STATE OF MICHIGAN

COURT OF APPEALS

GREGORY C. KOVEL and MICHELLE KOVEL,

Plaintiffs-Appellees,

v

MT. MORRIS CONSOLIDATED SCHOOLS and THOMAS DENNIS LEINEKE,

Defendants-Appellants.

UNPUBLISHED
September 13, 1996

No. 176336
LC No. 93-019307

Before: Cavanagh, P.J., and Marilyn Kelly and J.R. Johnson,* JJ.

MEMORANDUM.

Defendants appeal as of right the jury verdict in favor of plaintiffs. We affirm.

Defendants argue that the trial court erred in denying their requests for mistrial and judgment notwithstanding the verdict because improper references to insurance were made at trial. The decision whether to grant or deny a mistrial is within the sound discretion of the trial court and will not be reversed absent an abuse of discretion resulting in a miscarriage of justice. *Schutte v Celotex Corp*, 196 Mich App 135, 142; 492 NW2d 773 (1992). An abuse of discretion exists when the result is so palpably and grossly violative of fact and logic that it evidences perversity of will or the exercise of passion or bias rather than the exercise of discretion. *Dacon v Transue*, 441 Mich 315, 329; 490 NW2d 369 (1992). In reviewing a trial court's failure to grant a defendant's motion for judgment notwithstanding the verdict, we examine the testimony and all legitimate inferences that may be drawn in the light most favorable to the plaintiff. If reasonable jurors could honestly have reached different conclusions, neither the trial court nor this Court may substitute its judgment for that of the jury. *Thorin v Bloomfield Hills Bd of Education*, 203 Mich App 692, 696; 513 NW2d 230 (1994).

Under MCL 500.3030; MSA 24.13030, references to the insurance coverage of either party during voir dire is presumptively improper. However, this presumption may be rebutted and any error regarded as harmless. *Phillips v Mazda Motor Mfg (USA) Corp*, 204 Mich App 401, 411; 516

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

NW2d 502 (1994). After reviewing the record, we conclude that the trial court did not abuse its discretion in denying defendants' motions because plaintiffs' counsel only asked one question pertaining to insurance and did not suggest that any party was insured. Although a defense witness also mentioned insurance on direct examination, the trial court cured any resulting prejudice by instructing the jury that they must not speculate about whether any party had insurance. Accordingly, we conclude that any improper references to liability insurance were harmless. Cf. *id*. at 411-412.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Marilyn Kelly
/s/ J. Richardson Johnson