it would render the phrase “and includes . . . step-children . . .” surplusage. We must avoid interpretations that render parts of the contract surplusage. *Klapp*, 468 Mich at 468. Because the phrase “and includes . . . stepchildren . . .” provides that stepchildren are relatives *in addition to* persons related to the insured by marriage, we conclude that this necessarily means the phrase “related to you by . . . marriage . . .” does not include step-relationships.

We note that our interpretation does not render the phrase “related to you by . . . marriage . . .” without effect. To the contrary, this phrase allows the person’s spouse to be considered a relative under the policy, even though a spouse is not related to the insured by blood or adoption.

We agree with Lei that many modern families are blended and include a variety of step-relationships that are as emotionally close as biological relationships. However, the dynamics of modern family relationships do not affect our interpretation in this case. Our interpretation rests on the language of the contract’s definition of “a relative.” Because Lei was neither related to Marilyn by marriage, nor was she Marilyn’s stepchild, we conclude that Lei was not insured as “a relative” of Marilyn under the terms of Progressive’s contract. Accordingly, we conclude that the trial court erred when it denied Progressive’s motion for summary disposition.

We reverse and remand. We do not retain jurisdiction. As the prevailing party, Progressive may tax costs. MCR 7.219(A).

/s/ Peter D. O'Connell

/s/ Donald S. Owens