284 A.D.2d 450
Supreme Court, Appellate Division,
Second Department, New York.

STORYBOOK FARMS, appellant,
v.
RUCHMAN ASSOCIATES, INC., et al., defendants
third-party plaintiffs-respondents;
Cigna Property & Casualty Insurance Company,
third-party defendant-respondent.

June 18, 2001.

Attorneys and Law Firms

Robert P. Mascali, Clifton Park, N.Y., for appellant.

Lustig & Brown, LLP, Buffalo, N.Y. (Debra Miller–Krebs and Cheryl A. Green of counsel), for defendants third-party plaintiffs-respondents.

Bouck, Holloway, Kiernan & Casey, Albany, N.Y. (Mark D. Sanza of counsel), for third-party defendant-respondent.

Opinion

***450** In an action to recover damages for negligence, the plaintiff appeals, as limited by its brief, from so much of an order of the Supreme Court, Westchester County (Scarpino, J.), entered March 22, 2000, as granted the defendants' motion and that branch of the separate motion of the third-party defendant which were for summary judgment dismissing the complaint and denied, as academic, its cross motion for summary judgment.

ORDERED that the order is affirmed insofar as appealed from, ***451** with one bill of costs payable to the respondents appearing separately and filing separate briefs.

As a result of a storm which occurred on May 29, 1995, a caretaker's cottage on the plaintiff's property was damaged. The replacement cost of the cottage exceeded the limits of coverage available under the insurance policy for the cottage. The plaintiff commenced this action to recover damages for negligence against the defendants, the insurance brokers who secured the policy, for failure to advise it to increase the amount of coverage for the cottage because it had been renovated. Summary judgment was properly awarded to the defendants, who apart from a "common-law duty to obtain requested coverage for their clients within a reasonable time or inform the client of the inability to do so * * * [had] no continuing duty to advise, guide or direct a client to obtain additional coverage" (*Murphy v. Kuhn*, 90 N.Y.2d 266, 270, 660 N.Y.S.2d 371, 682 N.E.2d 972; *see*, *Hesse v. Speece*, 278 A.D.2d 368, 717 N.Y.S.2d 649; *Ambrosino v. Exchange Ins. Co.*, 265 A.D.2d 627, 695 N.Y.S.2d 767). In opposition to the prima facie showing of entitlement to judgment as a matter of law, the plaintiff failed to raise a triable issue of fact as to the existence of a special relationship (*see*, *Murphy v. Kuhn, supra; Hesse v. Speece, supra; cf.*, *Shenorock Shore Club v. Rollins Agency*, 270 A.D.2d 330, 705 N.Y.S.2d 56).

The plaintiff's remaining contentions are without merit.

ALTMAN, J.P., FRIEDMANN, SMITH and ADAMS, JJ., concur.

Parallel Citations

284 A.D.2d 450, 726 N.Y.S.2d 867 (Mem), 2001 N.Y. Slip Op. 05619