

Gwin, P.J.

{¶1} Defendant Lumbermens Mutual Casualty Company appeals a summary Judgment of the Court of Common Pleas of Stark County, Ohio, entered in favor of plaintiff Shanna Baumgardner. Lumbermens assigns three errors to the trial court:

{¶2} “ASSIGNMENT OF ERROR NO. I: BECAUSE MS. BAUMGARDNER WAS NOT OPERATING A COVERED AUTO FOR PURPOSE OF UM/UIM COVERAGE, THE TRIAL COURT’S DECISION TO EXTEND COVERAGE IS ERRONEOUS AS A MATTER OF LAW.”

{¶3} “ASSIGNMENT OF ERROR NO. II: SINCE MS. BAUMGARDNER WAS OPERATING HER OWN AUTOMOBILE, UM/UIM COVERAGE WAS EXCLUDED UNDER LUMBERMENS ‘OTHER OWNED VEHICLE’ EXCLUSION.”

{¶4} “ASSIGNMENT OF ERROR NO. III: THE TRIAL COURT ERRED IN EXTENDING COVERAGE UNDER LUMBERMENS’ COMMERCIAL CATASTROPHIC LIABILITY POLICY ISSUED TO JO-ANN STORES.”

{¶5} The facts which gave rise to this action are undisputed. Appellee was injured in a motor vehicle crash on December 8, 2000. While operating her personal vehicle, a tortfeasor carrying insurance coverage of \$25,000 struck her vehicle, injuring her. Appellee carried underinsured motorist coverage on her personal vehicle in the amount of \$100,000, with State Farm Automobile Insurance Company. At the time of the crash, Shanna resided with her mother at their home, and her mother was employed at Jo-Ann Stores, Inc.

{¶6} After settling with the tortfeasor for the full amount of coverage, appellee filed a declaratory judgment action against State Farm and Lumbermens. Appellees’

claim against Lumbermens is based upon *Scott-Pontzer v. Liberty Mutual Fire Insurance Company*, 85 Ohio St. 3d 660, 1999-Ohio-292, 710 N.E. 2d 1116 and *Ezawa v. Yasuda Fire & Marine Company*, 86 Ohio St. 3d 557, 1999-Ohio-124, 715 N.E. 2d 1142.

{¶7} During the pendency of this appeal, the Supreme Court decided *Westfield Insurance Company v. Galatis*, 100 Ohio St 3d 216, 2003-Ohio-5849, 797 N.E. 2d 1256.

{¶8} Following the *Galatis* case, we find appellee's claim against Lumbermen's cannot survive.

{¶9} Each of Lumbermens' assignments of error are sustained.

{¶10} For the foregoing reasons, the judgment of the Court of Common Pleas of Stark County, Ohio, is reversed, and pursuant to App. R. 12, we enter final judgment in favor of Lumbermens.

By Gwin, P.J.,

Edwards, J., and

Boggins, J., concur