Circuit Court for Cecil County
Case No.: C-07-CV-19-000013

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2360

September Term, 2019

BETTY JEAN ROEBUCK

v.

GEICO CASUALTY COMPANY

Berger,
Wells,
**Gould,

JJ.

Opinion by Gould, J.

Filed: September 21, 2021

** Steven B. Gould, now serving on the Court of Appeals, participated in the hearing and conference of this case while an active member of this Court; he participated in the adoption of this opinion as a specially assigned member of this Court.

This case involves the availability of uninsured motorist insurance coverage to a Delaware resident under a policy issued to a Maryland resident. The policyowner added her mother, a Delaware resident, to the policy as an "additional driver" of the covered automobile. The mother was subsequently injured in an auto accident in which she was a passenger in another car that was not insured by the subject policy. After settling with the driver's insurance company for the policy limits, the mother sought recovery under the insured benefits of her daughter's policy. When the daughter's insurance company denied coverage, the mother filed suit in the Circuit Court for Cecil County. The circuit court granted summary judgment in favor of the daughter's insurance company, finding that the mother was not an insured entitled to uninsured motorist benefits under the policy. For the reasons that follow, we affirm the judgment of the circuit court.

BACKGROUND

Appellant Betty Jean Roebuck sustained bodily injuries and incurred damages after she was involved in an automobile accident in Delaware. Ms. Roebuck was a passenger in a car driven by John J. Rodriguez, and Mr. Rodriguez's negligence was the cause of the accident.

Mr. Rodriguez was insured through State Farm Mutual Insurance Company ("State Farm"). The State Farm policy had a bodily injury liability limit of $15,000 per person, which was insufficient to cover all of Ms. Roebuck's damages. After settling with State Farm for the policy limit, Ms. Roebuck turned to appellee GEICO Casualty Company ("GEICO") for uninsured motorist ("UIM") benefits under an automobile policy (the "Policy") issued to Ms. Roebuck's daughter, Erica Renee Roebuck ("Daughter").

The Auto Insurance Policy

Daughter purchased the Policy in 2015. The Policy listed Daughter as the "Named Insured," and in August 2016, Ms. Roebuck, who was residing in Delaware, was added to the Policy as an "Additional Insured" on the declarations page, resulting in an increase in the six-month premium of approximately 20 dollars. The Policy was in effect at the time of the accident.

Relevant here, the Policy contains the following provisions:

> **LOSSES WE WILL PAY**
>
> We will pay damages for ***bodily injury*** and ***property damage*** caused by an accident which the ***insured*** is legally entitled to recover from the owner or operator of an ***uninsured motor vehicle*** arising out of the ownership, maintenance or use of that vehicle.
>
> ****
>
> **PERSONS INSURED**
>
> This coverage applies to the following persons as ***insureds***:
>
> 1. ***You*** and ***your relatives***;
> 2. Any other person ***occupying*** an ***insured auto*** with ***your*** consent;
> 3. Any other person entitled to recover damages because of ***bodily injury*** to a person described in **1.** or **2.** above.
>
> ****
>
> ***Insured*** means:
>
> (a) ***You*** and ***your*** spouse if a resident of the same household;
> (b) ***Your relative*** if a resident of your household;
> (c) Any other person while ***occupying an owned auto***;
> (d) Any person who is entitled to recover damages because of ***bodily injury*** or ***property damage*** sustained by an ***insured*** under (a), (b), or (c) above.
> If there is more than one ***insured***, our limit of liability will not be increased.

****

You and ***your*** means the policyholder named in the Declarations or his or her spouse if a resident of the same household."

"**Relative**" is defined as:

Relative *means* a person related to ***you*** who resides in ***your*** household.

****

Insured auto is an auto:

(a) Described in the Declarations and covered by the Bodily Injury and Property Damage Liability coverages for this policy;
(b) ***A temporary substitute*** auto; or
(c) Operated by ***you*** or ***your*** spouse if a resident of the same household.
. . .

GEICO's Denial of Ms. Roebuck's Claim

GEICO denied Ms. Roebuck's claim for UIM benefits on the basis that Ms. Roebuck did not fall under the above definition of "insured," prompting Ms. Roebuck to file suit in the Circuit Court for Cecil County. Ms. Roebuck's complaint contained two counts. In Count One, Ms. Roebuck sought a declaratory judgment, requesting that the court find that the UIM coverage extended to her, and in Count Two, Ms. Roebuck sought damages for breach of contract.

Ms. Roebuck moved for summary judgment, claiming she was entitled to UIM coverage under the Policy and under Maryland law, pursuant to Sections 19-501(d) and 19-509(c)(1) of the Insurance Article ("IN") of the Annotated Code of Maryland (2011, 2017 Repl. Vol.). GEICO cross-moved for summary judgment, arguing that it properly denied coverage to Ms. Roebuck, both under the Policy and the applicable statute.

The Trial Court's Summary Judgment Ruling

On January 16, 2020, the court issued a Memorandum Opinion and Order (the "Opinion") denying Ms. Roebuck's motion and granting GEICO's motion. The Opinion first identified the provisions of the statute—found in IN § 19-509—applicable to UIM coverage. The court then analyzed the relevant terms of the Policy. The court concluded that only Daughter was the "policyholder" and that Ms. Roebuck's designation as an "additional driver" did not transform her into a policyholder. As such, the court found that Ms. Roebuck was not entitled to UIM coverage under the Policy.

Ms. Roebuck timely noted an appeal, and presents us with the following question:

> Did the trial court err in failing to determine that the Appellant was a "named insured" under Md. Code Ann., Insurance § 19-501(d), and therefore entitled to underinsured motorist benefits pursuant to Md. Code Ann., Insurance § 19-509(c)(1), under an automobile insurance policy issued by the Appellee, where the Appellant was specifically listed on the declarations page of that insurance policy?

For the reasons set forth below, we answer that question in the negative and affirm the judgment of the circuit court.

STANDARD OF REVIEW

We review a trial court's grant of summary judgment without deference. *Myers v. Kayhoe*, 391 Md. 188, 203 (2006). Our review involves a determination of (1) "whether a dispute of material fact exists," and (2) "whether the trial court was legally correct." *Frederick Rd. Ltd. P'ship v. Brown & Sturm*, 360 Md. 76, 93 (2000) (internal quotations and citation omitted); *see also* Md. Rule 2-501(f). For the purposes of summary judgment, "[a] material fact is 'a fact the resolution of which will somehow affect the outcome of the

case.'" *USA Cartage Leasing, LLC v. Baer*, 202 Md. App. 138, 174 (2011) (quoting *Barbre v. Pope*, 402 Md. 157, 171–72 (2007)), *aff'd*, 429 Md. 199 (2012). "[W]e independently review the record to determine whether the parties properly generated a dispute of material fact and, if not, whether the moving party is entitled to judgment as a matter of law." *Myers*, 391 Md. at 203. "We view the record in the light most favorable to the non-moving party and construe any reasonable inferences that may be drawn from the facts against the moving party." *Rhoads v. Sommer*, 401 Md. 131, 148 (2007).

DISCUSSION

Ms. Roebuck does not contend that any of the material facts are genuinely disputed. To the contrary, she maintains that this case was ripe for summary judgment. Ms. Roebuck also did not challenge the circuit court's finding that the Policy, as written, does not include her in the UIM coverage. Instead, she points out that the definition of "named insured" under IN § 19-501 "means the person denominated in the declarations in a motor vehicle liability insurance policy." Ms. Roebuck contends that she's a "named insured" because she is denominated on the declarations page, even though she is listed not as a "named insured," but rather as an "additional driver." To that end, she notes that IN § 19-509 does not specify that one must be denominated specifically as a "named insured" in order to qualify as such; that is, any denomination on the declarations page would suffice. And on the premise that a "named insured" qualifies as an "insured" under the Policy, Ms. Roebuck maintains that she is entitled to UIM benefits under the Policy.

We begin our discussion with the principles of statutory construction that guide our inquiry. Our objective in interpreting any statute is to understand and implement the

General Assembly's intent. *See, e.g., Stoddard v. State*, 395 Md. 653, 661 (2006). We start with the statute's plain language which, if clear and unambiguous, will be enforced as written. *Id*. "We pay attention to the statute's grammar and sentence structure" and avoid constructions that are "illogical, unreasonable, or inconsistent with common sense." *Bartenfelder v. Bartenfelder*, 248 Md. App. 213, 235 (2020) (citation omitted). If the words are ambiguous, we look at the statute's structure (including, in some instances, its title), context, relationship with other laws, and legislative history, among other indicia of intent. *Stoddard*, 395 Md. at 662-63.

At issue in this case are two provisions of the Insurance Article: IN §§ 19-209(c)(1) and 19-506. Section 19-509(c)(1) states:

> In addition to any other coverage required by this subtitle, each motor vehicle liability insurance policy issued, sold, or delivered in the State after July 1, 1975, shall contain coverage for damages, subject to the policy limits, that:
>
> (1) the insured is entitled to recover from the owner or operator of an uninsured motor vehicle because of bodily injuries sustained in a motor vehicle accident arising out of the ownership, maintenance, or use of the uninsured motor vehicle[.][1]

Notably, the word "insured" is not defined in the statute, but its meaning was explained by the Court of Appeals in *Mundey v. Erie Ins. Grp*., 396 Md. 656, 669 (2007). There, the plaintiff, a young adult, was injured in a car accident that occurred when he was the passenger in a car driven by someone who was insured under a Maryland Automobile

[1] Although this provision refers only to uninsured motor vehicles, we have made clear that "its provisions operate as *underinsured* motorist coverage to the extent that the person responsible for an accident has less liability coverage than the insured under the uninsured provisions of his own policy." *Aetna Cas. & Sur. Co. v. Souras*, 78 Md. App. 71, 75–76 (1989).

Insurance Fund ("MAIF") policy. *Id*. at 658. The negligence claim against the driver was settled for the MAIF policy's limit of $20,000. *Id*. at 658-59. The plaintiff then sought UIM benefits under his parents' automobile insurance policy, which provided that a "relative" was entitled to UIM benefits. *Id*. at 659-60. "Relative" was defined in the policy as a "resident" of the policyowner's household and related by "blood, marriage or adoption." *Id.* at 660. "Resident," in turn, was defined as "a person who physically lives" in the policyholder's household. *Id*. The problem for plaintiff, however, was that he was no longer a member of his parents' household, having lived with his grandmother for the 11 months preceding the accident. *Id*. at 661-62. The circuit court concluded that the plaintiff was no longer a resident of his parents' household, and therefore, was not entitled to UIM coverage under his parents' policy. *Id.* at 662-63.

On appeal, the plaintiff argued that the insurance company's narrow definition of "resident" contravened IN § 19-509 because, according to plaintiff, the General Assembly intended that the word "insured," include all family members of the "named insured," including those temporarily living elsewhere. *Id.* at 668-69. The Court of Appeals rejected the plaintiff's argument and stated:

> We are unpersuaded that the Legislature intended to require coverage for family members of the named insured who do not physically live with the named insured. We hold, therefore, that § 19-509 requires automobile liability insurance contracts to provide uninsured motorist coverage, at a minimum, to the named insured as well as any family members who reside with the named insured.

Id. at 674.

As reflected in the Court's analysis in *Mundey*, whether one is entitled to UIM coverage is first and foremost a matter of contract interpretation. *See Erie Ins. Exch. v. Heffernan*, 399 Md. 598, 613 (2007); *W. Am. Ins. Co. v. Popa*, 352 Md. 455, 466-67 (1998). The UIM statute, and particularly IN § 19-506, merely prescribes who must be included within an automobile insurance policy as well as who may be excluded; it does not independently confer or exclude coverage. Here, as was the case in *Mundey*, the circuit court analyzed the text of the Policy and concluded that Ms. Roebuck did not qualify for coverage under its terms. Although Ms. Roebuck did not appeal that finding, it is worth noting and briefly explaining why we agree with the circuit court.

The relevant provisions of the Policy are set forth above. The UIM coverage under the Policy is owed to the "insured." The Policy defines the circle of those persons who qualify as "insured" as the policyholder, a relative of the policyholder who is also a resident of the policyholder's household, any other person in an automobile insured under the Policy, and one who is entitled to damages due to injuries or property damages sustained by an insured. Ms. Roebuck does not fall within any of these categories.[2] And, we hasten to point out, the Policy's definition of "insured" on its face covers the person identified as the "named insured"—the Daughter—and Daughter's family members that live with her; thus, the Policy comports with the minimal requirements established by *Mundey*.

[2] Ms. Roebuck argued in the circuit court that, due to her identification as an additional driver on the declaration, she qualifies as a "policyholder" and is therefore included within the definition of "insured." The circuit court rejected that argument, and Ms. Roebuck has not contested that finding on appeal.

Ms. Roebuck tries to back-door her way into the class of insureds under the Policy through the statutory definition of "named insured." But, again, whether Ms. Roebuck is entitled to UIM coverage is foremost a matter of contract interpretation. *See Gov't Emp. Ins. Co. v. Harvey*, 278 Md. 548, 553 (1976); *Bond v. Pa. Nat'l Mut. Cas. Ins. Co.*, 289 Md. 379, 387 (1981); *Oarr v. Gov't Emp. Ins. Co.*, 39 Md. App. 122, 124 (1978). Insurance contracts are construed under the same principles as other contracts, with the core objective being to enforce the intent of the parties as reflected in the plain meaning of the contract's words. *See Aragona v. St. Paul Fire & Marine Ins. Co.*, 281 Md. 371, 375 (1977). Ms. Roebuck acknowledges that the Policy, as written, does not include her within the meaning of insured, which means that the contracting parties—Daughter and GEICO—did not *intend* to include her in the definition of "insured." *See Pacific Indem. Co. v. Interstate Fire & Cas. Co.*, 302 Md. 383, 388-89 (1985); *U.S. Fire Ins. Co. v. Md. Cas. Co.*, 52 Md. App. 269, 275 (1982). It makes little sense that, on the one hand, the contracting parties intended not to include, and in fact did not include, Ms. Roebuck within the definition of "insured," yet, on the other hand, she can serendipitously qualify as an "insured" merely because her name appears on the declarations page as something other than the "named insured." Put simply, we must impute some measure of intent on the part of GEICO and Daughter when they agreed to put Ms. Roebuck under the heading of "additional driver"

instead of "named insured."[3] *See Pa. Threshermen & Farmers' Mut. Cas. Ins. Co. v. Shirer*, 224 Md. 530, 536 (1961).

Although the statutory definition of "named insured" uses the word "denominated" without express qualification or limitation, it seems only logical that, implicit in the definition, a person be identified in some fashion as a "named insured" in order to qualify as a "named insured," and that the mere appearance of one's name on the declarations page does not magically elevate one to "named insured" status.[4] *See* 7A Couch on Insurance § 110:1 (June 2021 Update) ("One can become a named insured only by being named as such on the policy and not by conduct."). In reaching this conclusion, we note that being a "named insured" has specific significance under the motor vehicle insurance regime.[5]

[3] If we were to hold otherwise, then, under *Mundey*, not only would Ms. Roebuck, who lives in Delaware, be covered as a "named insured," but any relative that lives with Ms. Roebuck in Delaware would likewise be covered under the Policy. Insurance policies, like all contracts, should be construed to avoid patently absurd results. *Middlebrook Tech, LLC v. Moore*, 157 Md. App. 40, 66 (2004).

[4] We are not holding that the declarations page must include the specific phrase "named insured" to denominate the named insured, although such clarity would no doubt be welcomed. *See Swartzbaugh v. Encompass Ins. Co. of Am.*, 425 Md. 614, 616 (2012) (holding that "first named insured" refers not necessarily to the first person identified on the declarations page as the "first named insured," but rather as the person "named in the policy, who acts on behalf of the other insured parties and is designated as such in the policy documents").

[5] A few examples: (1) only the "first named insured" has the authority to waive personal injury protection coverage as well as UIM insurance, *see* IN § 19-506; (2) the "first named insured" may elect "enhanced" UIM insurance coverage, s*ee* IN § 19-509.1; (3) the "named insured" is entitled to the statutory notice when a "policy excludes coverage for providing transportation network services[,]" *see* IN § 19-517; and (4) the insurance company must provide specified notice to the "named insured" of its decision to cancel or not renew the policy. *See* IN § 27-602(c)(1).

There is no indication in the record, let alone on the declarations page of the Policy, that the inclusion of Ms. Roebuck as an "additional driver" was intended to vest her with the rights of a "named insured" or put her in the category of persons eligible under the Policy to be a "first named insured." *See Swartzbaugh*, 425 Md. at 627 ("[T]he named insureds are entitled to determine who will exercise [the choice between enhanced or lower level of UM benefits] and serve as primary or first named insured."). Instead, although the record does not disclose why Ms. Roebuck was added to the Policy approximately one year after it was issued, it is fair to deduce that Daughter—the designated "named insured"—did so to ensure that all of the regular drivers of the covered vehicles were disclosed to ensure such drivers were protected in the event of an accident.[6] *See Semelsberger v. Hatem*, 267 Md. 43, 53-55 (1972) (finding that wife's failure to disclose that husband would be a driver on an insurance application entitled insurer to deny coverage when a car negligently driven by husband caused the accident that injured the plaintiff).

In support for her argument, Ms. Roebuck cites to *dicta* from *Forbes v. Harleysville Mut. Ins. Co.*, 322 Md. 689 (1991), which involved a claim for UIM benefits under IN

[6] The record does not contain the entire Policy. One missing part is Daughter's insurance application, which, under the terms of the Policy, is part of the Policy. It seems logical that our understanding of the meaning of "additional driver" may be informed by the form and content of Daughter's insurance application, including representations made as to the drivers of the insured vehicles. Ordinarily, in the absence of the complete Policy, we would be inclined to conclude that neither party established their entitlement to judgment as a matter of law, and that vacating the judgment and remanding for further proceedings would be the appropriate disposition. However, at oral argument, both parties agreed that we have before us all of the relevant parts of the Policy, enabling us to construe the Policy and apply it against the statutory definition of "named insured." In reaching the merits, we are taking the parties at their word that we have all of the relevant portions of the Policy.

§§ 19-501 and 19-509's predecessor statutes. In *Forbes*, a husband and wife who were separated at the time of the wife's fatal car accident, shared a car insurance policy in which they were both listed as "operators" on the declarations page, but only the husband was listed as a "named insured." *Id.* at 692-93, 702-03. Prior to explaining the basis of its holding, Judge Eldridge, speaking for the Court of Appeals, noted:

> Preliminarily, a strong argument could be made that Carol Forbes was a "named insured" for purposes of uninsured motorist coverage regardless of the definitions in the insurance policy. Art. 48A, § 538, containing the definitions for the required motor vehicle insurance coverage subtitle of the Maryland Insurance Code, defines a "named insured" in subsection (c) as "the person denominated in the declarations in a policy of motor vehicle liability insurance." Section 538(c) does not require that the person be denominated "as a 'named insured'" or specifically designated as such. As previously noted, both Robin and Carol Forbes were co-owners of the insured vehicle, were both designated in the policy as the two operators, and both names were listed on the declaration page of the policy. Only Robin Forbes, however, was expressly designated as "named insured." Harleysville acknowledged in the circuit court that, in the situation where the husband and wife were co-owners and co-operators of the insured vehicle, the insurance premium would have been the same regardless of whether both spouses or one spouse was designated as "named insured." Harleysville further stated that sometimes its policies designated both spouses as named insureds and sometimes only one; the insurer indicated that there was no particular reason for the difference in designations. *Under these circumstances*, it could be persuasively argued that Carol Forbes was a "named insured" under the definition in Art. 48A, § 538(c). Nonetheless, for purposes of this case, we shall assume that Carol Forbes was not a "named insured."

Id. at 702-03 (emphasis added). The Court ultimately held that the couple's children were entitled to benefits for their mother's wrongful death claim because the wife was still a resident of her husband's household at the time of the accident. *Id.* at 708-09.

In our view, Ms. Roebuck reads too much into the *dicta* in *Forbes*. Even if we agree that the statutory definition of "named insured" does not require the individual to be

specifically designated or denominated as the "named insured," it does not necessarily follow that any denomination on the declarations page would suffice to confer "named insured" status. In *Forbes*, Judge Eldridge specifically identified the factors in that case that allowed for a "persuasive" argument that both husband and wife qualified as named insureds —husband and wife were co-owners of the vehicle and the policy, both were listed as operators, and "the insurance premium would have been the same regardless if one or both spouses were listed as 'named insureds.'" *Id*. at 702-03. In addition, in *Forbes*, the insurance company acknowledged that whether one or both spouses is listed as a "named insured" was somewhat arbitrary where both spouses own and operate the vehicle. *Id.* Here, there are no such similar factors. Ms. Roebuck does not own either the Policy or the vehicle covered by the Policy, she does not live in Maryland, let alone with Daughter, and there is no indication that the designation of Ms. Roebuck as an "additional driver" but not as a "named insured," was arbitrary. Thus, we are not persuaded that the *dicta* in *Forbes* should alter our analysis here.[7]

JUDGMENT OF THE CIRCUIT COURT FOR CECIL COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT

[7] Ms. Roebuck also argues that our interpretation would render her addition to the Policy meaningless. We disagree. By disclosing to GEICO that Ms. Roebuck would be a regular driver of the covered vehicle, Daughter ensured coverage—including UIM coverage—in the event Ms. Roebuck caused an accident while driving the covered vehicle. *See Semelsberger*, 267 Md. at 53-54.