

Court of Appeals, State of Michigan

ORDER

Martilla Peterson v Amouri's Grand Foods Inc

Docket No. 309077

LC No. 11-000693-NO

Karen M. Fort Hood
Presiding Judge

Kurtis T. Wilder

Christopher M. Murray
Judges

The Court orders that the motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(D)(2), in lieu of granting leave to appeal, the Court further orders that the March 8, 2012, order of the Wayne County Circuit Court is REVERSED. In denying defendant's motion for summary disposition, which sought dismissal of plaintiff's premises liability claim, the trial court stated that there was a question of fact "whether or not there was something unusual about the ramp because of its character, location, condition." Plaintiff argued below that the ramp was unreasonably dangerous because the slope was too steep, the edges were not painted to delineate where the slope began, and that the concrete on the ramp was cracking and/or missing. The trial court's ruling implies that the alleged dangerous condition was open and obvious. Generally, if "special aspects of a condition make even an open and obvious risk unreasonably dangerous, the premises possessor has a duty to undertake reasonable precautions to protect invitees from that risk." *Lugo v Ameritech Corp, Inc*, 464 Mich 512, 517; 629 NW2d 384 (2001). The photographs depict that the ramp is not adjacent to the doorway of the store, but instead, leads directly from a sidewalk, which abuts the store and is six feet from the ground. A customer exiting the store is not required to use the ramp and will only walk onto the ramp if the customer continues walking forward over the sidewalk. A customer may turn to the right or the left once leaving the doorway and then could traverse the sidewalk. Therefore, the dangerous condition is not effectively unavoidable. Furthermore, the slope of the ramp and the cracking concrete were unlikely to cause a substantial risk of death or severe injury as contemplated by *Lugo*, such as the "thirty foot deep pit in the middle of a parking lot." *Id.* at 518-519.

The motion for stay is DENIED AS MOOT.

Accordingly, the matter is REMANDED to the trial court for entry of an order granting the motion. Pursuant to MCR 7.215(F)(2), this order shall take immediate effect. The Court retains no further jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

APR 26 2012

Date

Chief Clerk