

Supreme Court

INSURANCE: Parked trailer not being towed, not covered "utility trailer"... Fagg affirmed.

Angela Arnold collided with David George's 5th-wheel trailer which was parked on the shoulder of the road and not attached to any other vehicle. Arnold sued George. George submitted a claim to Farmers Union for coverage of his "utility trailer," defined in the policy as "a vehicle designed to be towed by a private passenger car or farm car, including a farm wagon or farm implement, while towed by a private passenger car, utility car, or farm car." NFU denied coverage and filed a declaratory action. Judge Fagg determined that the trailer was not a "utility trailer" because it was not being towed by another vehicle. George appeals.

Fagg correctly determined that George's trailer was not a "utility trailer" because it was not being towed. Under George's interpretation a utility trailer is any vehicle designed to be towed by a passenger or farm car, one variety of which may be "a farm wagon or farm implement while towed by a private passenger car." His interpretation would require us to disregard the comma at the end of the phrase "including a farm wagon or farm implement." The phrase "while towed by" clearly applies to all vehicles designed to be towed. Thus, a vehicle designed to be towed by a private passenger car or farm car is a utility trailer under the policy while being towed by such a car, and is not a utility trailer if it is not being towed. Because our function is to interpret the law and apply it to the facts before us we do not address hypotheticals under which George asserts that coverage would be denied contrary to reasonable expectations. Moreover, our interpretation does not preclude coverage for trailers under all circumstances, so as to potentially defeat expectations of a reasonable insured, but precludes coverage only for those not being towed. George also points out that the policy obligates Farmers to pay damages "arising out of the ownership, maintenance or use of a car or utility trailer," not conditioned on the trailer being towed or otherwise attached to another vehicle. However, the term "utility trailer" is defined in the general definitions applicable to the entire policy and that definition contains the exclusion for trailers which are not being towed.

Gray, Nelson, Trieweler, Regnier.

Leaphart dissented: The Majority's resolution of "arising out of the ownership, maintenance or use of a car or utility trailer" does not work with "ownership" or "maintenance." A trailer is not maintained while being towed. Ownership does not hinge upon whether the trailer is being towed. The policy at best is ambiguous and should be resolved against the insurer.

***National Farmers Union Property & Casualty v. George*, 97-685, 8/24/98.**

James Halverson (Herndon, Sweeney & Halverson), Billings, for NFU; **Robert Stephens**, Billings, for George.