

STATE OF MICHIGAN
COURT OF APPEALS

CHEMICAL TECHNOLOGY, INC.,

Plaintiff-Appellant,

v

BERKSHIRE AGENCY, INC., doing business as
CAPITAL INSURANCE GROUP,

Defendant-Appellee,

and

AMERICAN EMPIRE SURPLUS LINES,

Defendant.

UNPUBLISHED

July 26, 2016

No. 326394

Wayne Circuit Court

LC No. 14-007723-CB

Before: METER, P.J., and SHAPIRO and O'BRIEN, JJ.

SHAPIRO, J. (*concurring*)

I disagree with the majority's conclusion that under *Harts v Farmers Ins Exch*, 461 Mich 1; 597 NW2d 47 (1999) an independent insurance agent owes no general duty to advise an insured about the adequacy of coverage. That case addressed whether a captive insurance agent, i.e., an insurance agent whose principal was the insurer not the insured, owed a general duty to advise an insured about the adequacy of coverage. See *id.* at 6-7. It did not, however, address whether an independent insurance agent, i.e., an insurance agent whose principal was the insured, owes the insured a duty to advise with regard to the coverage procured. Accordingly, I would conclude that defendant did owe plaintiff a duty. However, I concur in the result because plaintiff failed to present sufficient evidence that the duty to advise regarding coverage was breached.

/s/ Douglas B. Shapiro