

STATE OF MICHIGAN
COURT OF APPEALS

EDDIE DANIELS and FAYE DANIELS, Husband
and Wife,

UNPUBLISHED
April 4, 1997

Plaintiff-Appellants,

v

No. 173275
Ingham Circuit Court
LC No. 93-74802-NO

PAUL PETERSON and DONALD RIEL,

Defendant-Appellees.

Before: MacKenzie, P.J., and Saad and C. F. Youngblood,* JJ.

PER CURIAM.

We affirm the Ingham Circuit Court's order for summary disposition in favor of the individual governmental employee defendants. The individual defendants lacked a special relationship with plaintiff, and therefore owed a duty only to the general public and not to any one individual in society. *Gazette v Pontiac*, 212 Mich App 162, 170; 536 NW2d 854 (1995); *Markis v Grosse Pointe Park*, 180 Mich App 545, 558; 448 NW2d 352 (1989). Because the issues of immunity and duty are separate and distinct, the public duty doctrine has not been subsumed within the test for governmental immunity established by MCL 691.1401 et seq.; MSA 3.996(101) et seq., with or without the 1986 amendments. The public duty doctrine is premised on the existence of an element of a cause of action for negligence – duty – which is lacking here. *Jones v Wilcox*, 190 Mich App 564, 568-570; 476 NW2d 473 (1991).

Affirmed.

/s/ Barbara B. MacKenzie
/s/ Henry William Saad

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