

STATE OF MICHIGAN  
COURT OF APPEALS

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KATHRYN A. LEBOEUF,

Plaintiff-Appellant,

v

HINES INTERESTS LIMITED PARTNERSHIP  
and LAKESIDE BUILDING MAINTENANCE  
OF MICHIGAN, L.L.C.,

Defendants-Appellees.

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UNPUBLISHED

October 20, 2005

No. 262198

Wayne Circuit Court

LC No. 043-415070-NO

Before: Fort Hood, P.J., and White and O'Connell, JJ.

WHITE, J. (*dissenting*).

I respectfully dissent. Plaintiff presented evidence that defendant Hines, the agent of the premises owner and possessor, annually distributes an approved fire drill schedule to all Renaissance Center tenants. Participation in the fire drills is mandatory and all business tenants and their employees must follow the procedures and directions imposed by Hines and executed by Hines' security personnel. During fire drills, able-bodied employees evacuate the building through interior stairwells. Under security protocol set by Hines, fire protection supervisors must conduct safety inspections of these interior stairwells before any fire drill begins. Significantly, Hines set no such inspection protocol for the routes that physically challenged employees, which included plaintiff, take during fire drills, routes which differ from those taken by non-physically challenged employees. Hines' protocol did not specifically require inspection of the special evacuation routes used by physically challenged employees for unsafe conditions before fire drills commence.

Under these circumstances, a question of fact remained whether defendant Hines' should have known of the hazardous condition, i.e., had defendant Hines' mandated that, immediately before fire drills, its fire protection supervisors inspect the evacuation path that physically challenged employees were required to take (as Hines required for evacuation paths able bodied employees were required to take), it would have discovered the hazardous condition.

As to defendant Lakeside, plaintiff presented evidence that Lakeside had buffed the floors in the limited-access area plaintiff fell in with wax the night before, that the substance was wax-like, and that Lakeside employees were supposed to remedy any spills.

I would reverse and remand for further proceedings.

/s/ Helene N. White