

**IN THE COURT OF APPEALS OF TENNESSEE
MIDDLE SECTION AT NASHVILLE**

FILED

November 19, 1997

**Cecil W. Crowson
Appellate Court Clerk**

ALEXANDER ZANETIS and wife)
THELMA ZANETIS,)

Plaintiffs/Appellants,)

VS.)

DAVID McMACKIN and)
BOATMEN'S NATIONAL)
MORTGAGE COMPANY, INC.,)

Defendants/Appellees.)

Davidson Circuit

No. 96C-135

Appeal No.

01A01-9705-CV-00203

CONCURRING OPINION

I concur with the court's opinion. This record contains no genuine, material factual disputes, and David McMackin and Boatmen's National Mortgage Company are entitled to a judgment as a matter of law for two complementary reasons. First, Mr. McMackin did not owe a duty to Mr. and Ms. Zanetis; second, it was not reasonable for Mr. and Ms. Zanetis to rely on Mr. McMackin's statements given their adversary posture with his client and the fact that they had retained their own attorney.

WILLIAM C. KOCH, JR., JUDGE