

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Tyrin S. Young, Sr., Individually, as PR of the Estates of Tyrin Young, Jr. and Micah A. Young and as Legal Guardian of J.Y., a minor under the age of 14,

Plaintiffs,

vs.

USAA General Indemnity Company,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL
CIRCUIT

CASE NO.: 2017-CP-23-04630

**ORDER DENYING PLAINTIFF'S
MOTION TO RECONSIDER**

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SC Court of Appeals

This matter comes before the Court upon Plaintiff's Motion to Reconsider the previous Order issued October 8, 2018 granting Defendant's Motion for Summary Judgment. Plaintiff brought this action to amend a California policy, pursuant to South Carolina law, to provide stacking of Underinsured Motorist Coverage on a vehicle that was insured under the California policy which did not provide stacking. In its Order, this Court granted Summary Judgment and ruled that the California should not be amended to conform to South Carolina law, specifically §38-61-10.

In their Motion to Reconsider, the Plaintiffs assert three grounds: (1) the Court read the S.C. Statute § 38-61-10 too narrowly; (2) the Court placed too much emphasis on the location of the vehicle in question; and (3) the term "garaged" in the California policy is ambiguous and creates a factual dispute.

In addressing grounds (1) and (2), the Court would defer to the plain language of the §38-61-10:

All contracts of insurance on **property**, lives, or interests **in this State** are considered to be made in the State and all contracts of insurance the applications for which are taken within the State are considered to have been made within this State and are subject to the laws of this State. (emphasis added)

The California policy in question was issued to cover a vehicle which was not involved in the accident and had not been located in South Carolina since 2009. There is no question that there are many connections between the vehicle in South Carolina (such as tag, registration, etc.), but this is not the appropriate inquiry to determine whether this statute applies. Since the California automobile policy provided coverage on a KIA Spectra that was not "property...in this State", as noted in the original order, the provisions of §38-61-10 are not triggered and the California policy should not be amended to conform to South Carolina law.

Plaintiff also argues that the term "garaged" in the California policy is ambiguous and creates a factual dispute making Summary Judgment inappropriate. The policy in question indicates that the vehicle in question is "principally garaged" in "Santee CA". Merriam-Webster Dictionary defines garage as "to keep or put in a garage." The location of the garage, according to the policy, is California, but there is evidence that the location of the vehicle was moved to Guam, which according to Defendant, creates an ambiguity as to where the vehicle is "principally garaged". This may be an issue of whether there would be coverage under this policy for the KIA, but this is not relevant to whether South Carolina law would apply since the vehicle was not moved to South Carolina.

Therefore, after review of the pleadings, evidence and argument of both parties, the Court does not find a basis for amending or reversing its previous Order and would adopt the findings and analysis set forth therein and the Plaintiff's Motion to Reconsider is denied.

It is so Ordered.

December 5, 2018

Perry H. Gravely
Presiding Judge, 13th Circuit

Signature of Judge Gravely on following page



Greenville Common Pleas

Case Caption: Tyrin S Young Sr , plaintiff, et al vs. USAA General Indemnity Company
Case Number: 2017CP2304630
Type: Order/Other

So Ordered

s/ Honorable Perry H. Gravely, #2755