IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

ATLANTIC STATES INSURANCE COMPANY,	)	
Plaintiff,	)	
v.	)	C.A. No. N13C-01-219 WCC
KYLE ROBERT JEANFREAU, through his guardian ad litem CYNTHIA O. JEANFREAU, ROBERT P. JEANFREAU, and EUGENE C. ANDERSON	)	
Defendant.	)	

Submitted: January 19, 2015
Decided: May 6, 2015

Plaintiff's Motion for Summary Judgment – DENIED
Defendant Cynthia Jeanfreau's Motion for Summary Judgment GRANTED in part and DENIED in part

MEMORANDUM OPINION

Susan L. Hauske, Esquire, Tybout, Redfearn & Pell, 750 Shipyard Drive, Suite 400, P.O. Box 2092, Wilmington, DE 19899. Attorney for Plaintiff Atlantic States Insurance Company.

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Robert Jeanfreau, 3221 Brookline Road, Wilmington, DE 19808. *Pro Se* Defendant.

Kyle Jeanfreau, 2703 Newell Drive, Wilmington, DE 19808. *Pro Se* Defendant.

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CARPENTER, J.

Before this Court are Atlantic States Insurance Company ("Plaintiff" or "Atlantic States") and Defendant Cynthia Jeanfreau's ("Defendant" or "Cynthia") Motions for Summary Judgment. For the foregoing reasons, the Court will deny Atlantic States' Motion for Summary Judgment and grant in part and deny in part Cynthia's Motion for Summary Judgment.

FACTUAL & PROCEDURAL BACKGROUND

The motions currently before the Court arise out of a motor vehicle accident which occurred on March 2, 2012, involving Defendant Kyle Jeanfreau ("Kyle") and a vehicle in which Defendant Eugene C. Anderson ("Anderson") was a passenger. At the time of the accident, Kyle was operating a Signature Construction Services ("Signature") vehicle assigned to his father, Defendant Robert Jeanfreau ("Robert"), an employee of Signature. At all times pertinent to this case, Signature's vehicle was insured by Atlantic States.

At the time of the accident, Kyle was working at Signature while on spring break from school. Robert directed Kyle to go to the BP Station "down the street" to get gas and milk. Kyle was on his way back from the BP Station when he struck the vehicle in which Anderson was a passenger. Anderson suffered injuries and filed suit against Kyle, Robert, Cynthia as Kyle's mother and guardian, and the Jeanfreau's insurance company, State Farm.[1]

[1] *Eugene C. Anderson v. Kyle Robert Jeanfreau, et al.*, C.A. No. N12C-09-120. The *Anderson* case has been stayed pending the result of this case.

Kyle's father, Robert, was hired by Signature in March 2011. At the time of his hiring, Robert signed a New Employee Information Form ("NEIF") acknowledging that he had access to, and agreed to read and abide by, the policies and procedures of the Signature Group Handbook (the "Handbook"). What was permissive use of a company vehicle was laid out in the Handbook; however, Robert was never given a copy of the Handbook, despite requesting a copy in his capacity as a supervisor. At most it appears that Robert was given a chance to look at the Handbook once, during a 30-45 minute meeting, while filling out other paperwork associated with the hiring process.

Kyle was originally hired by Signature in the Summer of 2011 while on a break from school. Kyle's mother, Cynthia, with whom he primarily resided, signed the New Hire Information Form supplied by Signature in her capacity as his parent/guardian. Neither Kyle, nor Cynthia, were ever given a Handbook or a vehicle use policy to read or review.

Signature, the owner of the vehicle, maintained a Commercial Auto Insurance Policy (the "Policy") on the vehicle from Atlantic States. The Policy required Atlantic States to pay damages for bodily injury or property damage caused by an accident resulting from the use of the covered auto.[2]

[2] *See* Business Auto Coverage Form CA 00 01 03 06, attached to Plaintiff's Motion for Summary Judgment as Exhibit "D" at pg. 2.

On January 25, 2013, Atlantic States filed a Complaint for Declaratory Relief seeking a determination of its obligation to defend and/or indemnify Kyle and Robert in the action filed by Anderson. Subsequently, on April 11, 2014, Atlantic States filed their Motion for Summary Judgment arguing that Kyle was not a permitted user under Signature's vehicle use policy and therefore, is not covered under the Policy Atlantic States provided to Signature. Defendants filed their responses on April 29, 2014, claiming that Signature's vehicle use policy is not applicable because Robert and Kyle were not properly informed of the vehicle use policy. Consistent with the Defendants' position, Cynthia also filed a Motion for Summary Judgment asserting that Signature failed to properly educate the employees of the vehicle use policy regarding permissive use of the company's vehicle and thus even if Kyle's use was not permitted, the vehicle use policy does not prevent coverage. A hearing was held before this Court, and the Court reserved decision.

STANDARD OF REVIEW

In reviewing a motion for summary judgment pursuant to Rule 56, the Court must determine whether any genuine issues of material fact exist.[3] Specifically, the moving party bears the burden of showing that there are no genuine issues of

[3] Super. Ct. Civ. R. 56(c); *Wilm. Trust Co. v. Aetna*, 690 A.2d 914, 916 (Del. 1996).

material fact so that he is entitled to judgment as a matter of law.[4] Further, the Court must view all factual inferences in a light most favorable to the non-moving party.[5] Therefore, summary judgment will not be granted if it appears that there is a material fact in dispute or that further inquiry into the facts would be appropriate.[6]

DISCUSSION

The cross-motions for summary judgment filed by Atlantic States and Cynthia center on whether Kyle was a permitted user of the Signature vehicle at the time of the accident. For the following reasons, the Court finds that he was.

The commercial auto insurance provided by Plaintiff to Signature provided coverage for Signature and their permitted users relating to the use of a company vehicle. Specifically the Policy states: "[Plaintiff] will pay all sums an 'insured' legally must pay as damages of 'bodily injury' or 'property damage' to which this insurance applies, caused by an 'accident' and resulting from the ownership, maintenance or use of a covered 'auto'."[7] The Policy further defines "insured" as (a) Signature, (b) "anyone else while using with [Signature's] permission a covered

[4] *Moore v. Sizemore*, 405 A.2d 679 (Del. 1979).
[5] *Alabi v. DHL Airways, Inc.*, 583 A.2d 1358, 1361 (Del. 1990).
[6] *Ebersole v. Lowengrub*, 180 A.2d 467, 470 (Del. Super. 1962), *rev'd in part* on procedural grounds and *aff'd in part*, 208 A.2d 495 (Del. 1965).
[7] *See* Business Auto Coverage Form CA 00 01 03 06, attached to Plaintiff's Motion for Summary Judgment as Exhibit "D" at pg. 2.

'auto' you own, hire, or borrow…", and (c) "anyone liable for the conduct of an 'insured' described above but only to the extent of that liability."[8]

It is well settled in Delaware that if "the language of an insurance policy is clear and unambiguous the parties will be bound by its plain meaning."[9] Here, the Policy is clear and unambiguous that Atlantic States must provide liability coverage to Signature and Signature's permitted users. There appears to be no dispute that Robert was a permitted user of the vehicle and as a supervisor would have authorization to permit others to drive the company vehicle for business purposes. As such, if the limitations in the Handbook which prohibit drivers under the age of 21 and employee's children from operating company vehicles were not present, there would be no question that Robert could have allowed Kyle to operate the vehicle and the coverage under the Policy would apply. Thus, this matter turns on Robert and Kyle's knowledge of the limitations set forth in the Handbook.

Delaware courts have developed a two-step analysis to determine whether an employee was properly on notice of a company policy: "1) [did] a policy exist[], and if so, what conduct was prohibited, and 2) [was] the employee apprised of the policy and if so, how was he made aware."[10] It is clear that a vehicle use policy

[8] *Id*. at pg. 2-3.
[9] Westfield Ins. Co. v. Chip Slaughter Auto Wholesale, Inc., 717 F. Supp.2d 433 (2010).
[10] *McCoy*, 1996 WL 111126, at *3 (*citing Parvasu v. Tipton Trucking Co.*, 1993 WL 562196 (Del. Super. Oct. 8, 1993).

existed which prohibited Kyle from driving the vehicle, so the question for the Court is whether or not Robert and Kyle were made sufficiently aware of that vehicle use policy.

While this Court has held that "knowledge of a company policy may be established where there is written evidence of the policy, such as an employer's handbook,"[11] in all cases where knowledge has been established by a handbook, the employees have received a copy of the handbook from their employer at the time of hiring.[12] While in a different context, this Court has also held that where an employee never received an employee handbook, their termination from employment was without cause.[13] As a general proposition the Court holds that if a party is going to rely on the handbook to assert litigation positions, it must be clear that the employee was aware of the policy set forth in the handbook. Such is the case here; neither Kyle nor Robert received a copy of the Handbook from Signature at the time of hiring or any time after, despite Robert's request for a copy. There is no evidence to support that either Kyle or Robert had knowledge of

[11] *Thornton v. Unemployment Ins. Appeal Bd.*, 1996 WL 658816, at *2 (Del. Super. Oct. 1, 1996) (*citing Honore v. Unemployment Ins. Appeal Bd.*, 1993 WL 485918, at *2 (Del. Super. Oct. 5, 1993)).
[12] *See Gibbs v. Allen Family Foods*, 2012 WL 5830699, at *1 (Del. Super. Apr. 24, 2012); *Smoke v. Coventry* Health, 2011 WL 2750711, at *1; *Irvin v. Mountaire Farms*, 2011 WL 2360362, at *1; *Jackson v. Christiana Care*, 2008 WL 555918, at *1; *Thornton*, 1996 WL 658816, at *1; *Honore*, 1993 WL 485918, at *1.
[13] *See Russo v. Thomas*, 1997 WL 363954, at *1; *See also Abrams v. Unemployment Ins. Appeal Bd.*, 2001 WL 1483094, at *3 (Del. Super Oct. 22, 2001) ("*The Court is troubled by the fact that Claimant never received an employee handbook, nor had he ever been advised of a policy…"*).

the use limitations in the Handbook, and thus cannot be bound by its terms. Without knowledge of the Handbook limitations, Robert's direction to Kyle would activate coverage under the provision that required coverage when an individual is using the vehicle with Signature's permission.

This finding, however, does not end this litigation. It is undisputed that using the company vehicle for business purposes was permitted, and that Robert had the authority to allow others to operate the vehicle for a legitimate business purpose. However, there is a dispute as to whether Kyle's trip to the BP Station was for a business purpose or was it the use of a company vehicle for personal items unrelated to Signature's business. In addition, questions of fact remain as to whether it would have been reasonable for Robert to know that personal use of the company vehicle was prohibited. Summary judgment will not be granted if it appears that there is a material fact in dispute or that further inquiry into the facts would be appropriate, such is the case here.[14]

To the extent that the summary judgment motions are related to whether Kyle was a permitted user of the Signature vehicle, the Court finds he was, and the Motion for Summary Judgment as to that issue is granted. However, since there

[14] *Ebersole v. Lowengrub*, 180 A.2d 467, 470 (Del. Super. 1962), *rev'd in part* on procedural grounds and *aff'd in part*, 208 A.2d 495 (Del. 1965).

remain questions of fact as to the purpose of Kyle's use of the vehicle, to the extent that the summary judgment motions are addressing this issue, the Motion is denied.

CONCLUSION

For the foregoing reasons, Atlantic States' Motion for Summary Judgment is hereby **DENIED**, and Cynthia's Motion for Summary Judgment is hereby **GRANTED in part** and **DENIED in part**.

IT IS SO ORDERED.

/s/ William C. Carpenter, Jr.
Judge William C. Carpenter, Jr.