STATE OF MICHIGAN

COURT OF APPEALS

WILLIAM ELDRED,

Plaintiff-Appellant,

v No. 109765

LEAGUE GENERAL INSURANCE COMPANY,
a Michigan corporation,

Defendant-Appellee.

Before: Danhof, C.J., and Hood and Marilyn Kelly, JJ.

PER CURIAM.

Plaintiff appeals as of right the circuit court's order granting summary disposition to defendant pursuant to MCR 2.116(C)(10). The trial judge determined that the insurance policy unambiguously informed plaintiff that his uninsured motorist coverage had been terminated. Further there was no special relationship between the parties such that defendant had a duty to advise plaintiff about the adequacy of his insurance coverage. We affirm.

In September 1986 plaintiff's eleven-year-old daughter, Kimberly, sustained serious and permanent brain damage when she was hit and run over by an uninsured motorist. At the time of the accident plaintiff was insured under a no-fault automobile policy issued by defendant.

Plaintiff gave deposition testimony that in 1971 when he first purchased the automobile insurance he requested "full" coverage. In the package he purchased he got uninsured motorist coverage as was then required by Michigan law. Thereafter, the policy was renewed each year, and each year defendant sent plaintiff a declaration page specifying the coverage. The 1980 declaration page deleted coverage for uninsured motorist protection and included the following notation at the bottom of the page:

"Uninsured motorist coverage has been removed from your policy. It is available on request. See enclosed letter for more information."

The enclosed letter explained what uninsured motorist coverage is and instructed the insured to telephone for more details.

Plaintiff stated that he received the declaration but did not remember reading about the deletion of the uninsured motorist coverage. He may have received the letter. He never contacted defendant to request uninsured motorist coverage.

Plaintiff also admitted signing the form requesting coordinated medical benefits in 1975. In 1981 and 1982 he was denied medical benefits based on the coordination provision and did not question the actions. The only communication plaintiff initiated with his agent was to change his deductible and from time to time to change the automobile that was covered.

The policy in effect at the time Kimberly was injured did not include uninsured motorist coverage and did contain a coordinating medical benefits provision.

Plaintiff filed his complaint asserting that defendant had a duty to use reasonable care in preparing and selling insurance. He alleged that the duty had been breached by defendant's failure to include uninsured and underinsured motorist coverage in his policy and failure to provide noncoordinated personal injury protection. The trial court dismissed plaintiff's complaint relying on Bruner v League General Ins, 164 Mich App 28; 416 NW2d 318 (1987).

Bruner involved a fact situation almost identical to the instant case. The plaintiff in Bruner received a notice of deletion of uninsured motorist coverage. This Court held that an insurance agent does not have an affirmative duty to advise a client regarding the adequacy of his or her coverage. The insured is obligated to read the policy and raise questions. A duty to advise may arise when a special relationship exists. Bruner, 31-32. This Court found that no special relationship existed in Bruner.

In this case, plaintiff had contact with his agent only a few times over fifteen years. Nothing more than a standard insured-insurer relationship developed. Therefore defendant did not have a duty to advise plaintiff regarding the adequacy of his insurance. Bruner, 34.

Plaintiff also asserts that the declaration which cancelled the uninsured motorist coverage was ambiguous and should be construed against defendant. The declaration sheet had three small boxes at the top of the sheet labeled "new," "renewal" and "changed". The box labeled "renewal" was checked. Plaintiff argues that the box labeled "changed" should have been checked. Counsel argues that because of this error plaintiff did not bother to read the rest of the page. He contends the declaration sheet was ambiguous.

The language at the bottom of the declaration sheet was unambiguous. However, the checking of the "renewal" box, rather than the "changed" box, could have misled plaintiff and caused him not to read for changes. Unfortunately, there is no evidence that plaintiff even saw the boxes. His testimony at deposition was that he looked only to verify that the correct automobile was covered and to determine the amount of the premium.

Under the facts of this case, the trial court did not err in dismissing plaintiff's complaint.

Affirmed.

/s/ Robert J. Danhof
/s/ Harold Hood
/s/ Marilyn Kelly