FILED
MAY 26 1994
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 3-367 / 92-1509

MAURO INSURANCE AGENCY LTD., and **JOSEPH L. MAURO, JR.**,

Appellants,

vs.

EMPLOYERS REINSURANCE CORPORATION,

Appellee.

Appeal from the Iowa District Court for Polk County, Robert A. Hutchison, Judge.

The plaintiffs appeal the district court's grant of summary judgment to defendant insurer finding it had no duty to defend plaintiffs under the parties' professional liability insurance policy. **AFFIRMED BY OPERATION OF LAW.**

Thomas E. Leahy, Des Moines, for appellants.

John M. Wharton and Joseph M. Barron of Peddicord, Wharton, Thune & Spencer, P.C., Des Moines, for appellee.

Considered en banc.

PER CURIAM

The court being equally divided, the judgment is affirmed by operation of law. Iowa Code § 602.5106(1) (1993).

AFFIRMED.

For affirmance: Habhab, Cady, and Huitink, JJ.

For reversal: Donielson, C.J., and Hayden and Sackett, JJ.