

STATE OF MICHIGAN
COURT OF APPEALS

MICHIGAN EDUCATIONAL EMPLOYEES
MUTUAL INSURANCE COMPANY,

UNPUBLISHED
June 4, 2002

Plaintiff-Appellant,

v

KEITH STEENSMA, ANDREW STEENSMA,
and MICHIGAN EDUCATORS INSURANCE
AGENCY, INC.,

No. 229348
Kent Circuit Court
LC No. 98-005321-NZ

Defendants-Appellees.

Before: Fitzgerald, P.J., and Holbrook, Jr., and Doctoroff, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order granting the motion for summary disposition filed by defendants and denying its motion for partial summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff Michigan Educational Employees Mutual Insurance Company (MEEMIC) is an insurer that markets its products to school employees. At all relevant times defendant Michigan Educators Insurance Agency, Inc. (MEIA) was a general agency and the exclusive agent for MEEMIC products.¹ The Steensma Agency contracted with MEIA to sell MEEMIC products. The contract required the Steensma Agency to sell MEEMIC products to a school employee, unless the employee executed a written statement to MEIA indicating that he or she wished to purchase insurance from another insurer.

Rose Daniel, a teacher who is not a party to this case, obtained homeowner's insurance from MEEMIC through the Steensma Agency when she purchased a new home. Confusion resulting from the selling of Daniel's mortgage and her refinancing of the debt resulted in the policy lapsing due to non-payment of the premium. Subsequently, Daniel's home caught fire. While the fire was in progress Daniel called defendant Keith Steensma, who testified that he told Daniel to contact MEEMIC's billing department and explain the situation. Daniel contacted MEEMIC's billing department and asked that her policy be reinstated, but did not report the fire

¹ Subsequently, MEIA became a wholly owned subsidiary of MEEMIC.

at that time. MEEMIC's billing department told Daniel that her policy would be reinstated without lapse in coverage. Daniel then called MEEMIC's claims department and reported the fire. Keith Steensma also contacted MEEMIC and discussed the fire. Initially, MEEMIC revoked its reinstatement of Daniel's policy on the ground that Daniel failed to report the fire when she telephoned to seek reinstatement of the policy, but ultimately reversed its position and paid benefits.

MEEMIC filed suit alleging that Keith Steensma acted in a negligent manner and breached his fiduciary duty by failing to contact it immediately and notify it of the fire when he knew that Daniel was attempting to secure reinstatement of her policy. Defendants moved for summary disposition pursuant to MCR 2.116(C)(10), arguing that Keith Steensma was not MEEMIC's agent. MEEMIC filed a motion for partial summary disposition pursuant to MCR 2.116(C)(10), arguing that Keith Steensma was its agent under the particular facts of the case. The trial court granted defendants' motion and denied plaintiff's motion, finding that the evidence did not create an issue of fact as to whether Keith Steensma was MEEMIC's agent.

We review a trial court's decision on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

Plaintiff argues that the trial court erred by granting defendants' motion for summary disposition and denying its motion for partial summary disposition. We disagree and affirm. As plaintiff acknowledges, the general rule is that an independent insurance agent is the agent of the insured, not the insurer. *Mate v Wolverine Mutual Ins Co*, 233 Mich App 14, 20-21; 592 NW2d 379 (1998). It was undisputed that the Steensma Agency, of which Keith Steensma was an employee, had no contractual relationship with MEEMIC. The Steensma Agency contracted with MEIA to sell MEEMIC products to school employees. The contract required the Steensma Agency to sell a school employee a MEEMIC policy unless the employee indicated in writing that he or she wished to purchase a policy from another company. No evidence indicated that MEEMIC could preclude a school employee from purchasing a policy from another company. Keith Steensma indicated that the Steensma Agency sold products offered by various insurers, including MEEMIC. Such testimony generally suffices to establish that an independent insurance agent is an agent of the insured, not the insurer. *Id.*, 21; see also *Harwood v Auto-Owners Ins Co*, 211 Mich App 249, 254; 535 NW2d 207 (1995); *Mayer v Auto-Owners Ins Co*, 127 Mich App 23, 26; 338 NW2d 407 (1983). The evidence that the Steensma Agency contracted with MEIA rather than with MEEMIC and that the Steensma Agency sold products from various insurers, combined with the evidence that a school employee was not precluded from purchasing a policy from an insurer other than MEEMIC, supports the trial court's determination that reasonable minds could not disagree as to whether Keith Steensma was an independent agent at all relevant times. Summary disposition was proper.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Donald E. Holbrook, Jr.
/s/ Martin M. Doctoroff