

# Order

Michigan Supreme Court  
Lansing, Michigan

November 10, 2005

Clifford W. Taylor,  
Chief Justice

128139

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

GERARD J. WIATER,  
Plaintiff-Appellee,

v

SC: 128139  
COA: 250384  
Marquette CC: 03-040316-NO

GREAT LAKES RECOVERY CENTERS,  
INC.,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the January 27, 2005 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), we direct the Clerk to schedule oral argument on whether to grant the application or take other preemptory action permitted by MCR 7.302(G)(1). The parties shall include among the issues to be addressed at oral argument: (1) whether this danger was open and obvious, (2) which party has the burden to prove that a special aspect exists, and (3) whether defendant's failure to undertake measures to diminish the alleged risk itself constituted a "special aspect" under *Lugo v Ameritech Corp, Inc*, 464 Mich 512, 516 (2001). The parties may file supplemental briefs within 28 days of the date of this order, but they should avoid submitting a mere restatement of the arguments made in their application papers.



d1107

I, Corbin R. Davis, 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.

November 10, 2005

*Corbin R. Davis*

Clerk