

MAY 12 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

R. L. H., III, a minor by/through his  
Guardian Ad Litem TRACI HUNTER,

Plaintiff - Appellant,

v.

UNITED SERVICES AUTOMOBILE  
ASSOCIATION, Erroneously Sued As  
USAA Casualty Insurance Company;  
USAA INS. CO., Erroneously Sued As  
USAA CASUALTY INSURANCE  
COMPANY; USAA CASUALTY  
INSURANCE COMPANY,

Defendants - Appellees.

No. 08-55715

D.C. No. 5:07-cv-00942-VAP-JCR

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Virginia A. Phillips, District Judge, Presiding

Submitted May 6, 2009\*\*  
Pasadena, California

Before: NOONAN, O'SCANLAIN and GRABER, Circuit Judges.

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

“Covered persons” under the policy are “You or any family member.” A family member means “a person related to you by blood, marriage or adoption who is a resident of your household.” Excluded from coverage is bodily injury “for which a covered person becomes legally responsible to pay to a member of the covered person’s family residing in that covered person’s household.”

R.L.H. III, by virtue of California Civil Code section 43.1, was a person at the time of the accident and the infliction of the injury. But was he a family member resident in his father’s household? If he was, he was insured. By virtue of the exclusion his coverage did not extend to injury caused by his father. We interpret the policy consistently. If R.L.H. III had coverage, he was excluded from coverage for injury inflicted by a family member.

AFFIRMED.