SPECIAL REPORT

MAKING A LOT OF MONEY IN INSURANCE AND HAVING NO RESPONSIBILITY

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This Special Report was written by Kenneth R. Hale, J.D., CPCU, AAI, LIC of Marsh & McLennan Agency LLC. Mr. Ken Hale can be contacted at 734-525-2412 or khale@mma-mi.com. More Special Reports are available at www.mma-mi.com.

I have finally figured out how to make a lot of money and not have any responsibility in the insurance business. This is a dream come true, and it is authorized by the Michigan Court of Appeals.

All I have to do is be an order-taker.

If a prospect or client wants me to quote an insurance policy, I will provide that quote with the information that is provided, which is typically what they have now. I will quote the lowest price. Once I get the business, I will have the insurance company send the policy out, and soon thereafter I will collect my commission. If the coverage is not adequate, I have absolutely no responsibility.

Think of the time I will save in not having to counsel people to increase their limits or to review the policy that was issued because the Court said that the insured has the obligation to read the policies and raise any questions concerning coverage. I will no longer have to compare one insurance company to another or play one company off of another in order to secure the best coverages at the lowest premium for my client. I will no longer have to do cover letters or summaries of insurance.

The case of *Nokielski v A.S. Arbury & Sons and Cincinnati Insurance Co.* clearly sets for the responsibility of insurance agents. In this case, the insured maintained a personal umbrella policy that required a $500,000 underlying automobile limit. The insured only had a $100,000 with USAA, which was a carrier not handled by the insurance agent that had their personal umbrella.

The insured said that she simply paid the bills and never read the policies or called the Arbury office for advice. She said that she had no recollection of discussing her umbrella policy with anyone at Arbury and did not even know that she had an umbrella policy until after an accident which injured another driver.

The insurance agent did send a letter asking for insurance information about the USAA automobile policy. However, the insured never responded to these letters, nor could she recall ever receiving the letters.
The insurance agent and agency was ultimately sued for the $400,000 gap in coverage.

The Michigan Court of Appeals said as follows in their ruling:

The *Harts* Court noted that the Legislature has "distinguished between insurance agents and insurance counselors, with agents being essentially order takers while it is insurance counselors who function primarily as advisors.

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Just because an agent is independent, does not make him an insurance counselor, with a duty to advise. Therefore, the *Harts* framework should be applied to the issue of whether Arbury had a duty, or not.

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When that framework is applied, we find that the trial court properly concluded that the Coltons failed to establish that Arbury had a duty to inform them that there was a $400,000 gap in their coverage. Regarding an insurance agent's role, our Supreme Court has stated, "[t]his limited role for the agent may seem unusually narrow, but it is well to recall that this is consistent with an insured's obligation to read the insurance policy and raise questions concerning coverage within a reasonable time after the policy has been issued.

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Here, both of the Coltons testified that they never read their policy or even knew of its existence until after the accident.

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A duty is created only when, "an event occurs that alters the nature of the relationship between the agent and the insured."

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Without this requisite "special relationship" as established by *Harts*, the Coltons have failed to demonstrate that Arbury owed them a duty, and, without a duty, there can be no negligence.

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