

NUMBER 07-1391

COURT OF APPEAL, THIRD CIRCUIT

STATE OF LOUISIANA

CLINTON J. JOHNSON

VERSUS

GOVERNMENT EMPLOYEES INSURANCE CO., ET AL.

AMY, J., concurring in the result.

I agree that an affirmation is required. In my opinion, however, resolution of this case turns upon review of the trial court's factual findings. After a full trial on the merits, the trial court concluded that the plaintiff requested "full coverage" and that the insurance representative "mistakenly failed to include this coverage in the application." The trial court noted that "[t]his unusual set of circumstances resulted in a failure to explain the waiver of uninsured motorist coverage after an affirmative request of the coverage by Mr. Johnson" and ultimately resulted in the delivery of a product not requested by the plaintiff. The record supports this determination. Accordingly, I would affirm the trial court's determination as it was not manifestly erroneous. In light of this conclusion, I do not proceed to the legal analysis expressed by Judge Cooks.

For these reasons, I respectfully concur in the result.