

STATE OF MICHIGAN
COURT OF APPEALS

LOUISE SUSAN BERTRAND, Personal
Representative of the ESTATE of ANDREA BETH
BERTRAND, Deceased,

Plaintiff- Appellant,

v

MERIDIAN TOWNSHIP and INGHAM COUNTY
ROAD COMMISSION,

Defendants-Appellees.

UNPUBLISHED
November 21, 1997

No. 200098
Ingham Circuit Court
LC No. 96-084279 NZ

Before: Jansen, P.J., and Fitzgerald and Young, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the summary dismissal of her claim. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

The trial court erroneously determined that there is no nuisance per se exception to government immunity. *Fox v Ogemaw Co*, 208 Mich App 697, 698; 528 NW2d 210 (1995), *Dykstra v Dep't of Transportation*, 208 Mich App 390, 392; 528 NW2d 754 (1995); *Summers v City of Detroit*, 206 Mich App 46, 49; 520 NW2d 356 (1994). Nevertheless, reversal is unwarranted. The documentary evidence presented by plaintiff fails to demonstrate that the hill in question constitutes a nuisance at all times and under all circumstances. *Fox, supra*, p 700; *Zwolinski v Dep't of Transportation*, 205 Mich App 532, 539; 517 NW2d 852 (1994).

Affirmed.

/s/ Kathleen Jansen
/s/ E. Thomas Fitzgerald
/s/ Robert P. Young, Jr.