

Fall, 2025

AEI CLAIMS LAW QUIZ

DEFINING MOTOR SCOOTER FOR UIM COVERAGE PURPOSES

[Ref. *Law of Automobile Insurance: UM and UIM, Para 3.04*]

FACTS: Turner was riding her MacWheel Pro Electric Scooter on a city street when she was struck and injured by a car that ran a stop sign. The MacWheel Pro is a stand-up electric scooter powered by a lithium-ion battery and has a top speed of 15.6 mph. Turner settled her personal injury claim against the driver of the car that hit her, but since her claimed damages exceeded the driver's liability limits, she sought to recover underinsured motorist (UIM) benefits from her auto insurer, Farmers Direct Property & Casualty Insurance Company. UIM benefits were available under the Farmers policy to an insured who was legally entitled to recover damages from an underinsured driver. That coverage, however, was subject to certain policy exclusions.

One of the exclusions in the Farmers policy was for bodily injury sustained by an insured while using or occupying a "motor scooter." Not surprisingly, Farmers denied Turner's UIM claim because it argued, she was injured while using a motor scooter.

Turner filed a lawsuit against Farmers and claimed the insurer's denial was a breach of contract. Turner alleged that Farmers breached the terms of its policy when it denied her claim for UIM benefits. Specifically, she argued that the "motor scooter" exclusion in the policy did not apply to low-speed stand-up electric scooters like the one she was using when the accident happened. Farmers responded with a motion to dismiss the lawsuit, arguing that the policy expressly excluded Turner's claim. After a hearing, the trial court concluded that the stand-up electric scooter that Turner was riding when she was injured was a motor scooter and since the policy excluded injuries sustained by an insured while riding a motor scooter, her claim wasn't covered. As a result, the court granted the insurer's motion to dismiss. Turner appealed.

QUESTION: Is a stand-up electric scooter a "motor scooter" for purposes of the UIM exclusion in this insurance policy?

ANSWER: Yes, according to the Court of Appeals of Kentucky in *Turner v. Farmers Direct Property & Casualty Insurance Company*, 2024 Ky. App. Unpub. LEXIS 681(Ky. App. 2024).

The court began its analysis by considering the specific text of the insurance policy's UIM exclusion in order to determine whether it was ambiguous. If a term in an insurance policy is susceptible to more than one reasonable interpretation, then that term is ambiguous. And when such an ambiguity exists, the term will be interpreted against the insurer and in favor of the insured according to the insured's reasonable expectations.

That approach to policy interpretation is known as the doctrine of reasonable expectations because it's based on the premise that an ambiguous policy term will be construed as a layperson would understand it. That means the insured is entitled to all the coverage he may reasonably expect to be provided under the policy. Courts have taken this approach to policy interpretation because most insurance policies are contracts of adhesion which means the policy is a standard-form contract written by the insurance company. The doctrine of reasonable expectations, however, applies only when there is an ambiguity in the policy's language. In the absence of any ambiguity, courts construe undefined policy terms according to their plain and ordinary meaning.

Turner sought to establish that her scooter didn't qualify as a "motor scooter" in the policy exclusion and cited the Merriam-Webster Dictionary to establish a difference between a "scooter" and a "motor scooter." According to that dictionary, "scooter" is defined as "(a): a vehicle ridden usually while standing that consists of a narrow footboard mounted between or atop two wheels tandem, that has an upright steering handle attached to the front wheel, and that is moved by pushing with one foot. (b): a similar vehicle propelled by an electric motor." The phrase motor scooter, however, is separately defined in the dictionary as "a 2- or 3-wheeled motorized vehicle that has a low seat and a bottom platform for resting the feet." Turner contrasted the characterization of a motor scooter as having a seat, with her stand-up scooter without a seat, and then argued that the separate dictionary definitions for those terms mean her stand-up electric scooter doesn't fall within the plain and ordinary meaning of the "motor scooter" exclusion in the policy.

Although the court acknowledged that the phrase "motor scooter" may include a conveyance ridden by the user in a seated position, it also said that the phrase is often used as a synonym for any number of conveyances including both the stand-up and sit-down variety. Turner then argued that the phrase was ambiguous, and, therefore, could not be interpreted to defeat an insured's reasonable expectations.

The court disagreed with Turner and held that the phrase "motor scooter" in the policy's exclusion was not ambiguous. According to the court, "competing dictionary definitions and synonyms used by the public do not create an ambiguity in this case." The court found that the unambiguous meaning of "motor scooter" in this case was a matter of common sense. "Turner was using a scooter, and the scooter had a motor," therefore, it was a "motor scooter." Since the court found no ambiguity in the policy's motor scooter exclusion, the reasonable expectations doctrine didn't apply. In this respect, the court said "whatever expectations Turner may have had regarding UIM coverage contained in the policy are irrelevant in the face of the unambiguous "motor scooter" exclusion." Courts will not rewrite unambiguous policy terms to enlarge the insurer's risk, but will enforce the policy as it was written.

Turner also sought to establish that Farmers' "motor scooter" exclusion didn't apply to her UIM claim because her scooter didn't comport with a particular Kentucky statute that did include a definition of a motor scooter. Since Turner's scooter wasn't a motor scooter according to that statute, Turner argued that the exclusion in Farmers' policy should not have deprived her of UIM coverage. The court rejected that argument as well, stating that the statutory definition of a motor scooter to which Turner referred was irrelevant to her case. That statutory definition, according to the court, while relevant to other laws, including those requiring mandatory liability insurance, was not relevant to the question presented in this case, which was whether the UIM exclusion in Farmers' policy was valid. And with respect to that question, the court found that Farmers' exclusion was reasonable.

The court held that Turner was using a motor scooter when she was injured and, therefore, she was not entitled to UIM coverage under her policy with Farmers because the motor scooter exclusion in that policy was valid. The decision of the lower court was affirmed.

CONCLUSION: The scope of an insurance policy's coverage is determined by the language of the policy. An insurance policy is a contract and ordinary contract principles govern its interpretation. When a term in an insurance policy is susceptible to more than one reasonable

interpretation, courts will find the term to be ambiguous. And in those circumstances, courts will typically interpret the policy against the insurer and in favor of the insured according to his reasonable expectations. A policy term is not necessarily ambiguous, however, merely because the term is not defined within the policy. Instead, when a policy term isn't defined, courts will define it according to its plain and ordinary meaning. That is what the court did in the *Turner* case. Although the phrase "motor scooter" wasn't defined in Farmers' policy, the court applied the phrase to Turner's UIM claim according to its plain and ordinary meaning. The court concluded that since Turner was using a scooter that had a motor, it was simply a matter of common sense that it was a motor scooter, which the policy unambiguously excluded from UIM coverage.

Another court, of course, might come to a different conclusion depending on the facts of the particular case and that court's interpretation of them.

Congratulations SCLA's

The following individuals earned their SCLA's in the months of August, September, and October 2025:

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