

STATE OF MICHIGAN
COURT OF APPEALS

JOHN MINK and ANITA MINK,
Plaintiffs-Appellants,

UNPUBLISHED
September 20, 2002

v

LEADER INSURANCE and FIRST
AFFORDABLE INSURANCE,

No. 233256
Wayne Circuit Court
LC No. 00-001647-NF

Defendants-Appellees.

Before: Cooper, P.J., and Hoekstra and Markey, JJ.

PER CURIAM.

Plaintiffs appeal as of right the trial court's grant of summary disposition in favor of defendants in this action for breach of contract and silent fraud. We affirm.

In February 1999, plaintiffs purchased an automobile insurance policy from Leader Insurance through First Affordable Insurance (FAI) agency. On the application, plaintiff John Mink failed to disclose that their teenaged son,¹ who was over fourteen years old and had a driving permit, resided in plaintiffs' household.² According to plaintiffs, days later, when they brought in one of their vehicles for inspection, plaintiff Anita Mink inquired of a "lady" that was conducting the inspection for FAI whether plaintiffs' teenaged son would be covered while driving their vehicles, and was told by the "lady" that he would be covered. In the fall of 1999, plaintiffs purchased vehicles, one of which was a 2000 Ford Explorer, to replace the vehicles that were insured pursuant to the inaccurate application for automobile insurance that plaintiffs made in February. In November 1999, plaintiffs' teenaged son totaled plaintiffs' 2000 Ford Explorer in a one-car accident. Leader Insurance denied coverage because plaintiffs failed to disclose the son on the insurance application. In an amended complaint, plaintiffs alleged breach of contract against Leader Insurance and misrepresentation or silent fraud against FAI.

Initially, plaintiffs appear to argue that the "lady" was an agent of both defendants and had the duty to properly advise plaintiffs concerning the scope of coverage, but failed in that

¹ The teenager involved in the accident is Anita Mink's son and John Mink's stepson.

² The application required that the applicant "[l]ist all residents of household 14 or older (licensed or not)."

duty.³ Relying on *Harts v Farmers Ins Exchange*, 461 Mich 1; 597 NW2d 47 (1999), plaintiffs claim that they have stated a valid cause of action because plaintiff Anita Mink made an inquiry and the agent gave inaccurate advice. However, the *Harts* case deals with duty with respect to a claim of negligence against an insurance agent for the insurer, *id.* at 12, but here, plaintiffs filed a breach of contract claim against Leader Insurance and a fraud claim against FAI, an independent insurance agency. Plaintiffs' argument is illogical, at times incomprehensible, and reliance on *Harts* is inapposite. We find no merit in plaintiff's first argument on appeal.

Plaintiffs also argue that their contract claim should not have been dismissed on the basis of the failure to include plaintiffs' son on the insurance application as a member of their household. According to plaintiffs, their representations were not "material misrepresentations" of fact and recovery is not barred, especially in light of the conversations between plaintiffs and FAI and the testimony of a Leader Insurance claims advisor that frequently Leader Insurance does not cancel the policy under similar circumstances. We deem this issue abandoned on appeal because plaintiffs cite no law in support of their argument and present only cursory consideration. *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999) ("[W]here a party fails to cite any supporting legal authority for its position, the issue is deemed abandoned."); *Head v Phillips Camper Sales & Rental, Inc*, 234 Mich App 94, 116; 593 NW2d 595 (1999) ("This Court will not search for authority to sustain or reject a party's position."); *In re Webb H Coe Marital & Residuary Trusts*, 233 Mich App 525, 537; 593 NW2d 190 (1999) ("We need not address an issue that is given only cursory consideration."). Nevertheless, we find plaintiffs' claim in this regard without merit because the application that John Mink signed contains language that reserves to Leader Insurance the right, in their sole discretion, to charge an increased premium or cancel the policy in the event that full disclosure is not made on the application.

Finally, plaintiffs argue that they presented evidence to demonstrate the required proofs of silent fraud. Again, plaintiffs' briefing is inadequate. This issue is not raised in the statement of questions presented, and thus is not properly before us. *Marx v Dep't of Commerce*, 220 Mich App 66, 81; 558 NW2d 460 (1996); *Hammack v Lutheran Social Services of Michigan*, 211 Mich App 1, 7; 535 NW2d 215 (1995). Nonetheless, in our opinion, the circumstances presented in this case cannot support a claim of fraud. See *M&D, Inc v W B McConkey*, 231 Mich App 22; 585 NW2d 33 (1998). Plaintiffs' inquiry about coverage of their son was made while plaintiffs were present at the agency for the purpose of having a vehicle inspected. Plaintiffs claim that, in this context, FAI's employee's response constitutes fraud because the advice that the son was covered was inaccurate. However, the circumstances establish, at most, a combination of factors that resulted in erroneous advice being given to plaintiffs, and we believe that the factor most responsible for the bad advice was plaintiffs' own failure to properly complete the application for insurance.

³ Although plaintiffs begin their legal argument with a statement that FAI was acting as Leader Insurance's agent and that FAI's representations are binding on Leader Insurance, that argument does not parallel the question presented, nor does the remainder of their written argument under that heading support that proposition. However, we note that an independent insurance agency's duty runs to the insured, not the insurer. *Mate v Wolverine Mut Ins Co*, 233 Mich App 14, 20; 592 NW2d 379 (1998).

Affirmed.

/s/ Jessica R. Cooper

/s/ Joel P. Hoekstra

/s/ Jane E. Markey