

- [Cite as *Cameron v. Travelers Indemnity Ins. Co.*, 2004-Ohio-2633.]

STATE OF OHIO, COLUMBIANA COUNTY  
IN THE COURT OF APPEALS  
SEVENTH DISTRICT

JENNIFER CAMERON,	)	
	)	CASE NO. 02 CO 38
PLAINTIFF-APPELLEE,	)	
CROSS-APPELLANT,	)	
	)	
- VS -	)	OPINION
	)	
TRAVELERS INDEMNITY	)	
INSURANCE COMPANY,	)	
	)	
DEFENDANT-APPELLANT,	)	
CROSS-APPELLEE,	)	
	)	
AND	)	
	)	
GREAT NORTHERN INSURANCE	)	
COMPANY, et al.,	)	
	)	
DEFENDANTS-APPELLEES,	)	
CROSS-APPELLANTS.	)	

CHARACTER OF PROCEEDINGS: Civil Appeal from Common Pleas Court, Case No. 01 CV 755.

JUDGMENT: Affirmed in Part, Reversed in Part. Judgment Granted for Travelers Indemnity Insurance Company and Great Northern Insurance Company.

JUDGES:

Hon. Mary DeGenaro  
Hon. Cheryl L. Waite  
Hon. Joseph J. Vukovich

Dated: May 19, 2004

APPEARANCES:

For Plaintiff-Appellee,  
Cross-Appellant:

Attorney John S. Coury  
Suite 717, Courtyard Centre  
116 Cleveland Avenue, N.W.  
Canton, OH 44702  
Attorney for Jennifer Cameron

For Defendant-Appellant,  
Cross-Appellee:

Attorney Henry A. Hentemann  
Attorney Richard M. Garner  
DAVIS & YOUNG  
1700 Midland Building  
101 Prospect Avenue, West  
Cleveland, OH 44115-1027  
Attorneys for Travelers Indemnity  
Insurance Company

For Defendants-Appellees,  
Cross-Appellants:

Attorney Timothy J. Fitzgerald  
Attorney LuAnn A. Polito  
GALLAGHER, SHARP, FULTON  
& NORMAN  
1501 Euclid Avenue  
Seventh Floor – Buckley Building  
Cleveland, OH 44115  
Attorneys for Great Northern Insurance

Attorney David G. Utlely  
DAVIS & YOUNG  
One Cascade Plaza  
Suite 800  
Akron, OH 44308  
Attorney for Cincinnati Insurance Co.

DeGenaro, J.

{¶1} This matter involves a timely appeal and two cross-appeals from the same judgment entry of the Columbiana County Court of Common Pleas granting summary judgment to various parties. Jennifer Cameron appeals the trial court's decision to grant summary judgment in favor of Cincinnati Insurance Company. Both Travelers Indemnity Insurance Company and Great Northern Insurance Company appeal the trial court's decision granting summary judgment in favor of Cameron. Cameron's claims against these insurance companies are all based on *Scott-Pontzer v. Liberty Mut. Fire Ins. Co.* (1999), 85 Ohio St.3d 660, which was recently limited by the Ohio Supreme Court in *Westfield Ins. Co. v. Galatis*, 100 Ohio St.3d 216, 2003-Ohio-5849. Because we conclude that the Court's decision in *Galatis* excludes Cameron from coverage under these policies, we conclude that the trial court's decision should be affirmed in part, reversed in part, and judgment should be granted to both Travelers and Great Northern.

#### Facts

{¶2} Cameron was a passenger in a vehicle driven by Shasta Mumaw and owned by Linda Mumaw when she was injured in an automobile accident. At the time of her accident, she was an employee at a Burger King restaurant owned by Downtown Restaurants, Inc., a named insured in Travelers' policy with Spence Management Services, Inc. She lived with her mother and her sister. Her mother was employed by Haltec Corporation, a named insured in Cincinnati's policy, and her sister was employed at Marc Glassman, Inc, a named insured in Great Northern's policy.

{¶3} After the accident, Cameron filed a complaint seeking a declaratory judgment that she was entitled to coverage under the uninsured/underinsured provisions of the insurance contracts her employer, her sister's employer, and her mother's employer had with Cincinnati, Travelers, and Great Northern, respectively.

Her claims were based on *Scott-Pontzer* and *Ezawa v. Yasuda Fire & Marine Ins. Co. of Am.* (1999), 86 Ohio St.3d 557. Each party moved for summary judgment. The trial court granted summary judgment to Cincinnati, finding Cameron's claim was time-barred. But it granted summary judgment for Cameron against both Travelers and Great Northern. The trial court found there was no just reason to delay the judgment being carried into effect. Cameron then moved the trial court to reconsider its decision with respect to Cincinnati. The trial court denied the motion. Travelers, Great Northern, and Cameron each timely appealed the trial court's decision.

*Westfield v. Galatis*

{¶4} Cameron's claims for underinsured motorist benefits from each of these insurance companies are based on the Ohio Supreme Court's decision in *Scott-Pontzer* and *Ezawa*. In *Scott-Pontzer*, the court held that a person can recover underinsured motorist benefits from her employer's automobile insurance carrier if the employer is the named insured and a corporation and the commercial automobile liability policy defines an insured as "you". The court held that the "you" in the insurance policy was ambiguous, so it read the insurance policy against the insurance company and held that a corporation's employees are insureds under these types of insurance policies. *Id.* at 664. *Ezawa* extended this rationale to an employee's family members.

{¶5} The Ohio Supreme Court recently limited the application of *Scott-Pontzer* and overruled *Ezawa* in *Galatis*. *Galatis* at paragraphs two and three of the syllabus.

{¶6} "Absent specific language to the contrary, a policy of insurance that names a corporation as an insured for uninsured or underinsured motorist coverage covers a loss sustained by an employee of the corporation only if the loss occurs

within the course and scope of employment. (*King v. Nationwide Ins. Co.* [1988], 35 Ohio St.3d 208, 519 N.E.2d 1380, applied; *Scott-Pontzer v. Liberty Mut. Fire Ins. Co.* [1999], 85 Ohio St.3d 660, 710 N.E.2d 1116, limited.)

{¶7} “Where a policy of insurance designates a corporation as a named insured, the designation of ‘family members’ of the named insured as other insureds does not extend insurance coverage to a family member of an employee of the corporation, unless that employee is also a named insured. (*Ezawa v. Yasuda Fire & Marine Ins. Co. of Am.* [1999], 86 Ohio St.3d 557, 715 N.E.2d 1142, overruled.)” Id.

{¶8} In *Parks v. Rice*, 7th Dist. Nos. 02 CA 197, and 02 CA 198, 2004-Ohio-2477, we noted that the Ohio Supreme Court has applied *Galatis* retrospectively and determined that we must do so as well.

{¶9} *Galatis* states that an employee is not an “insured” for the purposes of uninsured/underinsured motorist coverage if the employee is not within the scope of her employment when she is injured unless the policy contains specific language to the contrary. After reviewing the record, we are satisfied that any reasonable factfinder, when viewing the evidence in the light most favorable to Cameron, would conclude that she was not within the scope of her employment when she was injured in the accident. None of the insurance contracts contain specific language extending coverage to Cameron. Accordingly, we conclude that Cameron is not an insured under the terms of these contracts and have no claim against these insurance companies.

{¶10} The trial court’s judgment granting summary judgment to Cincinnati is affirmed. The trial court’s judgment granting summary judgment to Cameron against both Travelers and Great Northern is reversed and judgment is entered for Travelers and Great Northern.

Waite, P.J., and Vukovich, J., concur.