



IN THE SUPREME COURT OF THE STATE OF DELAWARE

NATALIE AYERS,)	
)	
Plaintiff-Below,)	No. 411, 2025
Appellant,)	
)	
v.)	
)	On Appeal from the
TRAVELERS CASUALTY)	Superior Court
INSURANCE COMPANY,)	No. N24C-05-130 KMV
)	
Defendant-Below,)	
Appellee.)	

PLAINTIFF-BELOW APPELLANT’S OPENING BRIEF ON APPEAL

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Dated: November 10, 2025

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STATEMENT OF THE CASE

A. Nature of Proceedings

The Plaintiff, Natalie Ayers (“Plaintiff”), appealed the Superior Court’s Order of September 15, 2025, granting summary judgment in favor of Defendant, Travelers Casualty Insurance Company (“Defendant” or “Travelers”), and denying Plaintiff’s cross-motion for summary judgment. This is Plaintiff’s Opening Brief on Appeal.

B. Summary of Arguments

1. The Superior Court erred in concluding that Plaintiff is not an insured under the Travelers Business Auto Policy.
2. Even if Plaintiff is not deemed an insured as a matter of law, the Travelers “Drive Other Car Coverage” endorsement is misleading and ambiguous, and must be construed in favor of coverage.

C. Statement of Facts

On May 17, 2022, Plaintiff was seriously injured in a motor vehicle collision caused by a negligent driver who was underinsured. Ayers v. Travelers Casualty Ins. Co., No. N24C-05-130 KMV, at 1-2 (Del. Super. Ct. Sept. 15, 2025). At the time of the collision, Plaintiff was operating her personally owned 2021 Jeep Wrangler. Ayers, at 2-3. She recovered the tortfeasor's bodily injury limits and the full extent of her underinsured motorist (UIM) coverage from her personal auto policy issued by Travelers Home & Marine Insurance Company. Ayers, at 2.

At all times material, Plaintiff maintained a separate business policy of automobile insurance issued by Defendant to Industrial Electrical Service, Inc. ("IES"). Ayers, at 2. Plaintiff is the owner and operator of IES. The business address for IES is the same as Plaintiff's home address. The business auto policy provides UIM coverage. Id.

In order to supplement her auto insurance coverage, Plaintiff purchased an endorsement under the business policy, which added herself as a "named individual" and an "insured" under the policy. A5-A6. The endorsement is titled "Drive Other Car Coverage – Broadened Coverage for Named Individuals," and is copied in relevant part below:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DRIVE OTHER CAR COVERAGE – BROADENED COVERAGE FOR NAMED INDIVIDUALS

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

SCHEDULE

LIMITS	Liability Auto Medical Payments Uninsured Motorists Underinsured Motorists	\$ \$ \$ \$	Limits of Insurance as stated in Item Two of the applicable Coverage Part Declarations
			Auto Medical Uninsured Underinsured Physical Damage Payments Motorists Motorists Comprehensive Collision Premium Premium Premium Deductible Premium Premium Premium Premium Premium Premium
Name of Individual	Liability Premium	\$90	Auto Medical Premium \$ Uninsured Motorists Premium \$47 Underinsured Motorists Premium \$INCL Comprehensive Deductible Premium \$500 \$7 Physical Damage Deductible Premium \$500 \$56

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Note: When Uninsured Motorists Coverage is provided at limits higher than the basic limits required by a financial responsibility law, Underinsured Motorists Coverage is included, unless otherwise noted. If Underinsured Motorists Coverage is provided as a separate coverage, make appropriate entry in the Schedule above.

- A.** This endorsement changes only those coverages where a premium is shown in the Schedule.
- B. Changes In Covered Autos Liability Coverage**
 1. Any "auto" you don't own, hire or borrow is a covered "auto" while being used by any indi-

vidual named in the Schedule or by his or her spouse while a resident of the same household except:

- a. Any "auto" owned by that individual or by any member of his or her household.
 - b. Any "auto" used by that individual or his or her spouse while working in a business of selling, servicing, repairing or parking "autos".
2. The following is added to **Who Is An Insured:**
 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.

- 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 "insureds" while "occu-

pying" 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".

- D. Changes In Physical Damage Coverage**
 Any private passenger type "auto" you don't own, hire or borrow is a covered "auto" while in the care, custody or control of any individual named in the Schedule or his or her spouse while a resident of the same household except:
1. Any "auto" owned by that individual or by any member of his or her household.
 2. Any "auto" used by that individual or his or her spouse while working in a business of selling, servicing, repairing or parking "autos".

- E. Additional Definition**
 As used in this endorsement:
 "Family member" means a person related to the individual named in the Schedule by blood, marriage or adoption who is a resident of the individual's household, including a ward or foster child.

A5-A6. In addition, Plaintiff was separately identified as a named driver in the policy's "Driver Listing" page. See A7.

The endorsement expressly identifies Plaintiff, “Natalie Ayers,” by name. A5. Defendant Travelers charged a separate, itemized premium for the “Drive Other Car Coverage,” distinct from the business coverage applicable to IES’s owned vehicles. See id. The endorsement does not limit coverage to business use. A5-A6. The endorsement further provides: “The following is added to **Who Is An Insured**: Any individual named in the Schedule and his or her ‘family members’ are ‘insureds’” A6.

After exhausting all available third- and first-party coverages, Plaintiff sought additional UIM benefits under her business auto policy. Defendant Travelers denied coverage.

Plaintiff filed suit in the Superior Court on May 14, 2024. A1. Both parties moved for summary judgment. Ayers, at 4. At oral argument, Travelers conceded that Plaintiff was an “insured” under the policy. A29:15-20. Travelers further agreed that UIM coverage would have applied under the policy if Plaintiff had been engaged in business activities at the time of the crash, notwithstanding her use of a personally owned vehicle. A19:13-19; A20:22 – A21:1-13. On September 15, 2025, the Superior Court granted Travelers’ motion and denied Plaintiff’s cross-motion, concluding that Plaintiff was not an insured under the business policy and that the endorsement was clear and unambiguous. Ayers, No. N24C-05-130 KMV, at 6-17.

This appeal followed.

ARGUMENT I

THE SUPERIOR COURT ERRED IN DETERMINING THAT PLAINTIFF IS NOT AN INSURED UNDER THE BUSINESS AUTO POLICY.

A. Question Presented

Whether the Superior Court erred in concluding that Plaintiff was not an insured under the business auto policy issued by Defendant Travelers, notwithstanding that she was expressly named as an insured in the “Drive Other Car Coverage – Broadened Coverage for Named Individuals” endorsement, and paid a separate premium for that coverage.¹

B. Scope of Review

The Supreme Court “review[s] the Superior Court’s decision on a motion for summary judgment *de novo*, applying the same standard as the trial court.” Paul v. Deloitte & Touche LLP, 974 A.2d 140, 145 (Del. 2009). “Questions concerning the interpretation of contracts are questions of law, which [this Court] review[s] *de novo*.” Id.

C. Merits of Argument

The Superior Court’s conclusion that Plaintiff was not an insured under the Travelers business auto policy is contrary to the policy’s language, Delaware precedent, and the purpose of 18 Del. C. § 3902.

¹ Preserved at Ayers, No. N24C-05-130 KMV, at 6.

For decades, this Court has recognized that “[t]he purpose of Section 3902 is to permit a risk adverse person to establish a fund to protect against losses caused by uninsured/underinsured motorists by contracting for supplemental coverage.” Hurst v. Nationwide Mut. Ins. Co., 652 A.2d 10, 14 (Del. 1995). Under Delaware law, “[UIM] coverage is ‘personal to the insured and not vehicle specific.’” Hurst, 652 A.2d at 14 (quoting Frank v. Horizon Assurance Co., 553 A.2d 1199, 1203 (Del. 1989)).

In Frank, this Court concluded that it is “inimicable to the purpose of Section 3902 to make recovery of supplemental uninsured coverage contingent upon the manner in which the claimant is injured.” Frank, 553 A.2d at 1205. To illustrate this point, the “Court noted the ‘paucity’ of logic in the uninsured carrier’s argument which acknowledged the claimant would have been covered if injured while a pedestrian but denied coverage while the claimant was operating a car covered by another uninsured policy.” Hurst, 652 A.2d at 14 (quoting Frank, 553 A.2d at 1205).

Consistent with the Frank and Hurst decisions, this Court has further held “that other motor vehicle (‘OMV’) exclusions, which bar uninsured or underinsured motorist benefits to *named insureds* for claims involving owned vehicles not insured under that policy, are void under Delaware’s UIM statute. Bermel v. Liberty Mutual, 56 A.3d 1062, 1067 (Del. 2012) (emphasis in original).

In granting summary judgment, the Superior Court relied upon Bermel for the proposition that a business auto policy does not provide personal UIM coverage to employees. Ayers, at 10-11. That reasoning misapplies Bermel.

In Bermel, the plaintiff sought coverage on the basis that he was an employee of the corporate named insured. He was not a named individual in the policy, did not pay a separate premium, and was not listed as an insured in any endorsement. Id. at 1066-68. For these reasons, this Court held that the plaintiff “cannot claim any expectation of insurance coverage.” Id. at 1068.

Plaintiff’s situation is the opposite. She is expressly listed as a named individual in the policy (A7), added as **an insured** in the policy’s endorsement (A5-A6), and she paid Travelers a separate premium for her coverage (A5).² See A6 (“Any individual named in the Schedule and his or her ‘family members’ **are ‘insureds’**” (emphasis added)). The endorsement exists precisely to provide personal protection for a designated individual. Travelers cannot disclaim the insured status that it created and for which Plaintiff paid separate consideration.

Given that Plaintiff qualifies as an insured under the business policy’s endorsement, any attempt to limit her UIM coverage must fail, as it would conflict

² It is the payment of a premium that triggers the requirement of full coverage. See Bermel, 56 A.3d at 1067 (“Once uninsured [or underinsured] motorist coverage is purchased, the insurance consumer is entitled to secure the full extent of the benefit which the law requires to be offered.” (quoting Frank, 553 A.2d at 1205)).

with Section 3902. Travelers' denial of coverage on the basis that Plaintiff was operating a vehicle she owned at the time of the crash is equivalent to an unenforceable "other motor vehicle" exclusion.³ See Bermel, 56 A.3d at 1067 ("[O]ther motor vehicle ('OMV') exclusions, which bar uninsured or underinsured motorist benefits to *named insureds* for claims involving owned vehicles not insured under that policy, are void under the Delaware Underinsured Motorist Statute."); Frank, 553 A.2d at 1204 ("[S]ection 3902, as fairly construed, does not authorize the use of OMV exclusions to limit uninsured [or underinsured] motorist coverage."). Thus, Travelers' exclusion purporting to eliminate Plaintiff's UIM coverage while she is operating a personally owned vehicle is unenforceable.

By treating Plaintiff as if she were a mere employee, the Superior Court overlooked the separate contractual relationship created by the endorsement. Further, Travelers conceded at oral argument that Plaintiff is an insured under the policy (A29:15-20), and would have been covered if she were engaged in business activities, notwithstanding her use of a personal vehicle (A19:13-19; A20:22 – A21:1-13). Accordingly, because Plaintiff qualifies as an insured under the Travelers policy, and because § 3902 prohibits the type of exclusion relied on by Travelers, the Superior Court erred in granting summary judgment in favor of Travelers.

³ Similarly, Travelers' attempt to restrict coverage to applying only during business activities is an exclusion that does not exist in the policy.

ARGUMENT II

THE “DRIVE OTHER CAR COVERAGE” ENDORSEMENT IS MISLEADING AND AMBIGUOUS, AND MUST BE CONSTRUED IN FAVOR OF COVERAGE.

A. Question Presented

Whether the Superior Court erred in holding that the “Drive Other Car Coverage” endorsement is unambiguous, despite its misleading name and ambiguous terms that invite the reasonable expectation of personal UIM coverage.⁴

B. Scope of Review

The Supreme Court “review[s] the Superior Court’s decision on a motion for summary judgment *de novo*, applying the same standard as the trial court.” Paul v. Deloitte, 974 A.2d at 145. Interpretation of an insurance contract presents a question of law reviewed *de novo*. Id.

C. Merits of Argument

The “Drive Other Car Coverage” endorsement is misleading, as the title conveys that it broadens personal UIM coverage for the named individual. The endorsement is likewise ambiguous because its terms reasonably support more than one interpretation.

⁴ Preserved at Ayers, at 12.

Delaware follows two rules of construction for insurance contracts. “First where ambiguous, the language of an insurance contract is always construed most strongly against the insurance company which has drafted it.” Steigler v. Ins. Co. of N. Am., 384 A.2d 398, 400 (Del. 1978). “An ambiguity exists when the language in a contract permits two or more reasonable interpretations.” Hallowell v. State Farm, 443 A.2d 925, 926 (Del. 1982)

Second, “an insurance contract should be read to accord with the reasonable expectation of the purchaser so far as the language will permit.” Steigler, 384 A.2d at 401 (citations omitted.) See also Hallowell, 443 A.2d 925, 926 (Del. 1982).

[T]he Court will look to the reasonable expectations of the insured at the time when he [or she] entered into the contract if the terms thereof are ambiguous or conflicting, or if the policy contains a hidden trap or pitfall, **or if the fine print takes away that which has been given by the large print.** But the doctrine is not a rule granting substantive rights to an insured when there is no doubt as to the meaning of policy language

Bermel, 56 A.3d at 1071 (quoting Hallowell, 443 A.2d at 927 (emphasis added)).

For decades, this Court has recognized that insurance policies

must be interpreted in a common-sense manner, giving effect to all provisions so that a reasonable policyholder can understand the scope and limitation of coverage. **It is the obligation of the insurer to state clearly the terms of the policy,** Thus, if the contract in such a setting is ambiguous, the principle of contra proferentem dictates that the contract must be construed against the drafter.

.... Therefore, it is incumbent upon the dominant party to make terms clear. **Convolved or confusing terms are the problem of the insurer or issuer— not the insured or investor.**

Penn Mut. Life Ins. Co. v. Oglesby, 695 A.2d 1146, 1149-50 (Del. 1997) (emphasis added).

The endorsement here is titled “**DRIVE OTHER CAR COVERAGE – BROADENED COVERAGE FOR NAMED INDIVIDUALS.**” A5. Any purported exclusion in the fine print relating to personally owned vehicles plainly contradicts the oversized, bolded name of the endorsement itself. The endorsement communicates expanded personal protection for named individuals when operating vehicles *other than* corporate autos insured under the business policy. In the context of a business auto policy covering vehicles owned by a corporation, the only “other car” a reasonable consumer would understand to be implicated is the individual’s personal vehicle. That is the very circumstance where a business owner would logically seek additional protection and where this endorsement is marketed.

Travelers’ position, that the “Drive Other Car Coverage” endorsement applies only to vehicles you do not own, renders the title of the endorsement materially misleading. If Travelers intended the endorsement to exclude coverage for personal vehicles owned by the named individual, a title such as “Broadened Coverage When Driving Non-Owned Vehicles Only” would convey that limitation clearly. The actual title indicates the opposite. In this respect, “the fine print” can certainly be said to “take[] away that which has been given by the large print.” Bermel, 56 A.3d at 1071 (quoting Hallowell, 443 A.2d at 927). The misleading presentation in the

endorsement's heading therefore requires the policy to be construed to provide the coverage that the title reasonably communicates. Steigler, 384 A.2d at 400–01; Hallowell, 443 A.2d at 927.

In addition to the endorsement's title being misleading, the operative terms are ambiguous. For purposes of convenience, the pertinent language is copied below:

C. Changes In ... 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 "insureds" 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."

A6 (emphasis in original).

This wording is susceptible to at least two reasonable interpretations, either of which gives effect to the text as written. On one hand, the exception could apply to the vehicle which the individual was occupying at the time of the collision. Under this reading, the exception modifies the phrase "while occupying," and the named individual is an insured except when she is occupying a vehicle she owns. Travelers adopts this interpretation.

On the other hand, the exception could apply to the vehicle that strikes the insured. Under this reading, the exception modifies the phrase "while a pedestrian when being struck by any 'auto,'" and the named individual remains an insured

unless she is struck by a vehicle that she or a family member owns. This interpretation gives full effect to the endorsement’s text, punctuation, and parallel structure between “occupying” and “being struck.”

Both readings are grammatically coherent. Both apply the exception to one of the two exposure situations described in the coverage terms. The endorsement’s structure does not specify which risk the exception modifies, and Travelers’ reading requires importing a limitation into the first clause that the endorsement does not explicitly state.⁵ Because both interpretations are reasonable, the provision is ambiguous. Hallowell, 443 A.2d at 926.

Under Delaware law, where a policy provision is ambiguous, the doctrine of *contra proferentem* requires the policy to be construed in favor of the insured. Steigler, 384 A.2d at 400-01; Hallowell, 443 A.2d at 926-27. The ambiguity here affects the scope of insured status under UIM coverage, which directly implicates the remedial purpose of 18 Del. C. § 3902. Delaware law therefore requires adopting the interpretation that provides coverage. See Hurst 652 A.2d at 13-14 (recognizing that the “legislative intent to compensate *fully* innocent drivers has been and

⁵ Although the phrase “while occupying” presumably contemplates the occupancy of a vehicle, the phrase’s lack of an object leaves readers struggling to understand which phrases modify which objects in the passage as a whole. The absence of punctuation further complicates understanding where phrases stop and start and to what they pertain.

continues to be evident on the face of our uninsured [and underinsured] motorist laws”).

Under the reasonable interpretation described above, the exception does not eliminate coverage for Plaintiff’s injuries in this case. She was not struck by a vehicle she owned, so she qualifies as an insured and is entitled to UIM benefits.

In conclusion, the Court should hold that the endorsement is misleading and ambiguous as a matter of law, and construe the policy in favor of coverage.

WHEREFORE, for the foregoing reasons, Plaintiff respectfully requests that the Court reverse the decision of the Superior Court, and remand the case with instructions to enter judgment in favor of Plaintiff.

Respectfully submitted:

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IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

NATALIE AYERS,)	
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Plaintiff,)	
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v.)	C.A. No. N24C-05-130 KMV
)	
TRAVELERS CASUALTY)	
INSURANCE COMPANY,)	
)	
Defendant.)	
)	

Submitted: June 3, 2025
Decided: September 15, 2025

*Defendant’s Motion for Summary Judgment, **GRANTED.***
*Plaintiff’s Cross Motion for Summary Judgment, **DENIED.***

ORDER

Having considered the parties’ cross motions for summary judgment and the undisputed material facts, it appears:

1. In May 2022, Natalie Ayers (“Ayers”) and Shannon Barnett (“Barnett”) were driving their respective vehicles through Middletown, Delaware when they collided.¹ Ayers alleges she suffered “bodily injuries, pain and suffering, mental

¹ Docket Item [“D.I.”] 6 at 2. This background provides only the predicate necessary to the Court’s ultimate holdings, and the Court directs interested readers to the docket in the matter for additional predicate. The facts in this decision reflect the record developed at the June 3, 2025 hearing addressing the cross motions for summary judgment [the “Hearing”]. See D.I. 17, 18. Citations to the Hearing transcript are in the form “Tr. #.”

anguish[,] and emotional distress” resulting from the motor vehicle accident.²

2. Ayers collected \$25,000 from Barnett’s insurance liability policy.³

3. Seeking additional coverage, Ayers filed a claim for underinsured motorist coverage (“UIM”) benefits under her personal auto insurance policy (the “Personal Policy”) with Travelers Casualty Insurance Company (“Travelers”).⁴ Travelers accepted Ayers’ UIM claim under the Personal Policy and awarded her the maximum policy limit of \$100,000.⁵

4. Ayers then pursued a second claim for \$1,000,000 in UIM benefits against Travelers under her company’s, Industrial Electrical Service, Inc.’s (“Industrial’s”), commercial insurance policy (the “Business Policy”).⁶

5. In January 2023, Travelers denied Ayers’ UIM benefits claim under the Business Policy for two reasons: (1) Industrial is the named insured for business coverage—not Ayers, and (2) Ayers does not qualify under the Business Policy’s “Drive Other Car Coverage–Broadened Coverage for Named Individuals”

² D.I. 6, Amended Complaint [“Am. Compl.”] at 2.

³ *Id.* at 3.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*; D.I. 12, Plaintiff’s Motion for Summary Judgement [“PMSJ”], Ex. C at 2.

endorsement because she was operating a personally owned vehicle at the time of the accident.⁷

6. In August 2023, Ayers sent a letter to Travelers demanding tender of UIM benefits under the Business Policy.⁸ Ayers gave four reasons why Travelers erred in denying her claim: (1) disclaiming her UIM benefits under the “other motor vehicle” (“OMV”) endorsement is invalid under Delaware law because “UIM coverage is personal to and follows the individual named insured as opposed to the motor vehicle[;]”⁹ (2) disclaiming her UIM benefits based on driving a personal vehicle is unenforceable; (3) the Business Policy’s ambiguous language led Ayers to reasonably believe she qualified for UIM coverage; and (4) “where there are two policies that apply to a loss, the claimant may choose the higher limit policy over the policy covering the car.”¹⁰ In October 2023, Ayers warned Travelers about a potential suit.¹¹

7. Travelers responded to Ayers’ threat of litigation by explaining she is not entitled to UIM coverage under the Business Policy because (1) Industrial is the

⁷ PMSJ, Ex. C at 2.

⁸ *Id.* at 1.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

named insured, not Ayers, and (2) the accident vehicle was personal to her, not Industrial.¹²

8. On May 14, 2024, Ayers brought this action against Travelers seeking UIM benefits under the Business Policy and claiming breach of contract.¹³ Ayers later amended the complaint to correct the wrong day, month, and year of the accident.¹⁴ The Court scheduled trial for November 17, 2025.¹⁵

9. In March 2025, Travelers moved the Court for summary judgment (“Defendant’s Motion”) on the bases that no genuine issue of material fact exists and Ayers is not entitled to UIM benefits under the Business Policy.¹⁶

10. Ayers cross-moved for summary judgment (“Ayers’ Motion”) asserting no genuine issue of material fact exists and she is entitled to UIM benefits under the Business Policy.¹⁷ Ayers contends Travelers’ denial of UIM coverage under the OMV exclusion is prohibited under Delaware law¹⁸ and, alternatively, the

¹² *Id.*

¹³ D.I. 1 at 2–4.

¹⁴ Am. Compl. at 2.

¹⁵ D.I. 8, Trial Scheduling Order at 1.

¹⁶ D.I. 9, Travelers Casualty Insurance Company’s Motion for Summary Judgment [“DMSJ”] at 4.

¹⁷ PMSJ at 1.

¹⁸ *Id.* at 6.

“misleading and ambiguous” nature of the Business Policy language gave her a reasonable expectation of unconditional UIM coverage.¹⁹

11. Travelers responded that UIM benefits were properly denied because Ayers was not operating an Industrial-owned vehicle or conducting any Industrial-related business activity at the time of the accident.²⁰

12. In June 2025, the Court held a hearing to address the cross motions for summary judgment (“the Hearing”).²¹ The central issue before this Court is whether Ayers is entitled to UIM benefits under the Business Policy.

STANDARD

13. Under Rule 56(c) of the Superior Court Rules of Civil Procedure, summary judgment is only appropriate when the record shows there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.²² The burden of proof initially rests with the moving party²³ and the Court views the facts in the light most favorable to the nonmoving party.²⁴ But “[w]here

¹⁹ *Id.* at 10.

²⁰ D.I. 16, Defendant’s Reply to Plaintiff’s Response Cross Motion [“PMSJ Opp’n”].

²¹ D.I. 17.

²² Super. Ct. Civ. R. 56(c).

²³ *Moore v. Sizemore*, 405 A.2d 679, 680 (Del. 1979); *Feldman v. Marks*, 2024 WL 4363931, at *3 (Del. Super. Sept. 23, 2024) (citing *Radulski v. Liberty Mut. Fire Ins. Co.*, 2020 WL 8676027, at *3 (Del. Super. Oct. 28, 2020)).

²⁴ *Northan v. Thomas*, 2024 WL 2974271, at *2 (Del. Super. June 12, 2024) (citing *DiOssi v. Maroney*, 548 A.2d 1361, 1362 (Del. 1988)); *Feldman v. Marks*, 2024 WL 4363931, at

the parties have filed cross motions for summary judgment and have not [argued] that there is an issue of fact material to the disposition of either motion, the Court shall deem the motions to be the equivalent of a stipulation for decision on the merits.”²⁵ Here, by filing cross motions for summary judgment, the parties implicitly concede the material facts are fixed and they each are entitled to summary judgment as a matter of law based on the record submitted.²⁶ Having reviewed the parties arguments and the record, the Court agrees and, therefore, considers the matter on the merits.

I. Ayers is not a named insured under the Business Policy and the OMV exception does not violate public policy.

13. The first issue is whether Ayers qualifies as a named insured for UIM coverage under the Business Policy. The Court concludes she does not.

*3 (Del. Super. Sept. 23, 2024) (citing *Legion P’rs Asset Mgmt., LLC v. Underwriters at Lloyds London*, 2021 WL 6621168, at *6 (Del. Super. Sept. 30, 2021)).

²⁵ Del. Super. Ct. Civ. R. 56(h); *Torrent Pharma, Inc. v. Priority Healthcare Distrib., Inc.*, 2022 WL 3272421, at *5 (Del. Super. Aug. 11, 2022) (applying Del. Super. Ct. Civ. R. 56(h)).

²⁶ *Browing-Ferris, Inc. v. Rockford Enters., Inc.* 642 A.2d 820 (Del. Super. 1993).

14. Under 18 *Del. C.* § 3902, an insurer must provide UIM coverage to the named insured if the insured is categorically entitled to coverage and coverage is not affirmatively waived.²⁷

15. In *Frank v. Horizon Assurance Co.*, the Supreme Court of Delaware held that if the named insured's vehicle is not listed under the insurance policy, the insurer may not use an "other motor vehicle" ("OMV") exclusion to deny coverage.²⁸ Put simply, *Frank* teaches that an insurance policy is personal to the insured and does not attach to the vehicle itself.²⁹ In *Frank*, the insured plaintiff was driving her car when she collided with an uninsured driver. The plaintiff sought benefits under her personal policy, but the insurer defendant denied coverage under an OMV exclusion because the plaintiff's car was an unlisted vehicle.³⁰ After

²⁷ *Bermel v. Liberty Mut. Fire Ins. Co.*, 56 A.3d 1062, 1067 (Del. 2012); 18 *Del. C.* § 3902 ("No policy insuring against liability arising out of the ownership, maintenance or use of any motor vehicle shall be delivered or issued for delivery in this State with respect to any such vehicle registered or principally garaged in this State unless coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured or hit-and-run vehicles for bodily injury, sickness, disease, including death, or personal property damage resulting from the ownership, maintenance or use of such uninsured or hit-and-run motor vehicle.").

²⁸ 553 A.2d 1199, 1205 (Del. 1989).

²⁹ *Frank*, 553 A.2d at 1203.

³⁰ *Id.* at 1201 ("We do not provide coverage under this endorsement for property damage or bodily injury sustained by a person: While occupying, or when struck by, any motor vehicle owned by you or any family member which is not insured for this coverage under this policy. This includes a trailer or any type used with that vehicle.").

reviewing the legislative history and intent of Section 3902, the Court found the OMV exclusion clashed with the statute’s purpose: to protect people—not vehicles—from negligent drivers by promoting the purchase of UIM coverage.³¹ It follows that an individual must be a named insured under the policy to recover UIM benefits when the accident involves an unlisted vehicle. Because the plaintiff in *Frank* was a named insured under the policy, and thus entitled to UIM coverage, the Court ultimately found the OMV exclusion invalid as a matter of law and public policy.³²

16. Yet an OMV exclusion is not inherently invalid under Section 3902—nor is an individual automatically entitled to recover UIM benefits (or, in this instance, excess UIM benefits) under a business policy.

17. In *Bermel v. Liberty Mutual Fire Insurance Co.*, the Supreme Court of Delaware addressed whether an individual, who was not a named insured, could recover UIM benefits under a business policy.³³ In *Bermel*, an employee was assigned a company car for personal and work use, with the company as the named insured under a business policy that included UIM coverage. The policy’s OMV

³¹ *Id.* (quoting *State Farm Mut. Auto. Ins. Co. v. Abramowicz*, 386 A.2d 670, 673 (Del. Super. 1978)) (“The legislative purpose embodied in the requirement that uninsured motorist coverage be available to all members of the public is clear: the protection of innocent persons from the negligence of unknown or impecunious tortfeasors.”).

³² *Id.* at 1205.

³³ *Bermel*, 56 A.3d at 1064.

exclusion limited UIM coverage to instances where an employee was operating a company-owned or replacement vehicle during the accident. While off-duty, the employee was struck by another vehicle while operating a privately owned motorcycle.³⁴ He sought UIM benefits under the company’s policy, claiming it was personal to him and that denying coverage violated Section 3902.³⁵ The insurer argued coverage was not applicable because the company, not the employee, was the named insured, and the employee was not using a company car for work purposes at the time of the accident.³⁶ Like *Frank*, the Court held the employee had no valid expectation of coverage while driving his own motorcycle outside business activities.³⁷ The Court emphasized that being a *listed driver* does not equate to being a *named insured*, thus upholding the validity of the insurer’s OMV exclusion under the business policy.³⁸

18. Here, Ayers argues she is entitled to UIM coverage under the Business Policy because “she became an insured under the policy by purchasing the ‘Driver Other Car Coverage—Broadened Coverage for Named Individuals’ endorsement” and that “[a]ny exclusion in the endorsement purporting to limit [Ayers’] UIM

³⁴ *Id.* at 1065.

³⁵ *Id.*

³⁶ *Id.* at 1066.

³⁷ *Id.* at 1068.

³⁸ *Id.*

entitlement is void and unenforceable.”³⁹ Ayers points to the Business Policy which lists her under the “Drive Other Car Coverage” endorsement.⁴⁰ She argues *Frank* and *Bermel* support the conclusion that “Travelers’ exclusion purporting to eliminate [Ayers’] UIM coverage while she is operating a personally owned vehicle is unenforceable.”⁴¹ Not so.

19. Because Ayers is not a named insured under the Business Policy, *Frank* is inapt. Again, the *Frank* Court invalidated the OMV exclusion because it denied benefits to a *named* insured and undermined the purpose of UIM coverage—to protect the harmed individual.⁴² But here, the named insured is Industrial, not Ayers.⁴³ Thus, the Court concludes the “Drive Other Car Coverage” endorsement serves to protect Industrial, the named insured, from potential harm. If Ayers intended to secure UIM coverage for herself, while driving her personal vehicle, the best way to do that would be through a personal policy—which she did.⁴⁴

20. Citing *Bermel*, Ayers further contends, “Travelers’ denial of coverage on the basis that [Ayers’] was operating a vehicle she owned at the time of the crash

³⁹ PMSJ at 6.

⁴⁰ *Id.*; DMSJ, Ex. A at 45.

⁴¹ PMSJ at 9.

⁴² *Frank*, 553 A.2d at 1205.

⁴³ PMSJ, Ex. A at 2, 31, 67, 69, 76, 84, 92.

⁴⁴ D.I. 6 at 3.

is equivalent to an unenforceable [OMV] exclusion.”⁴⁵ It is not. The *Bermel* Court found the employee did not qualify for UIM coverage because (1) the company was the named insured under the business policy, (2) the employee was operating a privately owned vehicle that did not replace the company vehicle, and (3) the employee was not acting within the scope of business at the time of the accident.⁴⁶

21. Applying the same reasoning here, the Court concludes Ayers does not qualify for UIM coverage under the Business Policy because (1) her company, Industrial, is the named insured under the Business Policy, (2) she was operating a privately owned vehicle, and (3) she was acting outside the scope of business at the time of the accident.⁴⁷

22. Ayers next argues that by purchasing the “Drive Other Car Coverage” endorsement, she “paid a separate premium for UM/UIM coverage[,]” which should trigger her benefits.⁴⁸ But Ayers payment of a premium does not change that she was not driving an Industrial-owned vehicle for business purposes at the time of the

⁴⁵ D.I. 12 at 9.

⁴⁶ *Bermel*, 56 A.3d at 1068; *see also Harner v. Westfield Ins. Co.*, 2018 WL 6721765 (Del. Super. Dec. 12, 2018) (granting dismissal to insurer because UIM coverage for LLC’s and corporations did not extend to personal use of a private vehicle); *Skinner v. Donegal Mutual Ins. Co.*, 2016 WL 908778 (Del. Super. Mar. 8, 2016) (granting summary judgment to insurer because injured party was not a named insured under a commercial insurance policy).

⁴⁷ *See also* DMSJ, Ex. A at 2, 31, 67, 69, 76, 84, 92.; PMSJ at 2.; PMSJ Opp’n at 3.

⁴⁸ PMSJ at 10.

accident. Further, although Ayers is a listed driver under the Business Policy,⁴⁹ like the plaintiff in *Bermel* she is not a named insured for the purposes of the “Drive Other Car Coverage” endorsement.

II. The Business Policy is clear and unambiguous.

23. In the alternative, Ayers claims she is entitled to UIM coverage under the Business Policy because “the ‘Drive Other Car Coverage’ endorsement is misleading and ambiguous.”⁵⁰ After careful analysis, the Court concludes the language is neither. Accordingly, under the ordinary meaning of the Business Policy, Ayers is not entitled to UIM benefits.

⁴⁹ See DMSJ, Ex. A at 79. (“This list includes those drivers whom you have indicated will be using your automobiles insured through us. Please be sure this listing is complete and includes both full-time and occasional drivers. If this information needs modification or when drivers are added or deleted, please complete both sides of this form, as applicable, and send it to your agent in a secure manner, being mindful of the sensitive information it could contain.”).

At the Hearing, Defendant argued *Harner v. Westfield Ins. Co.*, which partially relied on *Bermel*, provides “a very similar fact pattern” because the plaintiff there “was personally using his personal motorcycle and was denied coverage under his business policy.” Tr. 7:12–8:19 (citing 2018 WL 6721765 (Del. Super. Dec. 12, 2018)). In *Harner*, the plaintiff lacked standing for UIM benefits because the policy was held by his LLC, not personally, and did not cover personal motorcycle use. *Harner*, 2018 WL 6721765, at *4. The *Harner* court also found the reasonable expectations doctrine inapt due to unambiguous policy language. *Id.* at *2.

At the Hearing, Plaintiff argued “the long line of Supreme Court precedent . . . establishes that UIM coverage is personal to the insured[, i]t’s not vehicle specific.” Tr. 19:5–8. But Ayer’s counsel admitted, “I don’t believe [Ayers] was doing anything related to her business at the time of the crash.” Tr. 18:1–3.

⁵⁰ PMSJ at 8–10.

24. When summary judgment depends on contract interpretation, this Court may decide the motion where the language at issue is clear and unambiguous.⁵¹ Clear and unambiguous contracting terms are interpreted according to their ordinary meaning.⁵² While Delaware courts construe insurance contracts in favor of the insured when a contract's language is unclear and ambiguous,⁵³ a contract is not rendered so simply because the parties disagree over the interpretation of certain language or do not agree on its proper construction.⁵⁴ Instead, language is ambiguous when “the provisions in controversy are fairly susceptible of different interpretations or may have two or more different meanings.”⁵⁵ Similarly, “[a]n interpretation is unreasonable if it ‘produces an absurd result’ or a result ‘that no

⁵¹ *GMG Cap. Invs., LLC v. Athenian Venture P’rs I, L.P.*, 36 A.3d 776, 781, 783 (Del. 2012) (citations omitted).

⁵² *Id.*

⁵³ *Hallowell v. State Farm Mut. Auto. Ins. Co.*, 443 A.2d 925, 926 (Del. 1982) (first citing *Apotas v. Allstate Ins. Co.*, 246 A.2d 923, 925 (Del. Super. 1968); and then citing *Novellino v. Life Ins. Co. of North America*, 216 A.2d 420, 422 (Del. 1966)).

⁵⁴ *Terrell v. Kiromic Biopharma, Inc.*, 2025 WL 249073, at *3 (Del. Jan. 21, 2025) (quoting *Manti Hldgs., LLC v. Authentix Acq. Co., Inc.*, 261 A.3d 1199, 1208 (Del. 2021) and *Osborn ex rel. Osborn v. Kemp.*, 991 A.2d 1153, 1160 (Del. 2010)); see also *GMG Cap. Invs. L.P.*, 36 A.3d at 781 (quoting *Rhone-Poulenc Basic Chemicals Co. v. American Motorists Is. Co.*, 616 A.2d 1192, 1191 (Del. 1992)).

⁵⁵ *Terrell*, 2025 WL 249073, at *3 (quoting *Manti Hldgs.*, 261 A.3d at 1208 and *Osborn*, 991 A.2d at 1160; *Hallowell*, 443 A.2d at 926 (first citing *Cheseroni v. Nationwide Mut. Ins. Co.*, 402 A.2d 1215, 1217 (Del. Super. 1979); and then citing *Lamberton v. Travelers Indem. Co.*, 325 A.2d 104, 106 (Del. Super. 1974)); see also *GMG Cap. Invs. L.P.*, 36 A.3d at 781 (quoting *Eagle Indus. Inc. v. DeVilbiss Health Care Inc.*, 702 A.2d 1228, 1232 (Del. 1997)).

reasonable person would have accepted when entering the contract.”⁵⁶ If the Court finds ambiguity exists, it must apply the “reasonable expectations doctrine” by examining extrinsic evidence to determine the reasonable expectation of the insured at the time the contract was entered.⁵⁷ Conversely, when “a reasonable person [can draw] but one inference, the question becomes one for decision as a matter of law.”⁵⁸

25. In *Hallowell v. State Farm Mutual Automobile Insurance Co.*, the Delaware Supreme Court examined whether insurance policy language was ambiguous, such that would warrant a reasonable expectation analysis.⁵⁹ There, the plaintiff, injured in a car accident, sought uninsured motor coverage under Section 3902, arguing the reasonable expectation doctrine applied due to multiple interpretations of the policy sections; and even, if the policy was clear, the doctrine still applied.⁶⁰ The Court declined to extend the doctrine where the policy language was unequivocal, noting the insured’s duty to understand the contract terms before formation.⁶¹ Having found the policy language clear and unambiguous, the Court

⁵⁶ *Manti Hldgs., LLC*, 261 A.3d at 1208 (quoting *Osborn*, 991 A.2d at 1160).

⁵⁷ *Hallowell*, 443 A.2d at 927.

⁵⁸ *Feaster v. Tyler*, 2024 WL 4039721, at *2 (Del. Super. Sept. 3, 2024) (citing *Wooten v. Kiger*, 226 A.2d 238, 239 (Del. 1967)).

⁵⁹ *Hallowell*, 443 A.2d at 927.

⁶⁰ *Id.* at 822–824, 927.

⁶¹ *Id.* at 927–928 (“We are well aware of the complex and confusing nature of many insurance policies and of frequent admonitions by the courts to insurance companies to write clear and unambiguous policies that can be understood by an average insured. But

found the ordinary meaning of contract terms applied and upheld a denial of coverage under the policy.⁶² The Court reaches the same result in the matter *sub judice*.

26. Here, Ayers claims she is entitled to UIM coverage under the Business Policy because “the ‘Drive Other Car Coverage’ endorsement is misleading and ambiguous.”⁶³ Specifically, she argues “Travelers’ position that the ‘Drive Other Car Coverage’ endorsement applies only to vehicles you do not own, renders the name of the endorsement entirely misleading.”⁶⁴

27. In response, Travelers argues the Business Policy’s definitional section makes clear that neither Ayers personal vehicle, nor Ayers herself, qualify for UIM benefits.⁶⁵ Travelers points to the Business Policy’s definitions of “covered autos liability” and “named insured.”⁶⁶ The policy specifies that “covered autos liability” includes “owned ‘autos’ only” which are “only those ‘autos’ *you* own,” with “you”

we have consistently held that an insured has a duty to read his insurance policy and he is bound by the provisions thereof if they are clear and unequivocal.”).

⁶² *Id.* at 928–929.

⁶³ PMSJ at 8–10.

⁶⁴ *Id.* at 12 (emphasis removed); *id.* at 13 (“The following is added to Who Is An Insured: Any individual named in the Schedule and his or her ‘family members’ are ‘insureds’ 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.’” (emphasis removed)).

⁶⁵ *Id.* Ex. C at 3.

⁶⁶ *Id.*

referring to the “named insured, ” i.e., Industrial.⁶⁷ Because the named insured is a corporation, Section B.2 of the Business Policy applies to exclude coverage.⁶⁸ Although Ayers is a listed individual, Section B.1 only applies when the named insured is an individual.⁶⁹ The endorsement clearly states that “Any ‘auto’ you don’t own, hire, or borrow is a covered ‘auto’ while being used by any individual named in the Schedule . . . *except: Any ‘auto’ owned by that individual or by any member of his or her household.*”⁷⁰

28. The Court agrees with Travelers. There is no misleading language here. Because Ayers personally owns the accident vehicle and was not using it for business at the time of the accident,⁷¹ she is not eligible for recovery, as the policy language explicitly states.

29. Ayers next asserts the following “drive other car coverage” language is ambiguous: “On the one hand, the exception could apply to the vehicle which ‘that individual’ was occupying at the time of the collision. On the other hand, the exception could apply to the vehicle which struck the ‘individual.’”⁷² The

⁶⁷ DMSJ, Ex. A at 2, 18 (emphasis added).

⁶⁸ *Id.* at 33.

⁶⁹ *Id.*

⁷⁰ *Id.* at 45–46 (emphasis added).

⁷¹ Ayers counsel admitted at the Hearing, “[he] d[id]n’t believe [Ayers] was doing anything related to her business at the time of the crash.” Tr. 18:1–3.

⁷² PMSJ at 12–13.

endorsement reflects that “Any individual named in the Schedule and his or her ‘family members’ are ‘insureds’ 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.’”⁷³

30. The Court disagrees and finds no ambiguity. This provision has a straightforward interpretation—the listed individual can only recover UIM benefits if injured by a vehicle not owned by them. But if the listed individual owned the vehicle causing the injury, coverage is not triggered.

31. In sum, because the disputed provisions of the contract are clear and unambiguous, the reasonable expectation doctrine does not apply. Under the ordinary meaning of the Business Policy, Ayers is not entitled to UIM benefits. Accordingly, Travelers Motion for Summary Judgment is **GRANTED**, and Ayers’ Cross Motion is **DENIED**.

IT IS SO ORDERED.



The Honorable Kathleen M. Vavala

⁷³ DMSJ, Ex. A at 46.