STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF CHESTERFIELD	OF THE FOURTH JUDICIAL CIRCUIT
Auto-Owners Insurance Co.,	Case Number: 2011-CP-13-00271
Plaintiff,	
v.	**ORDER GRANTING SUMMARY JUDGMENT**
Elouise Woody Benjamin, Melvin Benjamin, Joshua Lee Cail, Naida L. Singleton, and Pee Dee Heating and Cooling Specialists, Inc.,	
Defendants.	

This matter is before the Court on Defendants' motions for summary judgment. The parties presented oral arguments on January 28, 2013, at the Chesterfield County Courthouse. After hearing the arguments of counsel, reviewing the memoranda and other documents submitted to the Court, and the applicable authority, the Court hereby grants Defendants' motion for summary judgment and denies Plaintiff's motion for summary judgment as set forth below.

The Court grants Defendants' motion for summary judgment as no genuine issue of material fact exists and Defendants are entitled to judgment as a matter of law. Rule 56(c), SCRCP. Defendants have demonstrated that Plaintiff's CGL policy provides coverage for the accident at issue through the policy's endorsement.

Plaintiff argues that the endorsement does not provide coverage for the accident at issue because of the limiting language within the endorsement that coverage under the CGL policy will be extended "but only if you do not have any other insurance available to you which affords the same or similar coverage." Plaintiff argues that same or similar coverage was available here under Defendants' separate "Auto Policy."

Defendants argue that the Auto Policy does not provide same or similar coverage and that, in any event, such language is ambiguous. Being ambiguous, Defendants argue the "same or similar" provision must be construed in favor of the insured, citing *Beaufort County School District v. United Nat'l Ins. Co.*, 392 S.C. 506, 709 S.E. 2d 85 (Ct. App. 2011). Defendants also argue that our court of appeals and supreme court has already held that the term "similar" is ambiguous, citing the court of appeals' decision in *Courtney. South Carolina Farm Bureau Ins. Co. v. Courtney*, 342 S.C. 271, 536 S.E.2d 689 (Ct. App. 2000), *aff'd*, 349 S.C. 366, 563 S.E.2d 648 (2002) (*agreeing* with the court of appeals' construction of the policy). Plaintiff argues that the *Courtney* decisions dealt with only automatic termination clauses and are not applicable to the instant matter.

The Court agrees that the "same or similar" provision in the CGL policy endorsement is ambiguous, requiring this Court to construe the term in favor of Defendants and thereby holding that coverage extends to the present matter. The Court is not persuaded by Plaintiff's argument that the *Courtney* decisions are inapplicable here and finds them instructive. The court of appeals' discussion as to the ambiguity of the term "similar" focused on the ambiguous nature of the term itself rather than its unique context within automatic termination clauses, stating, "It is difficult to imagine being called upon to interpret a more imprecise term." *Id* at 275, 536 S.E.2d at 691. In other words, the court of appeals' focus was term-centric, and the word "similar" is as ambiguous in the *Courtney* policy as it is in the instant CGL policy. Furthermore, one of the rationales behind the court of appeals' construction is present here, namely, the "vast difference" in coverage between the two policies. *Id.* Due to the $700,000 difference in coverage between the two policies, this Court can conclude, and must conclude, that the coverage provided by the two policies in not "similar."

THEREFORE, Defendants' motion for summary judgment is hereby GRANTED.

IT IS SO ORDERED.

The Honorable Paul M. Burch
Presiding Judge
Fourth Judicial Circuit

Pageland, South Carolina
March 20, 2013