Circuit Court for Montgomery County
Case No. C-15-CV-22-001491

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 392

September Term, 2023

CLENNIE MURPHY, III, ET AL.

v.

GOVERNMENT EMPLOYEES INSURANCE COMPANY

Beachley,
Shaw,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Meredith, J.

Filed: October 21, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This appeal arose from a dispute regarding the amount of insurance coverage that would be available under an automobile insurance policy to pay a wrongful death claim asserted by four adult children of Barbara Murphy after her negligent operation of the vehicle she owned jointly with her husband, Clennie Murphy Jr., caused his death. The vehicle owned by Barbara and Clennie Murphy Jr. was insured by Government Employees Insurance Company ("GEICO"), appellee. Barbara was driving the vehicle, and her husband was a passenger at the time of the accident that caused Clennie Murphy Jr.'s death. A wrongful death claim was asserted against Barbara by her four adult children, none of whom resided with the parents. Barbara's insurance carrier, GEICO, responded that its liability under the policy was limited by the household exclusion provision. The Murphys' four adult children filed this suit against GEICO, seeking a declaratory judgment that the coverage applicable to their wrongful death claim against Barbara under the auto insurance policy was not limited to $30,000 (which was the minimum financial responsibility coverage amount required by Maryland law).[1]

The Circuit Court for Montgomery County ruled in favor of GEICO and declared that the household exclusion limited to $30,000 the insurance coverage available to Barbara to pay the wrongful death claims of her four adult children seeking damages from her for causing Clennie Murphy Jr.'s death. Despite reaching this conclusion, the circuit court opined that "it seems unfair under the facts of this particular case, to interpret the household

[1] The Murphys' four adult children who filed suit against GEICO relative to their wrongful death claim are: Kimberlyn Murphy, Rhonda Lindo, Rosalyn Murphy-Jenkins, and Clennie Murphy, III. They are appellants in this appeal.

exclusion in the GEICO policy in such a way as to limit GEICO's liability for the plaintiffs' wrongful death claims for mental anguish and loss of services resulting from their father's death to just $30,000." But the court concluded that a ruling in favor of GEICO was mandated by this Court's 2002 holding in *Costello v. Nationwide Mutual Insurance Company*, 143 Md. App. 403 (2002). In that regard, the circuit court also stated:

> I will say for the record that, but for the Costello case and the other cases cited in it, my ruling would have been in favor of the plaintiffs in this matter and, quite frankly, I would be just fine with it if an appellate court reviewing this case, decided to reverse or overturn my decision and indicate that I was wrong.

For the reasons explained herein, we conclude that this Court's ruling in *Costello* obligates us to affirm the judgment in favor of GEICO.

STANDARD OF REVIEW

Because this case requires us to interpret an insurance contract, we review the ruling of the circuit court *de novo*. *W.F. Gebhardt & Co., Inc. v. Am. Eur. Ins. Co.*, 250 Md. App. 652, 666 (2021). "[L]imitations on coverage must be construed strictly and narrowly and in favor of a finding of coverage." *White Pine Ins. Co., v. Taylor*, 233 Md. App. 479, 500 (2017) (quotation marks and citation omitted). "[W]here an insurer claims that an exclusion removes the insurer's obligation to indemnify the insured, the insurer bears the burden of showing that the exclusion applies." *Id*. at 497. An exclusion from insurance coverage "must be conspicuously, plainly and clearly set forth in the policy. An exclusion by implication is legally insufficient." *Megonnell v. United States Auto. Ass'n*, 368 Md. 633, 656 (2002) (quotation marks and citation omitted). "Where the exclusion or limitation is found to be ambiguous, the legal effect is to find that provision ineffective to remove

coverage otherwise granted by the insuring agreements[.]" *Id*. (quotation marks and citation omitted). "[A]ny ambiguity will be construed liberally in favor of the insured and against the insurer as drafter of the instrument." *Maryland Cas. Co. v. Blackstone Int'l Ltd.*, 442 Md. 685, 695 (2015) (cleaned up).

THE GEICO POLICY

GEICO insured Barbara and Clennie Murphy Jr., under an auto policy with a $300,000 per person/$300,000 per occurrence limit. GEICO's policy describes what it will cover as follows (all emphasis of text is in the original):

> **LOSSES WE WILL PAY**
>
> Under Section I, we will pay damages which an ***insured*** becomes legally obligated to pay because of:
>
> 1. ***Bodily injury***, sustained by a person, and
> 2. Damage to or destruction of property,
>
> arising out of the ownership, maintenance or use of the ***owned auto*** or ***non-owned auto***. We will defend any suit for damages payable under the terms of this policy. We may investigate and settle any claim or suit.

It is undisputed that Barbara Murphy was an insured under GEICO's policy and was operating an "owned auto" at the time of the crash. The term "bodily injury" appears in bold in the above-quoted excerpt because it is a defined term under the policy, which provides this definition:

> 2. ***Bodily injury*** means bodily injury to a person, including resulting sickness, disease or death.

GEICO's policy also contains a Limitation of Liability clause that limits the amount of its coverage to pay claims under the policy because of bodily injury as follows:

LIMITS OF LIABILITY

Regardless of the number of autos or ***trailers*** to which this policy applies:

1. The limit of Bodily Injury Liability stated in the Declarations as applicable to "each person" is the limit of our liability for all damages, including damages for care and loss of services, because of ***bodily injury*** sustained by one person as the result of one occurrence.
2. The limit of Bodily Injury Liability stated in the Declarations as applicable to "each occurrence" is, subject to the above provision respecting each person, the total limit of our liability for all such damages, including damages for care and loss of services, because of ***bodily injury*** sustained by two or more persons as the result of any one occurrence.

Key to the circuit court's ruling in this case, GEICO's policy also contains a "household" exclusion that limits the policy's coverage to pay claims for a bodily injury to any insured, or to any relative of an insured who resides in the insured's household. The specific policy language defining this exclusion states:

EXCLUSIONS

Section I does not apply to any claim or suit for damage if one or more of the exclusions listed below applies:

Section I does not apply:

1. To ***bodily injury*** to any ***insured***, or to any ***relative*** of an ***insured*** residing in his household in excess of the financial responsibility limits required by Maryland law [*i.e.*, $30,000 at the time of the Murphys' accident]. This exclusion does not apply if the first named insured has purchased Supplemental Resident Relative Liability coverage.

Barbara and Clennie Murphy Jr. did not purchase the optional Supplemental Resident Relative Liability coverage referenced in this exclusion. GEICO did not contend that any of the other exclusions listed in the policy were applicable to the wrongful death claims of the Murphys' adult children against Barbara.

DISCUSSION

The exclusion in the GEICO policy that has been described as a "household" exclusion specifies two triggering conditions that could obviate GEICO's obligation to "pay damages which an insured [such as Barbara Murphy] becomes legally obligated to pay" for bodily injury arising out of the use of an owned auto. (Emphasis omitted.) One of the triggering conditions in the "household" exclusion arises when a claim for damages is asserted by "any relative of an insured residing in his [or her] household[.]" (Emphasis omitted.) That excluding condition does not apply to the children's claims in this case because none of the four adult children who claimed damages from Barbara resided in the household of Barbara and Clennie Murphy Jr.

More nuanced is the excluding condition applicable to a claim against an insured party for "bodily injury to any insured[.]" (Emphasis omitted.) GEICO asserts that the claims of the Murphys' adult children for compensation from Barbara for causing the wrongful death of their father fall within that triggering condition of the household exclusion because, GEICO contends, the children are seeking compensation for the bodily injury incurred by an insured, namely, their father. But the children assert that they are not pursuing a survival claim for the bodily injury suffered by their father; rather, they are seeking only compensation for their own injuries that are recoverable under Maryland's wrongful death statute. *See* Maryland Code (1974, 2020 Repl. Vol.), Courts and Judicial Proceedings Article ("CJP"), § 3-904(e), which provides that wrongful death damages for the death of a parent of an adult child "may include damages for mental anguish, emotional

pain and suffering, loss of society, companionship, comfort, protection, care, attention, advice, counsel, training, education, or guidance where applicable."

In the circuit court, and in this Court, the parties have focused on four cases that address wrongful death claims. In chronological order, the cases are: *Daley v. United Servs. Auto. Ass'n*, 312 Md. 550 (1988); *Valliere v. Allstate Ins. Co.*, 324 Md. 139 (1991); *Nationwide Mut. Ins. Co. v. Scherr*, 101 Md. App. 690 (1994); and *Costello v. Nationwide Mut. Ins. Co.*, 143 Md. App. 403 (2002).

Although this Court's opinion in *Costello* is the only one that specifically addressed the application of a household exclusion clause to wrongful death claims asserted against an insured, *Costello* cited and quoted *Daley* several times. The holding in *Daley* does not directly answer the question before us in this case because *Daley* did not discuss a household exclusion, but the opinion in *Daley* provides guidance regarding insurance coverage for wrongful death claims. The specific focus of *Daley* was whether the per-person policy limit or the per-occurrence policy limit was applicable to a wrongful death claim being asserted against the insured driver in that case (who was not related to the injured party). In *Daley*, a minor child was killed as a result of an auto being negligently operated by Dyer. The Daley minor's parents brought a survival action on behalf of their son's estate and also brought wrongful death claims on their own behalf. The issue on appeal was whether Dyer's USAA auto insurance policy covered Dyer's liability for only one per-person limit of $100,000 or covered $200,000 of liability pursuant to the policy's per-occurrence limit.

The *Daley* Court focused on the language of the USAA policy in the section describing coverage for bodily injury claims and in a separate section describing the policy limits. The Court quoted the following excerpts from the USAA policy:

> PART I—LIABILITY
>
> Coverage A—Bodily Injury Liability . . . : to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because of:
>
> A. Bodily Injury, sickness or disease, including death resulting therefrom, hereinafter called "bodily injury" sustained by any person. . . .
>
> * * *
>
> Limits of Liability: The limit of bodily injury liability stated in the Declarations as applicable to "each person" is the limit of the company's liability for all damages, including damages for care and loss of services, arising out of bodily injury sustained by one person as the result of any one occurrence; the limit of such liability stated in the Declarations as applicable to "each occurrence:", is, subject to the above provision respecting each person, the total limit of the company's liability for all such damages arising out of bodily injury sustained by two or more persons as the result of any one occurrence.
>
> * * *
>
> Coverages—Limits of Liability
>
> A. Bodily Injury Liability each person—$100,000.00—Each Occurrence—$200,000.00[.]

Daley, 312 Md. at 552.

The Court provided this recap:

> In sum, USAA's obligation to pay [damages] on Dyer's behalf was subject to two limits: (1) a $100,000 "each person" limit for all damages, including damages for care and loss of services arising out of bodily injury sustained by one person as the result of any one occurrence; and (2) a

> $200,000 "each occurrence" limit for all such damages arising out of bodily injuries sustained by two or more persons as a result of any one occurrence.

Id.

The *Daley* Court surveyed cases from around the nation, and observed:

> **Under policies fixing a maximum recovery for "bodily injury" to one person, the vast majority of courts have held that such a "per person" liability limitation applies to all claims of damage flowing from such bodily injury.** Annotation, *Construction and Application of Provision in Liability Policy Limiting the Amount of Insurer's Liability to One Person*, 13 A.L.R.3d 1228, 1234 (1967 & Supp. 1987). **Therefore, such consequential or derivative damages are computed together with the claim for bodily injury of which they are a consequence.**
>
> **These principles have been applied in wrongful death actions.** For example, where a widow and two children sued over the death of the husband-father, the limit of liability was that for bodily injury to one person. "[T]he limit [ ] as to 'each person' relates to a person suffering bodily injury and not to the person or persons who may suffer damages in consequence of such injury." *Williams v. Standard Acc. Ins. Co. of Detroit*, 188 F.2d 206 (5th Cir. 1951). . . .
>
> **Where state law creates a right to damages for mental anguish suffered by those in specified relationships to the person who suffers bodily injury or death, it has been held that the damages for mental anguish are, in effect, derivative of the single bodily injury.** In Florida the wrongful death act in part provides that "[e]ach parent of a deceased minor child may also recover for mental pain and suffering from the date of injury." Fla. Stat. Ann. § 768.21 (1986). *Skroh v. Travelers Ins. Co*., 227 So. 2d 328 (Fla. App. 1969), involved a father whose son had been killed in an automobile accident. The father sued for his own emotional suffering resulting from the son's death and also sued as administrator of the son's estate. . . . The father contended that his pain and suffering constituted a "sickness or disease" within the policies' definition of "bodily injury." Rejecting this contention the court said:
>
> > **The bodily injury referred to in the policy, we think, clearly indicates only such injury to the body of the injured, or a sickness or disease contracted by the injured as a result of injury, the same as the death resulting therefrom**, and cannot be properly construed to include the pain and suffering

> of a survivor as falling within the terms "sickness or disease" resulting to the injured.
>
> *Id*. at 330.

Id. at 553-55 (emphasis added).

The Supreme Court of Maryland adopted a similar analysis in *Daley*, and concluded that a single per-person limit applied, stating: "Since the [Daley parents] suffered no separate and distinct bodily injuries of their own as a result of the accident, USAA owes only $100,000, which it has already paid." *Id*. at 560.

Nevertheless—illustrative of the point that specific language in specific policies controls the outcome in specific cases—three years after the *Daley* Court held that parents claiming damages for their child's wrongful death were not entitled to exceed the per-person coverage applicable to their child's survival claim, the Court came to a different conclusion in *Valliere v. Allstate Insurance Company*, 324 Md. 139 (1991). In *Valliere*, a mother and her minor child filed wrongful death and survival actions against the driver whose alleged negligence caused the death of Thomas Valliere. The wrongful death action claimed damages for the loss of services that Thomas Valliere's wife and child had suffered. 324 Md. at 141. Similar to the argument that prevailed in the *Daley* case, Allstate argued that its liability under the auto insurance policy was capped at a single per-person limit rather than the higher per-occurrence limit that the mother contended should provide coverage for the wrongful death claims. The *Valliere* Court pointed out that Allstate's policy provided a description of its coverage that expressly defined "bodily injury" as *including* "loss of services." That section of the policy stated:

> "Allstate will pay for all damages an insured person is legally obligated to pay . . . because of bodily injury or property damage meaning:
>
> 1. bodily injury, sickness, disease or death to any person, including loss of services; and
>
> 2. damage to or destruction of property, including loss of use."

Id. The pertinent language describing policy limits stated as follows:

> "The limits shown on the declarations page are the maximum **we** [Allstate] will pay for any single **auto** accident. The limit stated for each person for bodily injury applies to all damages arising from bodily injury, sickness, disease, or death sustained by one person in any one occurrence. Subject to the limit for each person, the occurrence limit is **our** [Allstate's] total limit of liability for all legal damages for bodily injury sustained by two or more persons in any one occurrence."

Id. at 141-42.

The Court summarized the arguments of the insured and insurer, and ruled that, "in light of the specific language in Allstate's policy[,]" the wrongful death claim was separately covered by the per-occurrence limit:

> Based on the [policy language quoted above indicating that the meaning of damages "includ[es] loss of services"], the plaintiff argued that "loss of services" had been defined in the policy as a type of "bodily injury" and that the "per occurrence" limitation of $100,000.00 applied. Allstate argued that an incorporeal injury, such as loss of services, does not constitute "bodily injury" within the meaning of the policy. Instead, [Allstate's] argument continued, only those who suffered physical injury in the accident, here Thomas Valliere, have sustained "bodily injury" within the meaning of the policy. According to Allstate, because only one person had sustained "bodily injury," the "per person" limit of $50,000.00 applied.
>
> * * *
>
> We conclude that, **in light of the specific language in Allstate's policy, "loss of services" is defined as a type of "bodily injury"** and, therefore, the $100,000.00 "per occurrence" limit of the Allstate policy applies.

Id. at 142 (emphasis added).

This Court was confronted with a similar coverage issue in *Nationwide Mutual Insurance Co. v. Scherr*, 101 Md. App. 690 (1994). In *Scherr*, the alleged negligence of the driver of an auto insured by Nationwide had caused the death of Mrs. Scherr, who was survived by a husband and two minor sons. In a declaratory judgment action, the husband and two sons asserted that each of them had suffered loss of Mrs. Scherr's services as a result of her wrongful death, and they asked the court to declare that Nationwide's maximum obligation was to pay the per-occurrence policy limit of $300,000 rather than a single per-person policy limit of $100,000. Nationwide's policy described its coverage by stating:

> [I]f you become legally obligated to pay damages resulting from the ownership [or use] . . . of your auto, we will pay for such damages . . . . **Damages must involve:**
>
> 1. property damage, . . . or
> 2. **bodily injury, meaning bodily injury, sickness, disease, or death of any person.**

Id. at 693 (emphasis added). With respect to the per-person and per-occurrence limits, the policy stated:

> 2. **Bodily injury limits shown for any one person are for all legal damages, including care or loss of services, claimed by anyone for bodily injury to one person as a result of one occurrence**. Subject to this limit for any one person, the total limit of our liability shown for each occurrence is for all damages, including care or loss of services, due to bodily injury to two or more persons in any one occurrence.

Id. at 694 (emphasis added). We summarized the parties' dispute regarding the applicable limit as follows:

> Nationwide interprets the phrase "including care or loss of services" in this sentence as describing the type of damages that may be compensable when a single person suffers bodily injury. Under Nationwide's interpretation, the Scherrs' claims are subject to the $100,000 per person limitation. **The Scherrs, on the other hand, argue that the phrase should be interpreted to mean that loss of services is a separate type of bodily injury that can be claimed by any person, even if not physically injured in the accident.** Under this interpretation, each person who claims loss of services may be recompensed up to $100,000, subject to the $300,000 per occurrence limitation.

Id. (emphasis added).

This Court concluded that Nationwide's policy language regarding limits on recovery for loss of services was unambiguous, and permitted only a single total recovery of $100,000 for *all* of the Scherrs' claims. We explained:

> The phrase "including care or loss of services" can only be interpreted as modifying "legal damages," not as modifying "bodily injury." "Loss of services" describes one type of damages that may be claimed as the result of bodily injury to one person. The phrase "claimed by anyone" means that any number of people can claim legal damages for bodily injury to one person, as long as the aggregate amount is not more than $100,000. Taken as a whole, the sentence means that all legal damages, including loss of services claimed by anyone, are considered a part of one person's bodily injury. **A reasonably prudent layperson reading Nationwide's policy would correctly believe that all consequential damages arising out of bodily injury to one person were covered under the policy; however, he or she would also believe that coverage was limited to the per person maximum amount of $100,000**. In the instant case, three people suffered loss of services as the result of Daun Kathleen Scherr's death—her husband and her two sons. Under Nationwide's policy, each may make a claim for loss of services, but since Daun Kathleen Scherr was the only person who suffered bodily injury, the total claim is subject to the per person limit of $100,000.

Id. at 696 (emphasis added).

In *Scherr*, we distinguished the arguably inconsistent result of the *Valliere* case by pointing out:

> Nationwide does not include loss of services in its definition of bodily injury in the "Coverage" section of the policy. Its policy is unlike the policy in *Valliere*, which specifically included loss of services within the definition of bodily injury. In *Valliere*, the insurance policy at issue defined bodily injury as "bodily injury, sickness, disease or death to any person, including loss of services." *Valliere*, 324 Md. at 141. . . . In Nationwide's policy, by contrast, bodily injury is defined as "bodily injury, sickness, disease, or death of any person." Loss of services is not mentioned in the definition [of bodily injury in Nationwide's policy.]

Id. at 698. (Similarly, in the GEICO policy, "bodily injury" is defined: "***Bodily injury*** means bodily injury to a person, including resulting sickness, disease or death[,]" and loss of services is not mentioned in that definition.)

We concluded our analysis in *Scherr* by explaining that the wrongful death claim of the three survivors for loss of Mrs. Scherr's services was not a separate claim that was independent of any survival claim by her estate for bodily injury. We explained:

> Mr. Scherr and his sons each have valid claims for the loss of Daun Kathleen Scherr's services. **Individual loss of services claims, however, do not entitle the Scherrs to individual claims for damages independent of the claim for Daun Kathleen Scherr's bodily injury. The loss of services claims are consequential damages flowing from and arising out of the bodily injury and death of Daun Kathleen Scherr**. Daun Kathleen Scherr was the only person who suffered bodily injury as defined in Nationwide's policy. Consequently, the Scherrs' recovery for loss of services is limited to the policy's per person amount of $100,000.

Id. (emphasis added).

If we were simply applying the analysis that we adopted in *Scherr* to the Murphy children's claims—without considering any impact of the household exclusion in the GEICO policy—we might paraphrase the last-quoted sentence from *Scherr*, *id*. at 698, to say the Murphy children's recovery for loss of services is limited to the GEICO policy's per-person amount of $300,000. But GEICO asserts that its policy, and this Court's opinion

in *Costello*, impose an additional limit upon the coverage applicable to the Murphy children's wrongful death claims because of the household exclusion in the Murphy parents' auto policy. Under the household exclusion in GEICO's policy, any claim against Barbara Murphy by the estate of Clennie Murphy Jr. would be limited to the Maryland statutory minimum of $30,000. And GEICO further contends that the children's claim would not exist *but for* the death of Clennie Murphy Jr., for which the household exclusion clearly limited Barbara Murphy's insurance coverage. The specific language of the exclusion in GEICO's policy supports this interpretation.

As noted above, the exclusion itself states that "Section I does not apply . . . [t]o bodily injury to any insured, or to any relative of an insured residing in his household . . . ." (Emphasis omitted.) Section I is the section of the policy in which GEICO agrees to "pay damages which an insured becomes legally obligated to pay because of . . . [b]odily injury, sustained by a person[.]" (Emphasis omitted.) And the policy defines "bodily injury" as follows: "***Bodily injury*** means bodily injury to a person, including resulting sickness, disease or death." Consequently, it appears to us that GEICO's policy unambiguously provides that GEICO's obligation in Section I to pay damages that an insured such as Barbara Murphy becomes obligated to pay because of the bodily injury—in this case the resulting death—of her husband, who was an insured, was limited by the household exclusion to the amount of the financial responsibility coverage required by Maryland law, *i.e.*, $30,000 at the time of this accident. In our view, this interpretation of the GEICO household exclusion is consistent with *Costello*, as well as *Daley* and *Scherr*.

Several of the statements we made in *Costello* support GEICO's argument that the household exclusion's limitation on coverage for Barbara reduces to $30,000 the coverage available under GEICO's policy for the children's claim against Barbara for causing Clennie Murphy Jr.'s wrongful death. In *Costello*, we stated:

> Nationwide . . . [contends] that the policy language is unambiguous in *limiting* appellants' recovery to the statutory minimum coverage. According to Nationwide, because the policy itself only covers "bodily injury," and the only person suffering "bodily injury" was Anita Hill [the mother], an individual to whom Exclusion 9 [a household exclusion] is applicable, "coverage for all claims, including derivative claims, flowing from Anita Hill's bodily injury, is limited to $20,000." **We agree with Nationwide's interpretation because appellants' claim is not a bodily injury independent of the death of their mother**. Our holding is consistent with our own precedent, as well as that of other jurisdictions that have addressed the issue.

143 Md. App. at 411 (emphasis added).

Citing *Daley*, we explained in *Costello* that, in the absence of specific language to the contrary (such as in *Valliere*), the per-person liability limit "'applies to all claims of damage flowing from such bodily injury. Therefore, such consequential or derivative damages are computed together with the claim for bodily injury of which they are a consequence.'" *Id*. at 412 (quoting *Daley*, 312 Md. at 553-54 (citation omitted)). We acknowledged in *Costello* that "Maryland courts ha[d, at that time,] not expressly applied these principles to a situation in which the person suffering 'bodily injury' or death is covered by a policy exclusion, limiting his or her recovery to the statutory minimum coverage." *Id*. But we cited cases from several other jurisdictions that *had* applied the household exclusion under these circumstances, and we concluded that the children's

wrongful death claims against their father for causing their mother's death would be subject to the limited coverage. We explained:

> Nationwide's policy covers "bodily injury," but limits coverage for injury to the insured or any family member to $20,000. Appellants' claim to coverage depends upon the existence of their mother's bodily injury to trigger the policy's coverage. If their emotional injuries were not linked to their mother's "bodily injury," those injuries clearly would be non-compensable under the policy, because there is no independent coverage for emotional injury. Since their damages are derivative of their mother's bodily injury, they are limited to the amount that she would be able to recover under the policy. Because Mrs. Hill was living in Mr. Hill's household at the time of the accident, the household exclusion would limit her recovery to $20,000. Therefore, the total recovery for appellants under the auto policy, in both their wrongful death and survival actions, is limited to the $20,000 statutory minimum coverage.

Id. at 414.

Appellants urge us to declare that *Costello* is materially distinct from their case because the Nationwide policy also made express reference to limiting "derivative claims." They assert in their brief:

> In [*Costello*], the court held that the plaintiffs' claims for damages arose out of the wrongful death of their mother, an insured under the insurance policy, and since their mother's claim [*i.e.*, a survival action for her own personal injuries] fell under the household exclusion, the wrongful death claims were also subject to that provision, which limited recovery to the minimum statutory limits required under Maryland law. However, *Costello* is distinguishable because the policy language in that case is very different from the language in the GEICO policy. In *Costello*, the Nationwide policy had a definition of "bodily injury" that did not contain the word "including," and specifically contained a limitation of liability applicable to derivative claims. The Nationwide policy unambiguously stated that "No separate limits are available to anyone for derivative claims, statutory claims, or any other claims made by anyone arising out of bodily injury, including death, to one parson as a result of one occurrence." [143 Md. App.] at 409. The GEICO policy, by contrast, does not place any limitation or exclusion on damages for "derivative claims." The Nationwide policy limited coverage to claims by one person that arose from or were derivative of bodily injury to another

> person, but in contrast, the GEICO policy lacks any comparable language. If GEICO had intended to exclude or limit coverage for claims that derive from or arise out of the claims of another injured person, GEICO needed to express that intention in the policy. The GEICO policy language does not mirror the policy language from *Costello*; rather, the GEICO policy contains a *broader* definition of bodily injury and a *narrower* limitation on liability than the Nationwide policy in *Costello*.

Appellants also emphasize that the terms "wrongful death" and "derivative claim" are not defined or mentioned anywhere in the GEICO policy that is the subject of this case.

Appellants are correct in asserting that the *Costello* Court highlighted two provisions of the Nationwide policy that made references to "derivative claims." In *Costello*, we observed:

> Under a section entitled "Limits and Conditions of Payment," the auto policy elaborates on the scope of Nationwide's liability for "bodily injury" damages. It states:
>
> > The limit shown . . . for Bodily Injury Liability for any one person is for *all legal damages, including all derivative claims, claimed by anyone arising out of and due to bodily injury to one person* as a result of one occurrence.
> >
> > *The per-person limit is the total amount available when one person sustains bodily injury, including death, as a result of one occurrence. No separate limits are available to anyone for derivative claims, statutory claims, or any other claims made by anyone arising out of bodily injury, including death, to one person* as a result of one occurrence. (Emphasis added [in *Costello*].)

143 Md. App. at 409.

But *Costello* relied directly on precedent established in *Daley* and *Scherr* in explaining why this Court concluded that the adult children's wrongful death claim was "not a bodily injury independent of the death of their mother[,]" *id*. at 411, and that

Nationwide's coverage in *Costello* was therefore limited to the statutory minimum, *id.* at 414. We view the *Costello* Court's references to the Nationwide policy's express limitation on derivative claims as simply confirming a result consistent with *Daley* and *Scherr* rather than establishing a new basis for applying the household exclusion. As noted above, we said in *Costello*: "**appellants' [wrongful death] claim is not a bodily injury independent of the death of their mother**[,]" and "**[a]ppellants' claim to coverage depends upon the existence of their mother's bodily injury to trigger the policy's coverage**." *Id.* at 411, 414 (emphasis added).

In *Costello*, we rejected an argument by adult children that the Nationwide auto policy should provide coverage for the children's wrongful death claims even if coverage for their mother's survival claim was limited by the household exclusion to the statutorily required minimum. *Id*. at 417. We noted, notwithstanding the link between the wrongful death claims and the parents' injury, the wrongful death claims are subject to the limitations imposed by the household exclusion:

> **[T]he [Supreme Court of Maryland] has recognized that, in an insurance context, wrongful death claims are derivative of or consequential to the underlying bodily injury from which they arise. *See Daley*,** 312 Md. at 554-55. Thus, since the policy provides that "the limi[t] shown . . . for Bodily Injury Liability for any one person is for all legal damages, including all derivative claims, claimed by anyone arising out of and due to bodily injury to one person as a result of one occurrence[,]" it follows that **appellants' wrongful death damages are included within their mother's "bodily injury" and are thus limited by the household exclusion in the policy**.

Id. at 417 (emphasis added).

Our ultimate paragraph summarizing our conclusion in *Costello* did not mention the Nationwide policy's reference to derivative claims, but reiterated that the adult children's

claim for damages arose from the death of a family member residing with the insured. We stated:

> **Appellants' claim for damages arose out of the wrongful death of their mother, a member of the insured's family residing in the insured's household** at the time of the accident or occurrence. **Because the policy excludes coverage for damages for the death of such an individual, the claim of appellants, the adult children, for damages arising out of that death is also excluded from coverage under Exclusion 9 [the household exclusion].**

Id. at 418 (emphasis added).[2]

In this case, regardless of whether the Murphy children's wrongful death claim is characterized as derivative or independent, the claim asks that Barbara pay damages for losses that only occurred *because of* the bodily injury to an insured, and the household exclusion limits GEICO's obligation to pay "any claim or suit for damage" that is based upon "bodily injury to any insured[.]" (Emphasis omitted.) The plain language of the

[2] Despite this Court's characterization in *Costello* of the wrongful death claims as derivative, the Court expressly noted that the adult children retained the right to pursue their claims against their surviving parent, stating:

> Simply because their wrongful death recovery under the Nationwide policy is limited by the household exclusion, however, does not mean that appellants are barred from bringing a wrongful death claim against their father. It simply means that Nationwide is not liable for any recovery resulting from that lawsuit.
>
> * * *
>
> Our holding in no way interferes with appellants' underlying right to bring a wrongful death action against their father.

143 Md. App. at 418 n.3.

exclusion clearly applies in this case. And, in our view, the analysis in *Costello* compels us to affirm the judgment of the circuit court in this case.

We also note that, subsequent to the time *Costello* was decided, the General Assembly adopted a statute that makes it possible for purchasers of auto insurance policies to buy optional coverage that removes a household exclusion. GEICO pointed out in its brief:

> [I]f the legislature had disapproved of *Costello*, they could have changed the law at some point over the last twenty-one years. Instead, in 2004 (two years after *Costello*), the legislature passed Md. Code Ann., Insurance Art. § 19-504.1 (requiring insurers to *offer* policyholders the option to buy-out the household exclusion for additional premium). Barbara and Clennie Murphy Jr. chose not to purchase Supplemental Resident Relative Liability coverage.

As noted by GEICO, since 2004, § 19-504.1(b) of the Insurance Article ("Ins.") of the Maryland Code has required issuers of "private passenger motor vehicle liability insurance" to offer purchasers the option to purchase "liability coverage for claims made by a family member in the same amount as the liability coverage for claims made by a nonfamily member under the policy or binder." The Supreme Court of Maryland has considered the statute in two cases, and found it to be an appropriate amendment to the State's insurance code. *See Stickley v. State Farm Fire & Cas. Co.*, 431 Md. 347, 367-68 (2013) (observing that Maryland's "public policy with regard to household exclusions requires the insurer to *offer* the insured liability coverage for family members in the amount equal to that of nonfamily members in a private passenger motor vehicle liability insurance policy[,]" though that requirement does not apply to automobile coverage in an umbrella policy); *Buarque de Macedo v. Auto. Ins. Co. of Hartford, Connecticut*, 480 Md. 200, 211,

229-30 (2022) (noting that, under Ins. § 19-504.1(b), "the insurer 'shall offer . . . coverage for claims made by a family member in the same amount as the liability coverage[,]'" and holding that a household exclusion provision in an umbrella policy was not void against public policy notwithstanding the statutory provision addressing parent-child immunity in CJP § 5-806(b) (quoting Ins. § 19-504.1(b))).

At the time the Murphys' policy was issued by GEICO, a party who purchased a private passenger motor vehicle liability insurance policy was entitled to purchase optional coverage that would have avoided the application of a household exclusion to wrongful death claims such as those asserted in this case, and the Murphys' policy stated that the household exclusion does not apply if the insured had purchased Supplemental Resident Relative Liability coverage.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANTS.