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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DEBRA J. ERICKSON; GARY VANDER  
VORST, as co-personal representatives of  
the Estate of David V. Erickson,

Plaintiffs-Appellants,

v.

J.C. BROMAC CORPORATION, DBA  
EagleRider, DBA EagleRider Inc.,

Defendant-Appellee.

No. 13-35288

D.C. No. 1:12-cv-00059-RFC

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Montana  
Richard F. Cebull, District Judge, Presiding

Submitted April 7, 2017\*\*  
Seattle, Washington

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\*This disposition is not appropriate for publication and is not precedent  
except as provided by Ninth Circuit Rule 36-3.

\*\*The panel unanimously concludes that this case is suitable for decision  
without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: W. FLETCHER and GOULD, Circuit Judges, and BLOCK,<sup>\*\*\*</sup> District Judge.

1. The reference to \$1 million in accident insurance in the agreement between J.C. BroMac Corporation, DBA EagleRider, DBA EagleRider Inc. (“EagleRider”) and Altria Consumer Engagement Services (“Altria”) was, at most, an offer to provide insurance. Since there is no evidence that the offer was accepted by either Altria or David Erickson, it was not a binding contract. *See Chipman v. Northwest Healthcare Corp., Applied Health Servs., Inc.*, 317 P.3d 182, 185 (Mont. 2014) (“Mutual consent consists of an offer and an acceptance of that offer.”).

2. Erickson accepted a different offer for accident insurance “upon the terms and conditions of the summary of coverage in the [Personal Accident Insurance/Personal Effects Coverage] brochure, a copy of which you acknowledge has been received by you.” The only brochure in the record refers to \$100,000 in coverage, which amount EagleRider paid. Since there is no evidence of a brochure promising \$1 million in coverage, EagleRider was entitled to summary judgment on Erickson’s estate’s claim for the higher amount.

AFFIRMED.

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<sup>\*\*\*</sup>The Honorable Frederic Block, Senior United States District Judge for the Eastern District of New York, sitting by designation.