**REL: 03/10/2017**



# ALABAMA COURT OF CIVIL APPEALS

**OCTOBER TERM, 2016-2017**

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**2150745**

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**Geico Indemnity Company**

**v.**

**Sharon Bell, administratrix of the estate of Kaysha Bell**

**Appeal from Lowndes Circuit Court**
**(CV-13-900072)**

THOMAS, Judge.

In June 2013, Kaysha Bell was killed in a one-vehicle accident. Bell had been a passenger in a 2012 Honda automobile ("the Honda") that she owned jointly with Shandarius Steiner, who was driving at the time of the accident. Steiner and Bell had insured the Honda by

purchasing an automobile-insurance policy ("the policy") from Geico Indemnity Company ("Geico"). The policy included what is commonly referred to as uninsured-motorist ("UIM") coverage, as required by Ala. Code 1975, § 32-7-23.

Bell's mother, Sharon Bell, was named the administratrix of Bell's estate ("the estate"). Bell's mother, on behalf of the estate, sued Steiner, Geico, and others[1] in the Lowndes Circuit Court ("the trial court"), seeking damages for Bell's death. The case proceeded to trial against Steiner and Geico, after which the trial court entered a judgment in favor of the estate for $1,000,000. The trial court specifically noted in its judgment that the policy "provided uninsured motorist coverage in accordance with the policies [(sic)] definition of 'uninsured auto.'" Geico filed a postjudgment motion, challenging the trial court's conclusion that the Honda was an

[1]In addition to Steiner and Geico, Bell's mother, on behalf of the estate, sued two named individuals and fictitiously named parties that she alleged had served Steiner alcoholic beverages, and she sought to impose liability on them for Bell's death under the Dram Shop Act, Ala. Code 1975, § 6-5-71. The named parties and those claims were dismissed from the action by the estate; no parties were substituted for the fictitiously named parties, and thus their existence does not affect the finality of the judgment in this case. See Rule 4(f), Ala. R. Civ. P.

"uninsured auto" under the policy; Geico also sought a remittitur of the judgment against it to $50,000, the limits of the UIM coverage available under the policy. The trial court granted the request for a remittitur but denied Geico's postjudgment motion.

Geico timely appealed. On appeal Geico argues that the trial court improperly construed the policy to require it to pay UIM benefits to the estate. The parties agree that our standard of review of the trial court's judgment is de novo because the facts are undisputed and the issue involves only a question of law. Carter v. City of Haleyville, 669 So. 2d 812, 815 (Ala. 1995) (noting that, although the findings in a judgment entered by a trial court sitting without a jury are usually entitled to a presumption of correctness, "where the facts before the trial court are essentially undisputed and the controversy involves questions of law for the court to consider, this presumption of correctness does not apply").

The Policy Provisions

Section I of the policy addresses liability coverage, which it characterizes as "protection against claims from others for bodily injury liability or property damage

liability." Paragraph four of Section I defines "Insured" as "a person or organization described under PERSONS INSURED." The "PERSONS INSURED" portion of Section I of the policy explains that, as it relates to an "owned auto," an "insured" is "you and your relatives." "You" is defined as "the policyholder named in the declarations." An "owned auto" is defined in paragraph five as, among other things not relevant to this particular appeal, "a vehicle described in this policy for which a premium charge is shown for these coverages." The declarations page of the policy indicates that Steiner and Bell were the named insureds of the policy and that the Honda was a vehicle for which a premium for bodily-injury coverage was paid. Thus, under Section I of the policy, both Steiner and Bell were the "insureds," because the Honda was an "owned auto" and both of them were named on the declarations page.

Section I of the policy provides that Geico will "pay damages which an insured becomes legally obligated to pay because of," among other things not relevant to this opinion, "bodily injury,[2] sustained by a person." In addition,

[2]Under the definition contained in the policy, "bodily injury" includes death.

Section I provides that "[Geico] will not defend any suit for damage if one or more of the exclusions listed below applies." The exclusion relevant to the present appeal reads as follows: "1. Bodily injury to any insured or any relative of an insured residing in his household is not covered." As explained above, Bell was an "insured" under the definitions provided in Section I of the policy. Thus, the above-quoted exclusion, commonly referred to as "the household exclusion," would apply to exclude liability coverage for bodily injury to Bell.

Section IV of the policy addresses UIM coverage. Section IV contains the following definitions:

> "3. 'Insured auto' is an auto:
>
> > "(a) described in the declarations and covered by the bodily injury liability coverage of this policy;
> >
> > "....
>
> "....
>
> "6. 'Uninsured auto' is a motor vehicle which has no bodily injury liability bond or insurance policy applicable with liability limits complying with the financial responsibility law of the state in which the insured auto is principally garaged at the time of an accident. This term also includes an auto whose insurer is or becomes insolvent or denies coverage and an auto for which the limits of

> liability under all bodily injury insurance policies available to the injured person are less than the damages which the injured person is legally entitled to recover.
>
> "The term 'uninsured auto' does not include:
>
> "(a) an insured auto[.]"

Section IV provides that Geico "will pay damages for bodily injury caused by accident which the insured is legally entitled to recover from the owner or operator of an uninsured auto ... arising out of the ownership, maintenance or use of that auto."

Rules of Construction

The rules governing our construction of insurance contracts are well settled.

> "General rules of contract law govern an insurance contract. Twin City Fire Ins. Co. v. Alfa Mut. Ins. Co., 817 So. 2d 687, 691 (Ala. 2001). The court must enforce the insurance policy as written if the terms are unambiguous, id.; Liggans R.V. Ctr. v. John Deere Ins. Co., 575 So. 2d 567, 569 (Ala. 1991). Whether a provision of an insurance policy is ambiguous is a question of law. Turvin v. Alfa Mut. Gen. Ins. Co., 774 So. 2d 597, 599 (Ala. Civ. App. 2000)."

Safeway Ins. Co. of Alabama, Inc. v. Herrera, 912 So. 2d 1140, 1143 (Ala. 2005). Furthermore, "[a]ny ambiguities in an insurance contract must be construed liberally in favor of the

insured." Johnson v. Allstate Ins. Co., 505 So. 2d 362, 365 (Ala. 1987). "However, the parties cannot create ambiguities by setting forth different interpretations or '[by inserting] ... strained or twisted reasoning.'" Herrera, 912 So. 2d at 1143 (quoting Twin City Fire Ins. Co. v. Alfa Mut. Ins. Co., 817 So. 2d 691, 692 (Ala. 2001)).

In addition, the law gives guidance regarding the construction of exclusions within an insurance policy.

> "[E]xceptions to coverage must be interpreted as narrowly as possible in order to provide maximum coverage to the insured. However, courts are not at liberty to rewrite policies to provide coverage not intended by the parties. Newman v. St. Paul Fire & Marine Insurance Co., 456 So. 2d 40, 41 (Ala. 1984). In the absence of statutory provisions to the contrary, insurance companies have the right to limit their liability and write policies with narrow coverage. United States Fidelity & Guaranty Co. v. Bonitz Insulation Co. of Alabama, 424 So. 2d 569, 573 (Ala. 1982). If there is no ambiguity, courts must enforce insurance contracts as written and cannot defeat express provisions in a policy, including exclusions from coverage, by making a new contract for the parties. Turner v. United States Fidelity & Guaranty Co., 440 So. 2d 1026, 1028 (Ala. 1983)."

Johnson, 505 So. 2d at 365; see also Nationwide Mut. Ins. Co. v. Thomas, 103 So. 3d 795, 803 (Ala. 2012).

The Arguments of the Parties

Sharon Bell, on behalf of the estate, argues that the Honda, which was named on the declarations page of the policy and for which Steiner and Bell had paid a premium for bodily-injury-liability coverage, was converted to an "uninsured auto" because of the language used in the definition of "insured auto" in the UIM-coverage section of the policy. Specifically, the estate argues that an "insured auto" must be both the automobile described in the declarations page of the policy and "must be covered by the bodily injury liability coverage of [the] policy." (Emphasis added.) Because the policy excludes liability coverage for Bell's death under the household exclusion in the liability section of the policy, the estate contends, the Honda is not actually covered by the bodily-injury-liability provisions of the policy.

Geico argues that the Honda is an "insured auto" under the policy because it is "described in the declarations and covered by the bodily-injury-liability coverage of this policy." According to Geico, the same vehicle cannot be both an "insured auto" and an "uninsured auto" under the same policy. Thus, Geico contends, the term "insured auto" does

not become ambiguous simply because the application of the household exclusion precludes coverage for Bell's death in this particular circumstance.

Analysis

The definition of "insured auto" contained in the UIM-coverage section of the policy requires that the vehicle at issue, here the Honda, be named in the declarations and be "covered by the bodily injury liability coverage of this policy." The parties agree that the vehicle involved in the accident, the Honda, is "described in the declarations." At issue is whether the Honda is "covered by the bodily injury liability coverage of this policy." The estate reads the definition of "insured auto" as requiring that, in order for the Honda to be an "insured auto" under the particular facts and circumstances of the present case, the policy must afford liability coverage for Bell's death. However, such a construction is strained and unreasonable, especially in light of the body of law applicable to such situations.

Our supreme court has explained that UIM coverage, and the policies written for it, "deal with the motor vehicle which is uninsured, not the motorist." Watts v. Preferred

Risk Mut. Ins. Co., 423 So. 2d 171, 174 (Ala. 1982). In Watts, our supreme court considered whether an insurance policy could exclude from its definition of "uninsured motor vehicle" an "insured automobile," which it defined as "'an automobile described in the policy for which a specific premium charge indicates that coverage is afforded.'" Watts, 423 So. 2d at 174. Although the language of the policy at issue in this case and the language of the policy at issue in Watts, differs, the legal principles articulated in Watts are applicable here.

The Watts court quoted with approval Reid v. State Farm Fire & Casualty Co., 352 So. 2d 1172, 1173 (Fla. 1977), which held that a vehicle that is insured under a policy of insurance "'does not become uninsured because liability coverage may not be available to a particular individual.'" Watts, 423 So. 2d at 175. In addition, our supreme court has explained that

> "Insurance Companies may by appropriate exclusions and exclusionary definitions protect themselves through a valid contract. Mathis v. Auto-Owners Ins. Co., 387 So. 2d 166 (Ala. 1980). Further, citing several Florida cases, we held in Watts that an insured automobile does not become uninsured because liability coverage may not be available to a particular individual. ...

> "....
>
> "In our view the Court of Civil Appeals [in O'Hare v. State Farm Mutual Automobile Insurance Co., 432 So. 2d 1294, 1297-98 (Ala. Civ. App. 1982),] was correct in writing:
>
> > "'The Supreme Court of Mississippi in the case of Aitken v. State Farm Mutual Automobile Insurance Co., 404 So. 2d 1040 (Miss. 1981), ... held that the motor vehicle cannot be both insured and uninsured in the same policy.'"

Ex parte O'Hare, 432 So. 2d 1300, 1303 (Ala. 1983) (emphasis added). Stated more directly, our supreme court has concluded that "when the insurance carrier of the vehicle involved in an accident denies liability coverage to an individual because of an applicable liability exclusion or exclusionary definition, that denial does not trigger the availability of uninsured motorist coverage to that individual under the same policy." Hall v. State Farm Mut. Auto. Ins. Co., 514 So. 2d 853, 855 (Ala. 1987). By its own admission, our supreme court has consistently adhered to the principle enunciated in Watts and Ex parte O'Hare. See Allstate Ins. Co. v. Hardnett, 763 So. 2d 963, 964 (Ala. 2000) ("This Court has consistently upheld exclusions within an uninsured-motorist portion of a policy that deny coverage for a vehicle that is covered under the

liability portion of the same policy."); Phyall v. Allstate Ins. Co., 551 So. 2d 303, 304 (Ala. 1989); see also Hall, 514 So. 2d at 855.

In Hardnett, 763 So. 2d at 965-65, our supreme court considered whether a resident of the same household of the insured could recover under the UIM section of the insured's policy after her claim for liability coverage under the liability portion of the policy was rejected based on the application of the household exclusion. The court explained that the insurer had argued that "if an insured is denied coverage under the liability portion of his own policy, he should not then be able to drop down to the uninsured-motorist portion and collect benefits for the same injury." Id. at 965. The basis for application of the household exclusion, the Hardnett court explained, was to protect the insurer from collusion perpetrated by family members. Id.

This court has also had occasion to apply the principle first espoused in Watts. See Dale v. Home Ins. Co., 479 So. 2d 1290, 1291 (Ala. Civ. App. 1985). In Dale, we considered whether a Russellville City fireman, who was an insured under the Home Insurance Company ("Home") policy of automobile

insurance issued to the City of Russellville, could be awarded UIM benefits when coverage for his injuries was excluded under the "fellow employee" exclusion from the liability coverage of the policy. Dale, 479 So. 2d at 1291. The fireman had been injured in a one-vehicle accident while riding on the fire truck. Id. at 1290. Our court stated the fireman's argument thusly: "[The fireman] argues that as the result of a 'fellow employee' exclusion contained in the liability endorsement of the Home policy, the fire truck upon which he was riding was, at the time of the accident, 'uninsured' as to him, even though he is an 'insured' under the language of the policy." Id. at 1291. Relying on Watts and Ex parte O'Hare, this court concluded that "[i]t is clear to us, that in the present case, the fire truck cannot be both an 'insured vehicle', with coverage for [the fireman] under the uninsured motorist provision of the Home policy, and an 'uninsured vehicle' under the same Home policy." Id.

The estate contends that the policy in the present case violates § 32-7-23 because it is more restrictive than the statute, which, the estate contends, does not "prohibit[] an insured ... who is denied coverage under the bodily injury

liability section of the policy from recovering under the UIM section of the policy." Although the statute does not prohibit an insured from doing so, we cannot agree that the statute requires that a policy permit recovery in such circumstances. This court considered a similar argument in Lammers v. State Farm Mutual Automobile Insurance Co., 48 Ala. App. 36, 261 So. 2d 757 (Civ. 1972).

In Lammers, this court examined whether the definition of "uninsured automobile" in the subject insurance policy

> "conflict[ed] with [Ala. Code 1940 (Recomp. 1958), Tit. 36, § 72(62a), the predecessor statute to § 32-7-23,] the statute requiring that all liability and property damage policies issued to residents of Alabama contain 'uninsured motorist' coverage, as to render said definition void as to persons injured while riding in the named automobile or any other automobile owned by the named insured or by any member of his family residing in the same household."

Lammers, 48 Ala. App. at 38-39, 261 So. 2d at 759. Coyle Lammers, the named insured, and his wife, Lovis Lammers, had been involved in a one-vehicle accident in which he was killed and she was injured. 48 Ala. App. at 38-39, 261 So. 2d at 759. Lovis sought to recover for Coyle's negligence and/or wantonness in causing her injuries. 48 Ala. App. at 38, 261 So. 2d at 758. The insurer argued that Lovis was precluded

from recovering under the insurance policy purchased by Coyle because the automobile was not, by definition, an uninsured automobile. 48 Ala. App. at 38, 261 So. 2d at 759.

The Lammers court rejected Lovis's contention that the policy at issue violated the UIM statute, noting that household exclusions had been repeatedly upheld.

> "The Supreme Court of this state has consistently upheld the 'household exclusion' clause of liability policies, thereby establishing a judicial policy in this state that insurance companies may by appropriate exclusions and exclusionary definitions protect themselves from friendly family lawsuits. What availeth it to an insurance company to escape liability under the 'household exclusion' clause and then finds itself caught in the net of the 'uninsured motorist' clause? If the legislature, knowing the judicial policy of the courts of this state with reference to 'household exclusion' clauses, had seen fit to make 'uninsured motorist' coverage nullify, in practical effect, such 'household exclusion' clauses, it surely would have done so when it adopted the 'Uninsured Motorist Coverage' statute, supra."

48 Ala. App. at 45, 261 So. 2d at 765. Our supreme court approved of the above-quoted language in Mathis v. Auto-Owners Insurance Co., 387 So. 2d 166, 168 (Ala. 1980), and we find that it continues to aptly state the law. We reject the estate's contention that the policy in the present case violates § 32-7-23.

## Conclusion

Under Watts and its progeny, an insurer's denial of "liability coverage to an individual because of an applicable liability exclusion or exclusionary definition ... does not trigger the availability of uninsured motorist coverage to that individual under the same policy." Hall, 514 So. 2d at 855. The estate has attempted to apply "strained or twisted reasoning" to create an ambiguity that, in light of the whole policy and the long-standing applicable caselaw on the subject, does not exist. See Kelley v. Royal Globe Ins. Co., 349 So. 2d 561, 563 (Ala. 1977) ("[A]mbiguities are not to be inserted by strained or twisted reasoning."). The construction of the policy urged by the estate and adopted by the trial court swallows the household exclusion and improperly "defeat[s] [an] express provision[] in [the] policy ... by making a new contract for the parties." Johnson, 505 So. 2d at 365. Accordingly, we reverse the judgment of the trial court and remand the cause to the trial court with instructions to enter a judgment in favor of Geico.

REVERSED AND REMANDED WITH INSTRUCTIONS.

Thompson, P.J., and Pittman, J., concur.

Moore, J., concurs in the result, without writing.

Donaldson, J., dissents, with writing.

DONALDSON, Judge, dissenting.

An insurance policy may be written in a manner that disallows a person occupying an automobile described on the declarations page of the insurance policy as a vehicle insured for bodily-injury liability, subject to limitations and exclusions, from obtaining uninsured-motorist ("UIM") benefits under the same insurance policy. See, e.g, Allstate Ins. Co. v. Hardnett, 763 So. 2d 963 (Ala. 2000); Ex parte O'Hare, 432 So. 2d 1300 (Ala. 1983); Watts v. Preferred Risk Mut. Ins. Co., 423 So. 2d 171 (Ala. 1982); and Broughton v. Allstate Ins. Co., 842 So. 2d 681 (Ala. Civ. App. 2002). But no law requires a policy to be written in that manner, and different insurance policies may define terms such as "insured vehicle" or "insured auto" in different ways. The language in the specific automobile-insurance policy issued by Geico Indemnity Company in this case ("the Geico policy") is not the same as the language used in the insurance policies in the cases cited above, and the Geico policy contains definitions in its provisions regarding UIM benefits that differ from the definitions in the policies at issue in the cases cited above. "Where an insurance policy defines certain words or phrases,

a court must defer to the definition provided by the policy." Twin City Fire Ins. Co. v. Alfa Mut. Ins. Co., 817 So. 2d 687, 692 (Ala. 2001). Like the trial judge, I find the relevant language of the Geico policy to be ambiguous when read plainly and without nuance. The Geico policy is subject to a reasonable interpretation that provides UIM coverage as applied to the undisputed facts of this case. Accordingly, Alabama law requires us to affirm the judgment of the trial court in favor of Sharon Bell, as administratrix of the estate of Kaysha Bell. See Davis v. State Farm Mut. Auto. Ins. Co., 583 So. 2d 225, 228 (Ala. 1991) (holding that ambiguous term in an insurance policy must be construed in favor of insured).

The facts in this case are undisputed. Kaysha Bell and Shandarius Steiner jointly owned a 2012 Honda automobile ("the Honda"). Steiner and Kaysha Bell purchased the Geico policy that provided bodily-injury liability protection and UIM benefits subject to the terms and conditions of the policy. The declarations page of the Geico policy lists Steiner and Kaysha Bell as named insureds.

In June 2013, Kaysha Bell was killed in a single-vehicle accident while riding as a passenger in the Honda that was

being driven by Steiner. Although the Honda was listed on the declarations page of the Geico policy as being insured for bodily-injury liability coverage, the Geico policy contains the following applicable exclusion: "1. Bodily injury to any insured or any relative of an insured residing in his household is not covered." (Emphasis added.) Therefore, it is undisputed that there are no benefits available as a result of Kaysha Bell's death under the liability-insurance provisions of the Geico policy or any other insurance policy.

Sharon Bell, as administratrix of Kaysha Bell's estate, filed a complaint in the Lowndes Circuit Court ("the trial court") alleging a claim of negligence and/or wantonness against Steiner and a claim seeking UIM benefits against Geico. The trial court entered a judgment in favor of Sharon Bell on her claims and awarded her damages against Steiner and Geico. In the judgment, the trial court found that, because the Honda was an "uninsured auto" under the Geico policy, Sharon Bell was entitled to UIM benefits on behalf of Kaysha Bell's estate.

Pursuant to the Uninsured Motorist Statute, § 32-7-23, Ala. Code 1975, UIM coverage in an insurance policy provides

"for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles." § 32-7-23(a). Section IV of the Geico policy contains the following provisions regarding UIM coverage:

> "LOSSES WE PAY
>
> > "Under the Uninsured Motorists Coverage we will pay damages for bodily injury caused by accident which the insured is legally entitled to recover from the owner or operator of an uninsured auto ... arising out of the ownership, maintenance or use of that auto."

It is undisputed that Sharon Bell, on the behalf of the insured, Kaysha Bell, is legally entitled to recover damages against Steiner arising out of his operation of the Honda during the accident resulting in Kaysha's death. Therefore, the availability of UIM coverage under the Geico policy depends on whether the Honda is an "uninsured auto." The Geico policy specifically defines the term "uninsured auto" as follows:

> "6. 'Uninsured auto' is a motor vehicle which has no bodily injury liability bond or insurance policy applicable with liability limits complying with the financial responsibility law of the state in which the insured auto is principally garaged at the time of an accident. This term also includes an auto whose insurer is or becomes insolvent or denies

> coverage and an auto for which the limits of liability under all bodily injury insurance policies available to the injured person are less than the damages which the injured person is legally entitled to recover."
>
> "The term 'uninsured auto' does not include:
>
> "(a) an insured auto[.]"

As specifically defined in the Geico policy, the term "uninsured auto" encompasses a motor vehicle whose insurer "denies" bodily-injury liability coverage. Because the bodily injury in this case was incurred by an insured (Kaysha Bell), Geico denied bodily-injury liability coverage under the Geico policy. Therefore, the Honda is "an auto whose insurer ... denies coverage" under the definition of "uninsured auto," and the liability coverage under the Geico policy does not cover the damages resulting from the operation of the Honda. The Geico policy also provides that an "insured auto" is not an "uninsured auto." The term "insured auto" is likewise specifically defined in the Geico policy:

> "3. 'Insured auto' is an auto:
>
> "(a) described in the declarations and covered by the bodily injury liability coverage of this policy[.]"

(Emphasis added.)

A provision in an insurance policy is ambiguous if it is "'reasonably susceptible to more than one meaning.'" Boone v. Safeway Ins. Co. of Alabama, 690 So. 2d 404, 406 (Ala. Civ. App. 1997) (quoting Vainrib v. Downey, 565 So. 2d 647, 648 (Ala. Civ. App. 1990)). "'The instrument is unambiguous if only one reasonable meaning clearly emerges.'" Id. (quoting Vainrib v. Downey, 565 So. 2d at 648). What is meant by the word "covered" as used in the definition of "insured auto"? As asserted by Sharon Bell, one interpretation is that the Honda was not "covered" by bodily-injury liability coverage because the Geico policy did not afford compensation for the death of Kaysha Bell. See Merriam-Webster's Collegiate Dictionary 288 (11th ed. 2003) (defining one meaning of "cover" as "to afford protection against or compensation for"). Under that interpretation, the Honda is not an "insured auto" and, accordingly, is an "uninsured auto." Another interpretation is that the Honda was "covered" because it was listed on the declarations page, even if the liability coverage was not applicable to the death of Kaysha Bell under the Geico policy. The Geico policy could have been written in a manner that clearly expressed an intent to adopt that interpretation, but

it was not. By using the phrase "covered by the bodily injury liability coverage of this policy," the meaning of "insured auto" in the Geico policy is ambiguous, and I cannot say that the term "insured auto" has only the meaning advocated by Geico. Further, I am not directed to any provision of Alabama law, whether under the Uninsured Motorist Act or otherwise, that would prohibit the interpretation of the Geico policy as providing UIM coverage for the accident resulting in the death of Kaysha Bell.

As noted, nothing prevents an insurer from writing a policy to disallow UIM coverage in the circumstances presented in this case or using language other than "covered" to define an insured vehicle. In Allstate Insurance Co. v. Hardnett, 763 So. 2d at 965, our supreme court upheld an exclusion from "uninsured auto" within an insurance policy that read: "'[a] motor vehicle which is insured under the Liability Insurance coverage of this policy.'" See also Ex parte O'Hare, 432 So. 2d at 1303 (upholding "policy language excluding the insured from coverage 'while occupying or through being struck by a land motor vehicle owned by the named insured'"); Watts v. Preferred Risk Mut. Ins. Co., 423 So. 2d at 174 (upholding

exclusion from "uninsured automobile" of "'an automobile described in the policy for which a specific premium charge indicates that coverage is afforded'"); and Broughton v. Allstate Ins. Co., 842 So. 2d at 682 (upholding exclusion from "uninsured auto" of "'a motor vehicle which is insured under the Liability Insurance coverage of this policy'").

The Geico policy language differs from the exclusions in O'Hare, Watts, Hardnett, and Broughton. The exclusion in O'Hare required an insured's occupation and ownership of an insured vehicle, and the exclusion in Watts specifically required an indication of a premium charge for coverage. Those requirements are not stated in the relevant definition of "insured auto" in this case. The exclusions in Hardnett and Broughton use the words "insured under" as opposed to "covered by." The exclusions in those cases are not readily susceptible to an interpretation requiring coverage of a particular claim, as the relevant definition of "insured auto" does in this case. Because of the differences in language, the exclusions in those cases are distinguishable from the definition of "insured auto" in this case.

In support of its arguments, Geico cites Dale v. Home Insurance Co., 479 So. 2d 1290 (Ala. Civ. App. 1985). Relying on O'Hare, this court in Dale held that a fireman injured in a one-vehicle accident was not entitled to UIM benefits and that the vehicle could not be both insured and uninsured under the insurance policy in that case. Dale, however, does not provide the definitions of "insured vehicle" and "uninsured vehicle" in the insurance policy in question, or any other applicable policy language. Because Dale relies on O'Hare as authority for its holding, it does not appear to prevent the interpretation of the Geico policy advanced by the Sharon Bell. Moreover, Sharon Bell's interpretation maintains the distinction between an "uninsured auto" and an "insured auto."

In summary, I agree that Alabama law allows an insurer to exclude UIM coverage for a vehicle that is insured for liability coverage under the same policy. See, e.g., Allstate Ins. Co. v. Hardnett, 763 So. 2d at 964 ("This Court has consistently upheld exclusions within an uninsured-motorist portion of a policy that deny coverage for a vehicle that is covered under the liability portion of the same policy."). I do not agree that our caselaw requires this court to construe

the language in the Geico policy only in the manner advocated by Geico.

Sharon Bell has shown that the term "insured auto" in the policy has more than one reasonable meaning, and her interpretation of "insured auto" is consistent with other provisions in the policy obligating Geico to provide UIM coverage. "'"The rule is too well settled by our decisions to require citation of authority that where provisions of an insurance policy are susceptible of plural constructions, consistent with the object of the obligation, that construction will be adopted which is favorable to the insured."'" Davis v. State Farm Mut. Auto. Ins. Co., 583 So. 2d 225, 228 (Ala. 1991) (quoting Crossett v. St. Louis Fire & Marine Ins. Co., 289 Ala. 598, 603-04, 269 So. 2d 869, 873 (1972), quoting in turn State Farm Mut. Auto. Ins. Co. v. Hanna, 277 Ala. 32, 37, 166 So. 2d 872, 876 (1964) (emphasis added in Crossett)). I therefore respectfully dissent.