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Farmer, J.

{¶1} On June 6, 1998, Darlene Amore was a passenger in her own van being driven by her husband, Thomas Amore, when it was rear-ended by Elizabeth Brennan. As a result of the accident, Mrs. Amore sustained injuries and lost wages.

{¶2} At the time of the accident, Mrs. Amore was employed by The Thomson Corporation, insured under a business auto policy issued by Continental Insurance Company. Mr. Amore was employed by FujiFilm America, Inc., insured under a business auto policy issued by Tokio Marine and Fire Insurance Company, Ltd. Both Mr. and Mrs. Amore were insured under a personal insurance policy issued by Grange Mutual Casualty Company.

{¶3} On June 5, 2000, appellees, Mr. and Mrs. Amore, filed a complaint against Grange and Continental, seeking underinsured motorists benefits. On February 9, 2001, appellees filed an amended complaint, adding Tokio as a party defendant. Grange filed cross-claims against Continental and Tokio for contribution on a pro-rata basis.

{¶4} All the insurance companies filed motions for summary judgment. By judgment entry pending summary judgment motions filed May 1, 2002, the trial court denied the motions, finding appellees were entitled to underinsured motorists benefits

under all three policies, with Grange's coverage being primary and the remaining policies being excess.

{¶5} On July 24, 2002, the parties filed a joint stipulation, stating Grange paid its policy limits, the remaining damages were \$200,000 and any prejudgment interest claims had yet to be decided.

{¶6} By judgment entry on plaintiff's motion for judgment and prejudgment interest filed September 20, 2002, the trial court resolved the remaining issues in the case.

{¶7} Tokio filed a notice of appeal (Case No. 02CA75) and this matter is now before this court for consideration. Assignment of error is as follows:

I

{¶8} "THE TRIAL COURT ERRED IN DECLARING THAT THE PLAINTIFFS ARE ENTITLED TO UNDERINSURED MOTORISTS COVERAGE UNDER THE COMMERCIAL LINES POLICY ISSUED BY DEFENDANT-APPELLANT TOKIO MARINE & FIRE INSURANCE CO., LTD. TO PLAINTIFF TOM AMORE'S EMPLOYER AND DENYING TOKIO MARINE'S MOTION FOR SUMMARY JUDGMENT ON THE SAME POLICY."

I

{¶9} Tokio claims the trial court erred in granting summary judgment to appellees. Specifically, Tokio claims appellees are not entitled to underinsured motorists coverage under its business auto policy because at the time of the accident, appellees were driving their own vehicle not in the scope of employment and said vehicle was not a "covered auto" under the policy.

{¶10} This matter was submitted to the trial court with certain facts as uncontested. Mrs. Amore was a passenger in her own vehicle being operated by her husband who was an employee of Tokio's insured, Fujifilm America Inc. An underinsured tortfeasor rear-ended the vehicle, causing Mrs. Amore to sustain injuries and lost wages. As a result, the Amores sought coverage from Tokio pursuant to *Scott-Pontzer v. Liberty Mutual Fire Insurance Co.*, 85 Ohio St.3d 660, 1999-Ohio-292, and its progeny.

{¶11} The definition of an "insured" under the uninsured/underinsured motorist provisions of the policy is similar to the definition in *Scott-Pontzer*. See, Section B of the Ohio Uninsured Motorists Coverage – Bodily Injury, attached to Tokio's Brief as Exhibit D. However, Tokio argues Endorsement No. CA 99 10 01 87, Drive Other Car Coverage – Broadened Coverage for Named Individuals, removes the case from *Scott-Pontzer* analysis. In support of its argument, Tokio cites Section B of the endorsement which states as follows:

{¶12} "CHANGES IN LIABILITY COVERAGE

{¶13} "1. Any 'auto' you don't own, hire or borrow is a covered 'auto' for LIABILITY COVERAGE while being used by any individual named in the Schedule or by his or her spouse while a resident of the same household except:

{¶14} "a. Any 'auto' owned by that individual or by any member of his or her household.

{¶15} "b. Any 'auto' used by that individual or his or her spouse while working in a business of selling, servicing, repairing or parking 'autos.'

{¶16} "2. The following is added to WHO IS AN INSURED:

{¶17} “Any individual named in the Schedule and his or her spouse, while a resident of the same household, are ‘insureds’ while using any covered 'auto' described in paragraph B.1 of this endorsement.”

{¶18} Tokio argues this broadened coverage provided coverage to all of Fujifilm's employees thereby removing any ambiguity created by the *Scott-Pontzer* "you" language of the policy. Further, Tokio argues Mrs. Amore owned the subject vehicle which was not a specifically covered vehicle under the policy.

{¶19} In *Still v. Indiana Insurance Company*, Stark App. No. 2001CA00300, 2002-Ohio-1004, *Burkhart v. CNA Insurance*, Stark App. No. 2001CA00265, 2002-Ohio-903, and *Pahler v. Motorists Mutual Insurance Co.*, Stark App. No. 2002CA00022, 2002-Ohio-5762, this court rejected the argument that the inclusion of employees, directors and/or shareholders relieve a policy of *Scott-Pontzer* analysis. In *Egelton v. United States Fire Insurance Company*, Stark App. No. 2002CA00157, 2002-Ohio-6176, we held "covered auto" language changed the nature of the analysis because said language was included within the policy's definition of “Who Is An Insured.”

{¶20} Section B of the endorsement as cited by Tokio addresses broadened liability coverage, not “Who Is An Insured.” Section C of the endorsement adds the following to “Who Is An Insured” under uninsured/underinsured motorists coverage:

{¶21} “Any individual named in the Schedule and his or her ‘family members’ are ‘insured’ while ‘occupying’ or while a pedestrian when being struck by any ‘auto’ you don’t own except:

{¶22} “Any ‘auto’ owned by that individual or by any ‘family member.’”

{¶23} According to this definition, underinsured motorists coverage is broadened to include the Amores except for when occupying any vehicle they own. “It is undisputed that the van in which Darlene Amore was riding as a passenger at the time of her injury was owned by her.” Appellees’ Brief at 7.

{¶24} Pursuant to Section C of the endorsement, we find appellees are not entitled to coverage under Tokio's business auto underinsured motorists coverage. See, *Miller v. Grange Mutual Casualty Company*, Stark App. No. 2002CA00058, 2002-Ohio-5763.

{¶25} The sole assignment of error is granted.

{¶26} The judgment of the Court of Common Pleas of Richland County, Ohio is hereby reversed.

By Farmer, J. and

Gwin, P.J. concur.

Edwards, J. dissents.

Edwards, J., Dissenting Opinion

{¶27} I respectfully dissent from the majority’s analysis and disposition of appellant Tokio’s sole assignment of error.

{¶28} In the case sub judice, the business auto policy issued by appellant Tokio to Fujifilm, Mr. Amore’s employer, contains an Ohio uninsured motorists coverage form that defines an "insured" for purposes of underinsured motorist coverage as follows:

{¶29} "B. Who Is An Insured

{¶30} "1. You.

{¶31} "2. If you are an individual, any 'family member'.

{¶32} "3. Anyone else 'occupying' a covered 'auto' or a temporary substitute for a covered 'auto'. The covered auto must be out of service because of its breakdown, repair, servicing, loss or destruction.

{¶33} "4. Anyone for damages he or she is entitled to recover because of 'bodily injury' sustained by another 'insured'."

{¶34} The same language was contained in the uninsured motorist coverage form in *Scott-Pontzer v. Liberty Mut. Fire Ins. Co.*, 85 Ohio St.3d 660, 1999-Ohio-292, 710 N.E.2d 1116.

{¶35} The policy also contains a "Drive Other Car Coverage -Broadened Coverage for Named Individuals" endorsement stating, in relevant part, as follows:

{¶36} "C. Changes in Auto Medical Payments And Uninsured And Underinsured Motorists Coverages. The following is added to WHO IS AN INSURED: Any individual named in the Schedule and his or her 'family members' are 'insured' while 'occupying' or while a pedestrian when being struck by any 'auto' you don't own except: Any 'auto' owned by that individual or by any 'family member'."

{¶37} In its opinion, the majority finds that "[a]ccording to this definition, underinsured motorist coverage is broadened to include the Amores except for when occupying any vehicle they own" and that since Darlene Armore was occupying a vehicle owned by her at the time of the accident, appellees are not entitled to UIM coverage under Tokio's business auto policy.

{¶38} I, however, disagree.

{¶39} As noted by this Court in *Moore v. Hartford*, Delaware App. No. 02CAE-10-048, 2003-Ohio-2037: “To the extent that all employees are covered in one section of the UM/UIM endorsement, but in another section of the UM/UIM coverage the employees are only covered in limited circumstances, the policy is ambiguous. Ambiguity must be construed against the drafter of the contract and in favor of coverage.

{¶40} “In addition, it is axiomatic that by *adding* broadened coverage to the definition of “Who is an Insured” for UIM purposes, the drive other car coverage-broadened coverage for named individuals endorsement cannot serve to reduce or restrict “Who is an Insured” under the UIM endorsement of the policy.” *Id.*

{¶41} Thus, the definition of an insured in the UM/UIM endorsement as “you” would remain unchanged by the Drive Other Car Coverage endorsement. The declarations page of the Tokio policy states that “throughout this policy the words ‘you’ and ‘your’ refer to the named insured shown in the declarations.” The named insureds on the declarations include appellee, a corporation. Pursuant to *Scott-Pontzer*, *supra.*, since the “you” is a corporation, the “you” in the UM/UIM endorsement includes the corporation’s employees, including Tom Amore. Since the policy contains “family member” language, Darlene Amore, Tom Amore’s wife, would also be an insured.

{¶42} Based on the foregoing, I would find that appellees are entitled to UIM coverage under the Tokio business auto policy issued to Fujifilm.

Judge Julie A. Edwards