



## Alerts

### Is Real Estate Agent Liable For Bodily Injuries Suffered By Prospective Purchaser?

July 22, 2014

*Professional Lines Alert*

*Hart v. Century 21 Windsor Realty, 2014 IL App (3d) 130667*

A real estate agent was showing plaintiff a property that was the subject of a listing agreement between the broker and the owner. Plaintiff was injured while walking down a basement staircase that collapsed. Is the real estate agent liable?

The Illinois Appellate Court held that the listing agreement did not create a duty for the real estate agent to inspect the premises for safety hazards to protect potential buyers. The court examined closely the "[Owner] Broker/Asset Manager Responsibilities" and owner's "Broker Signoff Checklist" and noted the agent was responsible only for cleaning certain items in the house (not inspecting). The "Master Listing Agreement" between the owner and the broker called for the real estate agent as broker "to take all appropriate precautions to ensure the health and safety of Broker, Broker Personnel and Vendors." Plaintiff argued that when the real estate agent assumed a duty for the "Broker, Broker Personnel and Vendors," that meant there was a duty to a prospective buyer. The court found that as the real estate agent had no interest in the ownership, operation, maintenance or control of the premises and no contractual undertaking to buyers, there was no duty.

The trial court's entry of summary judgment was affirmed — even despite the fact that representatives of the broker arguably *overstated* in their depositions a duty to inspect the premises. "The language of the contract itself, rather than the perception of these witnesses, controls whether a contractual duty to this plaintiff exists as a matter of law."

For more information, please contact [Kevin R. Sido](#).

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#### Service Areas

Professional Liability

Real Estate Agents & Brokers  
Liability