

STATE OF MICHIGAN
COURT OF APPEALS

JAN MARIE MEIERS POST,

UNPUBLISHED

Plaintiff-Appellee,

v

No. 173320

LC No. 86-005365-GC

ROBERT SCHAFER,

Defendant,

and

AETNA CASUALTY,

Garnishee Defendant-Appellant.

Before: White, P.J., and Fitzgerald and E.M. Thomas,* JJ.

FITZGERALD, J. (dissenting.)

I respectfully dissent.

Although the insured testified that he knew that his conduct was “wrong,” he denied intending to harm plaintiff, who was beyond the age of consent and was no longer his student at the time the policy was in effect. Under these circumstances, I disagree with the majority’s conclusion that it can be presumed that defendant intended to injure plaintiff as a matter of law.

I would affirm.

/s/ E. Thomas Fitzgerald

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