

STATE OF MICHIGAN  
COURT OF APPEALS

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RITA DELOR,

Plaintiff-Appellant,

v

VG'S GROCERY AND SPARTAN STORES,  
INC.,

Defendant-Appellee.

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UNPUBLISHED  
October 18, 2016

No. 328179  
St. Clair Circuit Court  
LC No. 14-000950-NO

Before: FORT HOOD, P.J., and GLEICHER and O'BRIEN, JJ.

GLEICHER, J. (*concurring in part and dissenting in part*).

Although I agree with the majority's decision to affirm the trial court, I respectfully disagree with the majority's analysis. The unrefuted evidence established that plaintiff tripped and fell when her bare toe or the tip of her flip-flop sandal contacted the edge of a normal, run-of-the-mill expansion joint in the pavement. The minimally uneven edge of the pavement abutting the expansion joint does not qualify as a defect on the premises and did not present an unreasonable risk of harm. Because plaintiff failed to establish the existence of either a defect or an unreasonably dangerous condition on the premises, the open-and-obvious-danger doctrine has no role to play in this case whatsoever. I respectfully disagree with the majority's invocation of "open and obvious" as a ground for decision in this case. With that qualification, I nevertheless concur in the result reached by the majority.

/s/ Elizabeth L. Gleicher