

Order

Michigan Supreme Court
Lansing, Michigan

April 14, 2017

154030

In re Estate of CATHERINE DAWN SKIDMORE

RALPH SKIDMORE, JR., Individually and as
Personal Representative of the Estate of CATHERINE
DAWN SKIDMORE,
Plaintiff-Appellee,

v

CONSUMERS ENERGY COMPANY,
Defendant-Appellant.

SC: 154030
COA: 323757
Calhoun CC: 2012-001595-NH

Stephen J. Markman,
Chief Justice

Robert P. Young, Jr.
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Joan L. Larsen,
Justices

On order of the Court, the application for leave to appeal the May 24, 2016 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE the May 24, 2016 judgment of the Court of Appeals and we REINSTATE the January 19, 2016 judgment of the Court of Appeals. The May 24, 2016 Court of Appeals opinion erroneously considered questions of fact regarding the plaintiff's decedent's (Catherine Skidmore) reasonableness in concluding that the defendant owed her a duty of reasonable care. As Judge O'Connell correctly noted in his concurrence/dissent to the May 24 opinion, "the existence of a disputed question of fact regarding the reasonableness of Catherine's actions did not affect whether Consumers owed Catherine a duty." 315 Mich App 470, 494 (2016). To the extent the January 19, 2016 opinion was unclear on this point, we clarify that questions of fact regarding the reasonableness of Catherine's actions in response to the downed power line are relevant to comparative negligence, but not duty. In all other respects, leave to appeal is DENIED.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 14, 2017


Clerk