p/c

IN THE SUPREME COURT OF FLORIDA

CASE NO. 82,260

MICHAEL GRANT,

Petitioner,

-vs-

STATE FARM FIRE AND CASUALTY COMPANY,

Respondent.

_____/

BRIEF OF PETITIONER, MICHAEL GRANT, ON JURISDICTION

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STATEMENT OF CASE AND FACTS

Introduction

Petitioner, MICHAEL GRANT, seeks review of a decision entered by the District Court of Appeal, Fourth District, which expressly and directly conflicts with decisions of other district courts of appeal and of this Court on identical questions and principles of law. As set forth by the district court of appeal below facially, the decision sought to be reviewed conflicts with the decision of the District Court of Appeal, Third District, in Petersen V. State Farm Fire & Casualty Co., 615 So.2d 181 (Fla. 3d DCA 1983). Said case is presently pending before this Court in Case No. 81,740. Jurisdiction is based upon Article V, Section 3(b)(3), Florida Constitution, and Florida Rules of Appellate Procedure 9.030(a)(2)(A)(iv).

The Petitioner, MICHAEL GRANT, was the plaintiff in the trial court and the appellant in the District Court of Appeal, Fourth District, seeking uninsured motorist coverage benefits in connection with personal injuries sustained. The Petitioner will be referred to herein as "GRANT." The Respondent, STATE FARM FIRE AND CASUALTY COMPANY, was the defendant in the trial court, the appellee in the district court of appeal, and will be referred to herein as "STATE FARM."

The symbol "A" will refer to the Appendix attached

hereto and filed simultaneously herewith as required by the applicable rules of procedure.

Case and Facts

GRANT was insured by STATE FARM under a policy which listed a 1978 Corvette motor vehicle as the insured vehicle. GRANT was involved in a collision while occupying a motorcycle when such motorcycle collided with an admitted uninsured motorist (A. 1). STATE FARM refused uninsured motorist benefits and asserted an exclusion contained in the STATE FARM policy that would not provide benefits for the operation of "motor vehicles" owned by an insured but not listed under the insurance policy (A. 1).

GRANT initiated a legal action against STATE FARM seeking uninsured motorist benefits which produced the entry of a summary final judgment in favor of STATE FARM and against GRANT (A. 2).

GRANT asserted in the District Court of Appeal, Fourth District, that the summary final judgment was erroneous and that the motorcycle was not a "motor vehicle" as utilized in the exclusion which was contained in the STATE FARM policy. The District Court of Appeal, Fourth District, opined that the issue was centered upon the definition that should be afforded the term "motor vehicle" in the STATE FARM policy (A. 4).

The District Court of Appeal, Fourth District, proceeded to affirm the summary final judgment and hold that the

motorcycle occupied by GRANT was a "motor vehicle" within the exclusionary provision of the STATE FARM policy, and due to such exclusion GRANT was not entitled to uninsured motorist benefits (A. 6). On rehearing the District Court of Appeal, Fourth District, specifically acknowledged and expressly stated that its opinion was in direct conflict with that of the District Court of Appeal, Third District, and stated specifically on rehearing:

> The petition for rehearing is denied. However, we acknowledge that our opinion conflicts with that of the Third District in Petersen v. State Farm Fire & Casualty Co., 615 So.2d 181 (Fla. 3d DCA 1993). In Petersen the Third District reaches an opposite result on virtually identical facts (A. 7).

GRANT has timely filed the Notice to Invoke Discretionary Jurisdiction asserting that the determination below facially expressly and directly conflicts with a decision of another district court of appeal, and also expressly and directly conflicts with decisions of other district courts of appeal and of this Court with regard to uninsured motorist coverage.

POINTS INVOLVED ON APPEAL

Point I

WHETHER THE DECISION UNDER REVIEW CONFLICTS WITH PETERSEN V. STATE FARM FIRE & CASUALTY CO., 615 SO.2D 181 (FLA. 3D DCA 1993)?

Point II

WHETHER THE DECISION RENDERED BELOW IS IN EXPRESS AND DIRECT CONFLICT WITH THOSE DECISIONS THAT HAVE PREVIOUSLY HELD THAT A CLASS I/NAMED INSURED IS ENTITLED TO UNINSURED MOTORIST BENEFITS REGARDLESS

OF LOCATION AT THE TIME OF INJURY BY AN UNINSURED MOTORIST?

SUMMARY OF ARGUMENT

The court below applied an exclusionary provision to limit uninsured motorist coverage to an insured when the exclusionary provision did not clearly eliminate such coverage and benefits. The district court of appeal below utilized statutes that were not applicable, which contained a definition of "motor vehicle," when the insurance policy itself did not contain such definition to limit uninsured motorist benefits to a named insured. Further, the district court of appeal below was specifically advised that the identical insurance policy had been interpreted to the contrary by the District Court of Appeal, Third District, in Petersen v. State Farm Fire & Casualty Co., 615 So.2d 180 (Fla. 3d DCA 1993), but the court below merely adopted a contrary provision and expressly and directly stated that its determination conflicted with the other district court of appeal.

The decision below also expressly and directly conflicts with that class of cases from this Court and other district courts of appeal that have repeatedly stated that uninsured motorist coverage is available to Class I insureds regardless of the location of such insured at the time of the incident. Any attempts to exclude or limit such uninsured motorist benefits are contrary to the public policy of the State of Florida, and the decision below adopts statutory definitions

unrelated to uninsured motorist coverage and will render the entire area of uninsured motorist benefits ambiguous and uncertain due to the interpretations adopted.

ARGUMENT

Point I

THE DECISION UNDER REVIEW CONFLICTS WITH PETERSEN V. STATE FARM FIRE & CASUALTY CO., 615 SO.2D 181 (FLA. 3D DCA 1993).

The present case involves the claim of an insured for uninsured motorist benefits while occupying a motorcycle from his own insurance company. The insurance company, STATE FARM, refused uninsured motorist benefits on the basis that injuries sustained while occupying a motorcycle were excluded under the policy pursuant to a provision which provided that coverage would be excluded for an insured who occupied a "motor vehicle" which was owned by an insured but not insured under the policy. The court below has held that no uninsured motorist coverage is available under such circumstances, but the District Court of Appeal, Third District, pursuant to Petersen v. State Farm Fire & Casualty Co., supra, has specifically held that one in the identical position in the area controlled by the District Court of Appeal, Third District, is entitled to uninsured motorist benefits under such circumstances. Here, citizens of the state of Florida are treated differently under the identical insurance contract depending upon their place of residence. Those living in an area controlled by the District Court of Appeal,

Fourth District, do not receive uninsured motorist benefits while operating a motorcycle, but those individuals living within the jurisdiction of the District Court of Appeal, Third District, do receive such benefits. Further, the District Court of Appeal, Fourth District, has specifically, directly, and expressly recognized that its determination in this case conflicts with the determination made by the District Court of Appeal, Third District.

It is respectfully submitted that the present case is precisely the type of case that the framers of the Florida constitution had in mind when the Florida constitution was amended to restrict this Court's conflict jurisdiction. The express and direct conflict necessary to invoke jurisdiction as discussed by this Court in Jenkins v. State, 385 So.2d 1356 (Fla. 1980), has, most assuredly, been satisfied. The district court below represented in words and gave expression to conflict in a very direct and express manner.

When citizens of this state receive different treatment under the law that is predicated upon where they live as opposed to distinguishing facts in their cases, conflict jurisdiction exists pursuant to decisions such as Hardee v. State, 534 So.2d 706 (Fla. 1988), and Ford Motor Co. v. Kikis, 401 So.2d 1341 (Fla. 1981). Here, the discussion of legal principles and the statement of a legal principle directly controlling the outcome below are in direct conflict with a holding and decision of the District Court of Appeal,

Third District, on the identical principle of law and jurisdictional requirements have been satisfied.

Upon information and belief, based upon telephone inquiry to the clerk of this Court, this Court has accepted conflict jurisdiction in Case No. 81,740, which is State Farm Fire & Casualty Co. v. Petersen, which presumably must be based upon conflict with the decision rendered by the District Court of Appeal, Fourth District, below. There is certainly conflict under the circumstances, and the parties should receive identical treatment. It is submitted that express and direct conflict exists for this Court to exercise jurisdiction and resolve the conflict.

Point II

THE DECISION RENDERED BELOW IS IN EXPRESS AND DIRECT CONFLICT WITH THOSE DECISIONS THAT HAVE PREVIOUSLY HELD THAT A CLASS I/NAMED INSURED IS ENTITLED TO UNINSURED MOTORIST BENEFITS REGARDLESS OF LOCATION AT THE TIME OF INJURY BY AN UNINSURED MOTORIST.

Commencing with the decision of this Court in Mullis v. State Farm Mutual Automobile Insurance Co., 252 So.2d 229 (Fla. 1971), this Court and other district courts of appeal have been firmly committed to the principle of law that a Class I/named insured is entitled to uninsured motorist benefits regardless of location at the time of injury by an uninsured motorist. Such has been followed consistently in decisions such as Coleman v. Florida Insurance Guaranty Association, Inc., 517 So.2d 686 (Fla. 1988); Florida Farm Bureau Casualty Co. v. Hurtado, 587 So.2d 1314 (Fla. 1991);

Nationwide Mutual Fire Insurance Co. v. Phillips, 609 So.2d 1385 (Fla. 5th DCA 1992); and Lewis v. Cincinnati Insurance Co., 503 So.2d 908 (Fla. 5th DCA 1987).

It is respectfully submitted that the principle of law analyzed, discussed, and adjudicated by the District Court of Appeal, Fourth District, below is in express and direct conflict with all of the foregoing decisions with regard to the availability of uninsured motorist benefits for a Class I/named insured while operating a motorcycle.

CONCLUSION

Based upon the arguments, authorities, and reasoning set forth herein, the decision rendered by the district court below facially states and recognizes that it is in conflict with a decision of the District Court of Appeal, Third District. The two decisions cannot stand simultaneously, and this is the type of conflict that the drafters of the constitutional provisions controlling jurisdiction had in mind when they designed and set forth conflict jurisdiction in this Court.

Respectfully submitted,

R. Fred Lewis, Esq.
MAGILL & LEWIS, P.A.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was mailed this 26th day of August, 1993, to: Mark R. McCollem, Esq., McCOLLEM AND D'ESPIES, P.A., Attorneys for GRANT, 201

Southeast 12th Street, Fort Lauderdale, FL 33316; and to James K. Clark, Esq., CLARK, SPARKMAN, ROBB & NELSON, Attorneys for STATE FARM, 19 West Flagler Street, Suite 1003, Miami, FL 33130.

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By: R. Fred Lewis
R. Fred Lewis

IN THE SUPREME COURT OF FLORIDA

CASE NO. _____

MICHAEL GRANT,

Petitioner,

-vs-

STATE FARM FIRE AND CASUALTY COMPANY,

Respondent.

_____/

APPENDIX TO
BRIEF OF PETITIONER, MICHAEL GRANT, ON JURISDICTION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was mailed this 26th day of August, 1993, to: Mark R. McCollem, Esq., McCOLLEM AND D'ESPIES, P.A., Attorneys for GRANT, 201 Southeast 12th Street, Fort Lauderdale, FL 33316; and to James K. Clark, Esq., CLARK, SPARKMAN, ROBB & NELSON, Attorneys for STATE FARM, 19 West Flagler Street, Suite 1003, Miami, FL 33130.

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By: _____
R. Fred Lewis

APPENDIX

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT JANUARY TERM 1993

MICHAEL GRANT, Appellant, v. STATE FARM FIRE AND CASUALTY COMPANY, Appellee.	)	CASE NO. 91-3303. L.T. CASE NO. 91-5870 23.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DISPOSED OF.

Opinion filed April 7, 1993

Appeal from the Circuit Court for Broward County; C. Lavon Ward, Judge.

Mark R. McCollem of Chidnese & McCollem, Fort Lauderdale, for appellant.

James K. Clark of Barnett, Clark and Barnard, Miami, for appellee.

HERSEY, J.

Michael Grant appeals a summary judgment rendered in favor of his uninsured motorists insurance carrier, State Farm Fire and Casualty Company (State Farm).

Grant's policy with State Farm listed a 1978 Corvette as the only insured vehicle. Grant was involved in a collision when the motorcycle owned and operated by him collided with an uninsured motorist while on a public road.

State Farm denied uninsured motorist coverage based upon an express exclusion in Grant's policy disallowing claims arising from the operation of motor vehicles owned by the insured but not listed in the policy.

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Litigation ensued, resulting in the summary judgment on appeal. Appellant Grant argues that the trial court erred in finding that a motorcycle is a motor vehicle as defined in the subject policy because that policy clearly defines a motor vehicle as a vehicle having four or more wheels. Appellee State Farm argues that the trial court properly determined that a motorcycle is included in the term motor vehicle because the Florida Financial Responsibility Act has defined a motor vehicle as a "self-propelled vehicle which is designed and required to be licensed for use upon a highway" and thus motorcycles are included in that definition.

The trial court determined that, as a matter of law, the term "motor vehicle" as used in the UM section of the policy included motorcycles. Accordingly, the trial court found that appellant was not entitled to UM benefits.

The policy defines a "car" as a "land motor vehicle with four or more wheels, which is designed for use mainly on public roads." This definition is found in the preface. In the section entitled "Section II--No-Fault--Coverage P and Medical Payment--Coverage C," the policy defines a motor vehicle as "a vehicle with four or more wheels that: 1. is self-propelled and is of a type: a. designed for, and b. required to be licensed for use on Florida highways . . ." (emphasis added). This is the only place in the policy where the term motor vehicle is defined.

Section III of the policy is styled, "Uninsured Motor Vehicle--Coverages U and U2." That section does not contain any other different or separate definition of a car or motor vehi-

cle. Appellant has UM coverage U3, and that section provides the following exclusion:

> When Coverage U3 Does Not Apply
> There is no coverage:
>
> * * *
>
> 3. For bodily injury to an insured while occupying a **motor vehicle** owned by you, your spouse or any relative if it is not insured for this coverage under this policy.

(Emphasis added.)

Chapter 324, Florida Statutes (1991), known as the Financial Responsibility Law, requires persons operating motor vehicles to maintain a minimum amount of insurance. It defines a motor vehicle as: "Every self-propelled vehicle which is designed and required to be licensed for use upon a highway . . . ." § 324.021(1), Fla. Stat. (1991).

In comparison, section 627.732, Florida Statutes (1991), pertaining to PIP coverage, defines motor vehicles as "any self-propelled vehicle with four or more wheels which is of a type both designed and required to be licensed for use on the highways of this state . . . ." § 627.732(1), Fla. Stat. (1991)(emphasis added).

Appellant argues that in the subject policy, the only definition of the term "motor vehicle" specifies a land vehicle that has four wheels. In addition, he points to section 627.732, Florida Statutes (1991), asserting that his motorcycle is not a motor vehicle by that definition, and thus he should not be excluded from receiving UM benefits since he was not driving a "motor vehicle" owned by him which was not listed on the subject policy.

Appellee on the other hand asserts that the term motor vehicle as defined by the Financial Responsibility Law clearly includes motorcycles in the provision "any self-propelled vehicle." Appellee cites to Chapter 324, Florida Statutes (1991), for support of this argument and definition. Appellee also asserts that the definition given in the subject policy applies only to Section II No Fault, and not to Section III UM Benefits.

Essentially, then, the question centers on what definition should be given to the term "motor vehicle" in the context of this case and the accompanying insurance policy.

The case of Carguillo v. State Farm Mutual Automobile Ins. Co., 529 So. 2d 276 (Fla. 1988), cited by appellee, and similar cases, are not really helpful to our analysis, focusing, as they do, on the status of the uninsured motorist. More pertinent to our inquiry are those cases which concern the status of the insured policy holder.

In the case of Standard Marine Ins. Co. v. Allyn, 333 So. 2d 497 (Fla. 1st DCA 1976), the insured was injured by an uninsured motorist operating a motorcycle. In response to the insurance company's contention that a two-wheeled vehicle should be excluded from coverage, the First District held that:

> We do not perceive that the legislature, by enacting the Florida Automobile Reparations Reform Act, intended to exclude those motor vehicles . . . from the umbrella of uninsured motorists. **The statutory definition of a "motor vehicle" found in the Financial Responsibility Act is far more consonant with the public policy of this state as to uninsured motorist than the "PIP" definition in the instant policy . . . .**

333 So. 2d at 499 (footnotes omitted)(emphasis added).

The Third District in State Farm Automobile Ins. Co. v. Kuhn, 374 So. 2d 1079 (Fla. 3d DCA 1979), cert. denied, appeal dismissed, 383 So. 2d 1197 (Fla. 1980), used similar reasoning to deny coverage to the policy holder. Robert Kuhn had two separate insurance policies; one for his truck and one for his motorcycle. The policy for his truck included UM coverage, but in the policy for his motorcycle, Kuhn specifically rejected UM coverage. Id. at 1080.

While riding his motorcycle, Kuhn was involved in an accident with an uninsured motorist and later submitted a claim for UM benefits under his truck policy. Id. State Farm denied coverage, and the trial court granted a summary judgment in favor of Kuhn. Id. On appeal, the Third District reversed that summary judgment, holding that Kuhn was restricted to the coverage in the policy issued on the motorcycle since the motorcycle was involved in the accident, not the truck. Id. at 1081.

Citing section 627.4132, Florida Statutes (1977), which prohibits the stacking of UM coverage, the court held, "[h]aving rejected uninsured motorist coverage thereon [his motorcycle], he is not entitled to the uninsured motorist benefits provided for in his truck policy under the plain terms of the statute." 374 So. 2d at 1081. Accord Indomenico v. State Farm. Mut. Auto Ins. Co., 388 So. 2d 29, 30 (Fla. 3d DCA 1980).

We note in passing that since Indomenico and Kuhn were decided, section 627.4132 has been amended to omit its reference to UM coverage. See New Hampshire Ins. Group v. Harbach, 439 So. 2d 1383, 1385 (Fla. 1983); Ch. 80-364, § 1 at 1495, Laws of Fla.

In our view, the reasoning in the foregoing cases and the public policy considerations of Allyn remain viable and continue to be applicable to the situation presented by the instant case.

In a slightly different context the Fifth District, in Nationwide Mutual Fire Ins. Co. v. Phillips, 609 So. 2d 1385 (Fla. 5th DCA 1992), resolved the issues involved in that case on the unstated assumption that a motorcycle was a motor vehicle for purposes of UM coverage.

Based upon the statutory definition, public policy and precedent (by analogy), we affirm the summary final judgment.

AFFIRMED.

ANSTEAD and LETTS, JJ., concur.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT JULY TERM 1993

MICHAEL GRANT, Appellant,	)	
v.	)	CASE NO. 91-3303.
STATE FARM FIRE AND CASUALTY COMPANY, Appellee.	)	L.T. CASE NO. 91-5870 23.

Opinion filed July 21, 1993

Appeal from the Circuit Court for Broward County; C. Lavon Ward, Judge.

Mark R. McCollem of Chidnese & McCollem, Fort Lauderdale, for appellant.

James K. Clark of Barnett, Clark and Barnard, Miami, for appellee.

ON REHEARING

PER CURIAM.

The petition for rehearing is denied. However, we acknowledge that our opinion conflicts with that of the Third District in Petersen v. State Farm Fire and Casualty Co., 615 So. 2d 181 (Fla. 3d DCA 1993). In Petersen, the Third District reaches an opposite result on virtually identical facts.

ANSTEAD, HERSEY, JJ., and OWEN, WILLIAM C., JR., Senior Judge, concur.

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MR. SHUMINER: The memorandum.
THE COURT: Not the memorandum.
MR. SHUMINER: The memorandum filed with the Florida Justice and Changing Measure.
THE COURT: Yes. They wish to take away his title as a correction officer as a result of this plea in this case.
THE WITNESS: Just for the record, I want the court to know that I contacted several people in the Department of Corrections. Unfortunately, there was not a memo in the file, but I know I would not have advised Mr. Johnson that he would have had no problem with that, but for the advice and recommendation that I got from the Department of Corrections.
THE COURT: I'm sure of that. I have no question about that, but sometimes, the information we receive from other people isn't always accurate.
THE WITNESS: Right.
THE COURT: And that through no fault of anybody—May I see the arrest form? It's right here. I assume, Mr. Shuminer, that your client, would testify to the exact same thing?
MR. SHUMINER: Yes, sir.
THE COURT: In fact I signed the order on June 19th of '91. I signed the order of expungement.
MR. SHUMINER: Correct.
MR. PARKS [asst. state attorney]: Judge, I haven't seen a copy of the motion to know if it's timely filed. There are a number of thing I would like to investigate.
THE COURT: He was sworn to testify, he was the attorney of record at the time. Do we have any other need for Mr. Gainor's presence?
MR. SHUMINER: No, Your Honor. Based upon the motion and based upon that he cooperated with the motion to vacate.
THE COURT: Mr. Parks, you have any questions of Mr. Gainor so I could let him go or hold him?
MR. PARKS: No, I won't get into any questions, judge.
THE COURT: Mr. Gainor, thank you very much.
THE WITNESS: Thank you, your honor.

As the records reflects, the State virtually, and properly, conceded the correctness of the trial court's ruling. The attorney general's disagreement with the state attorney and the trial court is procedurally and substantively devoid of merit.

Affirmed.

Robert PETERSEN, Appellant,

v.

STATE FARM FIRE AND CASUALTY COMPANY, Appellee.

No. 92–1828.

District Court of Appeal of Florida, Third District.

March 2, 1993.

Rehearing Denied April 13, 1993.

Insured under automobile policy brought suit against insurer seeking declaratory judgment that policy provided uninsured motorist coverage for motorcycle accident. The Circuit Court, Dade County Joseph M. Nadler, J., entered summary judgment in favor of insurer, and insured appealed. The District Court of Appeal held that term "motor vehicle" as used in uninsured motorist section of policy was ambiguous, and ambiguity would be construed against insurer.

Reversed and remanded with directions.

1. Insurance ⇐146.7(6)

If there is any ambiguity in policy concerning an exclusionary provision, ambiguity is construed against issuer of policy.

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2. Insurance ⇐467.51(3)

Term "motor vehicle" as used in uninsured motorist section of automobile policy was ambiguous, and would be construed against insurer on claim arising from motorcycle accident; it was unclear whether term was intended to mean a vehicle of four or more wheels, as stated in different section of policy, or whether term was to be given its normal everyday usage, which arguably would include motorcycles.

Lawrence E. Major, and Leslie C. Elrod, Coconut Grove, for appellant.

Richard A. Sherman, Rosemary B. Wilder, Green & Murphy, and Charles B. Green, Jr., Fort Lauderdale, for appellee.

Before NESBITT, LEVY and GERSTEN, JJ.

PER CURIAM.

Appellant, Robert Petersen (Petersen), appeals a summary judgment in favor of appellee, State Farm Fire and Casualty Company (State Farm). We reverse.

Petersen was driving his motorcycle when he was involved in an accident with an uninsured motorist. Petersen was injured and filed a claim with his insurer, State Farm. State Farm denied the claim on the ground that the motorcycle was not a listed vehicle under Petersen's policy.

The "uninsured motorist" section of the policy contained the following exclusion:

> There is no coverage:
>
> For bodily injury to an insured, while occupying a motor vehicle owned by you, your spouse or any relative if it is not insured for this coverage under this policy.

The term "motor vehicle" is defined elsewhere in the policy as follows:

> Motor vehicle—means a vehicle with four or more wheels that:
>
> 1. is self-propelled and is of a type;
>
> a. designed for, and
>
> b. required to be licensed for use in Florida highways; or
>
> 2. is a trailer or semitrailer designed for use with a vehicle described in 1 above.

Petersen sued State Farm seeking a declaratory judgment that there was uninsured motorist coverage under the policy for the motorcycle accident. The trial court entered a summary judgment in favor of State Farm.

Petersen asserts that although the "uninsured motorist" section of the policy excludes "motor vehicles", his motorcycle is not a "motor vehicle" under the definitional terms of the policy because it has two wheels. Thus, Petersen argues that he is entitled to uninsured motorist coverage.

State Farm contends that the definition of "motor vehicle" found elsewhere in the policy does not apply to the "uninsured motorist" section. Thus, State Farm contends that the term "motor vehicle" in the "uninsured motorist" section of the policy must be given its plain and ordinary meaning, which includes motorcycles.

[1, 2] If there is any ambiguity in an insurance policy concerning an exclusionary provision, the ambiguity is construed against the issuer of the policy. *National Automobile Insurance Association v. Brumit*, 98 So.2d 330 (Fla.1957). *Ceron v. Paxton National Insurance Company*, 537 So.2d 1090 (Fla. 3d DCA), *review denied*, 545 So.2d 1368 (Fla.1989). Here, an ambiguity arises concerning the term "motor vehicle" as used in the "uninsured motorist" section. It is unclear whether the term was intended to mean a vehicle with four or more wheels, as stated in a different section of the policy, or whether the term was to be given its normal everyday usage, which arguably would include motorcycles.

We find that the term "motor vehicle" was ambiguous as used in the policy. This ambiguity must be construed against State Farm. Accordingly, we reverse and remand for entry of summary judgment in favor of Petersen.

Reversed and remanded with directions.

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