

Court of Appeals, State of Michigan

ORDER

Sa-Juan White v Everest National Insurance Company

Docket No. 335984

LC No. 15-005297-NF

Christopher M. Murray
Presiding Judge

Karen M. Fort Hood

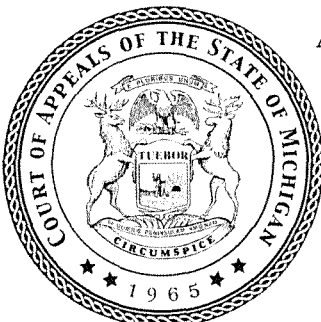
Michael J. Riordan
Judges

The Court orders that the motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(E)(2), the trial court's November 14, 2016 order denying defendant's motion for summary disposition is REVERSED because plaintiff misrepresented his address in his insurance application. *Lake States Ins Co v Wilson*, 231 Mich App 327, 331; 586 NW2d 113 (1998); *Hammoud v Metro Prop & Cas Ins Co*, 222 Mich App 485, 488; 563 NW2d 716 (1997). Although plaintiff intended to move to Charlotte, he testified unequivocally that he had not actually moved there at the time he applied for insurance. Consistent with this, plaintiff also testified that he did not change the address on his driver's license or his address on file with the post office to reflect any move to Charlotte. Nor did he receive any mail in Charlotte. Further, because plaintiff's affidavit contradicts this testimony, it changes nothing. *Schultz v Auto-Owners Ins Co*, 212 Mich App 199, 202; 536 NW2d 784 (1995). Accordingly, where defendant would not have issued the insurance policy at the specific premium rate agreed upon but for plaintiff's misrepresentation, defendant is entitled to rescind the policy. *Oade v Jackson Nat'l Life Ins Co of Mich*, 465 Mich 244, 253-254; 632 NW2d 126 (2001). The trial court erred in holding a genuine issue of material fact precluded summary disposition.

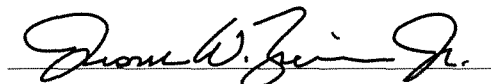
This order is to have immediate effect. MCR 7.215(F)(2).

This Court retains no further jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

February 16, 2017
Date


Chief Clerk