

STATE OF MICHIGAN
COURT OF APPEALS

LOCAL 3126 of the NATIONAL ASSOCIATION
OF LETTER CARRIERS,

UNPUBLISHED
April 18, 2000

Plaintiffs-Appellants,

v

No. 198934
Oakland Circuit Court
LC No. 95-507194-CK

JUDGE-MCKEE INSURANCE AGENCY, INC,

Defendant-Appellee.

ON REMAND

Before: Gribbs, P.J., and Murphy and Gage, JJ.

PER CURIAM.

This matter reaches us on remand from our Supreme Court for reconsideration in light of *Harts v Farmers Insurance*, 461 Mich 1; 597 NW2d 47 (1999). We again reverse.

This action arises out of the November 1991 shooting at the Royal Oak, Michigan, Post Office. Two of the surviving victims sued plaintiffs for negligence, and plaintiffs contacted defendant, who had sold them various insurance policies issued by TIG Insurance Policy. TIG provided legal counsel to represent plaintiffs, but tendered a “reservation of rights” letter stating that it would not be obligated to pay any judgment and that plaintiffs may have to pay for or reimburse the cost of the legal services. Plaintiffs brought suit against defendant and TIG. Both TIG and defendant filed motions for summary disposition, which the trial court granted.¹ Plaintiffs appealed the trial court’s order granting summary disposition to defendant, and this Court reversed in an unpublished per curium opinion. *Local 3126 v Judge-McKee Ins*, Docket No. 198934, issued 4-3-98. This Court determined that plaintiffs raised a genuine issue of material fact to show fraud or misrepresentation on the part of defendant.

In our Supreme Court’s opinion in *Harts, supra*, the Court ruled that, except under very limited circumstances, an insurance agent has no duty to advise or counsel an insured about the adequacy or availability of coverage. *Id.* at 2. This “general rule of no duty changes,” however, “when . . . the agent misrepresents the nature or extent of the coverage offered or provided.” *Id.* at 10.

Because, in this case, we specifically found evidence of misrepresentation, our Supreme Court's decision in *Hart* does not change the result in this matter.

Reversed.

/s/ Roman S. Gibbs

I concur in result only.

/s/ William B. Murphy

¹ TIG is no longer a party to this appeal.