

**SUPREME COURT OF LOUISIANA**

No. 00-C-2457

***AMERICAN DEPOSIT INSURANCE COMPANY***

***versus***

***IVORY MYLES, BOBBIE MYLES, WINDY MYLES, AND COURTNEY  
MYLES***

ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,  
FOURTH CIRCUIT, FIRST CITY COURT OF THE CITY OF NEW  
ORLEANS

VICTORY, J., DISSENTING

I do not agree with the result reached by the majority in this case. In 1993, Ivory Myles, Sr. opted to include two “named driver exclusions” in his auto policy. The effect of the exclusions was to preclude all coverage under his policy when his two children, Wendy and Ivory, Jr., were driving. The named insured, Ivory Myles, Sr., and the two children each executed the required special endorsements to the policy. It is undisputed that in consideration of excluding these drivers, Mr. Myles enjoyed a premium that was substantially less than it would otherwise have been had his children not been excluded. The special endorsement form used recites that the coverage is limited “in consideration of the premium charged.” Each “named driver exclusion” executed in 1993 specifically provided that it would apply to all “renewal policies” **unless** changed in writing by the insured or the Company. There is no evidence to suggest that such a change ever occurred.

On Jan. 23, 1998 an accident occurred when Wendy Myles, one of the

drivers excluded in 1993, was driving a vehicle owned by her father. The father's policy in effect at the time of the accident is clearly labeled and described on the policy documents as a **renewal** of the same auto policy that was in force in 1993 when the "named driver exclusion" was executed and the policy numbers so reflect. The 1997-98 American Deposit policy under which coverage is claimed contains at the top of the Declarations Page the following language:

**RENEWAL OF POLICY  
COMBINATION AUTO POLICY**

**RENEWAL DECLARATIONS \* \* EFFECTIVE 02/16/97  
THIS POLICY BEGINS ON 02/16/97 AT 12 01 AM  
AND SHALL EXPIRE ON 02/16/98 . . . [emphasis added]**

The **renewal** policy declaration sheet provides a list of the covered drivers, their license numbers, and birth dates. The two children excluded from coverage in 1993 are specifically noted as excluded drivers on the 1997-98 **renewal** policy as follows:

Driver ID	Driver Name	License Number	Birth Date
01	Ivory Myles, Sr.	00118988827	01/17/46
02	Bobbie Myles	004521386	01/13/50
03	<b>Ivory Myles Jr</b>	<b>Excluded</b>	02/02/72
04	<b>Wendy Myles</b>	<b>Excluded</b>	05/30/76

[Emphasis added]

Immediately following the list of covered and excluded drivers, the declaration page of the **renewal** policy lists "applicable forms" as including "FORM E510." Form E510 is the Form executed as the "named driver exclusion" in 1993, which specifically provided that it would remain in force unless changed in writing.

The 1997-98 policy was again issued for a reduced premium in consideration of the exclusion of Wendy Myles and Ivory Myles, Jr.

As noted by Judge Ciaccio in his dissent in the court of appeal, the trial judge had sufficient evidence from which to conclude that the policy in force in 1997-98, when the accident occurred, was a “**renewal policy**” within the intendment of the contracting parties. That being the case, the exclusion executed in 1993 remained in force in accordance with their contractual agreements. No relevant countervailing evidence was presented in opposition to the Motion for Summary Judgment. For that reason, the court of appeal erred in reversing the Motion of Summary Judgment rendered by the trial judge.

It should be noted that this case involves only the coverage available to family members of Ivory Myles Sr., who purchased the policy at issue and excluded coverage when vehicles were being driven by certain family members in return for a reduced premium. In my view, the addition of the Lincoln to the Myles policy at some point between 1993 and the date of the accident does not defeat the effectiveness of the 1993 “named driver” exclusion. Whatever the meaning attributed to the term “renewal policy” in other contexts, in this case the documents clearly indicate on their face that the parties to this insurance contract considered the 1997-98 policy a “renewal” of the same policy in force when the 1993 “named driver” exclusion was executed. The contract of insurance is the law between the parties.

Accordingly, I respectfully dissent.