S T A T E O F M I C H I G A N

C O U R T O F A P P E A L S

BRENT HARVEY, d/b/a VIP APPLIANCE,	UNPUBLISHED March 21, 2006
Plaintiff-Appellant,	
v	No. 258695 Wayne Circuit Court
ALLSTATE INSURANCE COMPANY,	LC No. 03-324698-CK
Defendant-Appellee.	

Before: Neff, P.J., and Saad and Bandstra, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court order granting summary disposition in favor of defendant. We affirm. This appeal is being decided without oral argument under MCR 7.214(E).

The trial court determined that plaintiff was not entitled to uninsured motorist coverage under the policy issued by defendant under the other owned vehicle exclusion. We review de novo a trial court's ruling on a motion for summary disposition. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000). The construction and interpretation of an insurance policy and whether the policy language is ambiguous are questions of law that are also reviewed de novo on appeal. *Henderson v State Farm Fire & Cas Co*, 460 Mich 348, 353; 596 NW2d 190 (1999).

An insurance policy is much the same as any other contract—it is an agreement between the parties and we must determine what the agreement was and effectuate the intent of the parties. *Auto-Owners Ins Co v Churchman*, 440 Mich 560, 566; 489 NW2d 431 (1992). When determining what the parties' agreement is, we read the contract as a whole and give meaning to all the terms contained within the policy. *Royce v Citizens Ins Co*, 219 Mich App 537, 542; 557 NW2d 144 (1996). If the insurance contract sets forth definitions, the policy language must be interpreted according to those definitions. *Cavalier Mfg Co v Employers Ins of Wausau (On Remand)*, 222 Mich App 89, 94; 564 NW2d 68 (1997). If a term is not defined in the policy, it is to be interpreted in accordance with its commonly used meaning. *Henderson*, *supra* at 354. Clear and unambiguous language may not be rewritten under the guise of interpretation. *South Macomb Disposal Auth v American Ins Co (On Remand)*, 225 Mich App 635, 653; 572 NW2d 686 (1997). "Courts must be careful not to read an ambiguity into a policy where none exists." *Auto-Owners Ins Co v Harvey*, 219 Mich App 466, 469; 556 NW2d 517 (1996). Policy language is ambiguous when, after reading the entire document, its language can be reasonably understood

in different ways. *Royce*, *supra* at 542. "If the trial court determines that the policy is ambiguous, the policy will be construed against the insurer and in favor of coverage." *Id*. at 542-543. "However, if a contract, even an inartfully worded or clumsily arranged contract, fairly admits of but one interpretation, it may not be said to be ambiguous or fatally unclear." *Michigan Twp Participating Plan v Pavolich*, 232 Mich App 378, 382; 591 NW2d 325 (1998). "Exclusionary clauses are strictly construed in the insured's favor." *South Macomb, supra* at 653. "A clear and specific exclusion must be given effect; an insurance company may not be held liable for unassumed risks." *Id*. "If any exclusion in an insurance policy applies to a claimant's particular claims, coverage is lost." *Id*. at 654.

Defendant's policy provides uninsured motorist coverage to an "insured" who sustains bodily injury in an accident. Whether a person is an insured depends on whether the named insured is an individual or an organization. The declarations page identifies the named insured as Brent Harvey d/b/a VIP Appliance, and classifies the business as "individual/husband and wife/sole proprietor." Because the business is a sole proprietorship, it does not have a legal existence apart from its owner, Brent Harvey. *Stoddard v Citizens Ins Co of America*, 249 Mich App 457, 466-467; 643 NW2d 265 (2002). Thus, "one who operates a business under a trade name is nonetheless an individual insured under a policy issued in that trade name." *Chmielewski v Aetna Cas & Surety Co*, 591 A2d 101, 113 (Conn, 1991). Because the named insured is an individual, plaintiff is an insured under § B.1.a. of the uninsured motorists coverage endorsement and is entitled to coverage unless such coverage is excluded.

The exclusion at issue, § C.3.a, eliminates coverage where an "individual Named Insured" is occupying another vehicle he owned that is not a covered auto under the policy. Because plaintiff was driving a motorcycle he owned for personal use and that motorcycle was not covered under the policy, coverage is excluded. Whether plaintiff had a reasonable expectation of coverage is irrelevant; "the rule of reasonable expectations has no application in Michigan, and those cases that recognized this doctrine" have been overruled. *Wilkie v Auto-Owners Ins Co*, 469 Mich 41, 63; 664 NW2d 776 (2003).

We affirm.

/s/ Janet T. Neff
/s/ Henry William Saad
/s/ Richard A. Bandstra