

# Nelson & Dahle, P.C.

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## MONTANA SUPREME COURT

Meyer v. State Farm Mutual Auto Ins., 00-174, 12/12/2000

INSURANCE: No uninsured/underinsured coverage under policies issued to father and stepmother for son in vehicle driven by third party...

Simonton affirmed.

Adam Meyer was a passenger in a Buick owned by his father Norman and sister Amanda. Norman was named insured under a State Farm policy. The Buick was in a 1-vehicle accident while driven by Olyn Payne. Myers also had a pickup with Norman as named insured and a van and Oldsmobile with Norman and Adam's stepmother Joan as named insureds under State Farm policies.

Adam's medicals alone exceed \$100,000. He contends that he is entitled to underinsured coverage under the Oldsmobile and van policies and uninsured coverage under the Buick and pickup policies, for a total of \$400,000. State Farm paid \$100,000 under the liability policy of the Buick and denied that either uninsured or underinsured coverage is applicable.

Adam sued for a declaration that he was entitled to underinsured and uninsured coverage under the policies issued to Joan. Judge Simonton granted summary judgment for State Farm. Adam appeals.

Simonton correctly granted summary judgment for State Farm on the issue of underinsured coverage. Adam argues that the Oldsmobile and van coverages only exclude underinsured vehicles furnished for use of "you" or a "relative," and that the Buick was furnished for the use of Amanda, Joan's stepdaughter.

However, the question is not whether Joan is a "relative" of Adam and Amanda, which she admittedly is not since they are not "related to you by blood or adoption," but whether she comes within the term "you." She meets the definition of "you" in that she is a named insured under the Oldsmobile and van policies, and the owner of the Buick, Norman, lives in the same household with her and has a "personal relationship arising out of a civil contract" (she is his wife). It makes no difference from whose perspective the issues are analyzed; Norman and Joan, either jointly or separately, constitute "you" within the exclusionary language.

Simonton correctly concluded that Adam is not entitled to uninsured vehicle coverage. Adam argues that uninsured coverage applies "whenever either the ownership, maintenance, or use is uninsured." Taylor (Mont. 1986).

However, Taylor found ambiguity because 2 of the disjunctives (ownership & maintenance) were uninsured while one (use) was insured. In this case all 3 disjunctives are insured: ownership and maintenance were covered by Norman's liability policy on the Buick, and Payne was insured through Norman's policy as a permissive user.

Leaphart, Turnage, Hunt, Regnier, Trieweiler.

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Laura Christoffersen (Christoffersen & Knierim), Culbertson, for Meyer; Randall Nelson (Nelson Law Firm), Billings, for State Farm.