

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PAUL VUJNOV and LYNDA VUJNOV,

Plaintiff-Appellees,

v

ANGELINA SOROKA,,

Defendant-Appellant.

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UNPUBLISHED

May 17, 1996

No. 167447

LC No. 93-DA5777-AV

Before: Michael J. Kelly, P.J., and O'Connell and J.R. Giddings,\* JJ.

MEMORANDUM.

Defendants, by leave granted, appeal from a June 1, 1993, order granting plaintiffs' motion for relief from judgment pursuant to MCR 2.612(C)(1). We vacate the order and remand for further proceedings.

During oral argument on plaintiffs' amended motion, the trial court admitted that it ruled for the plaintiffs because defendant was represented by an insurance company. The following colloquy occurred:

THE COURT:: If I was convinced, Mr. Petraszcuk, that your clients were paying this out of their pocket, then—

MR. PETRASZCZUK: Well that shouldn't matter, your Honor.

THE COURT: Well, it does matter. I mean I don't live in a vacuum.

MR. PETRASZCZUK: I understand that, but —

THE COURT: It does matter. if some poor folks are paying the money out of their pocket I'm going to insulate them from any expense, or have him—

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\* Circuit judge, sitting on the Court of Appeals by assignment.

MR. PETRASZCZUK: Well, we are indirectly by premiums, your Honor, and it is coming out of everybody's pocket.

THE COURT: You don't have to tell me that. I'm the deep pocket.

The trial court violated defendant's right to equal protection of the law by exercising its discretion so as to disadvantage a defendant the court perceived was being indemnified by an insurance company. The equal protection clause prevents governmental decisionmakers from treating differently persons who are in all relevant respects alike. *F S Royster Guano Co v Virginia*, 253 US 412, 415; 40 S Ct 560; 64 L Ed k989 (1920). Insurance companies are "persons" for equal protection clause purposes, *Metropolitan Life Ins Co v Ward*, 470 US 869; 105 S Ct 1676; 64 L Ed 2d 751 (1985), and the action of state courts in their official capacities constitutes the requisite state action for 14<sup>th</sup> Amendment purposes. *Shelley v Kraemer*, 334 US 1, 14; 68 S Ct 836, 842; 92 L Ed 1161, 1181 (1948). We reverse.

The order of the trial court is vacated and the cause is remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Michael J. Kelly

/s/ Peter D. O'Connell

/s/ James R. Giddings