

# Order

Michigan Supreme Court  
Lansing, Michigan

October 1, 2010

Marilyn Kelly,  
Chief Justice

140933

Michael F. Cavanagh  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman  
Diane M. Hathaway  
Alton Thomas Davis,  
Justices

RONALD THORNE, a legally incapacitated  
person, by MARGARET ANN WILSON,  
Guardian and Conservator,  
Plaintiff-Appellant,

and

BLUE CROSS BLUE SHIELD,  
Intervening Plaintiff,

v

SC: 140933  
COA: 281906  
Macomb CC: 2006-002549-NO

GREAT ATLANTIC & PACIFIC TEA  
COMPANY, INC., d/b/a FARMER JACK,  
Defendant-Appellee.

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On order of the Court, the application for leave to appeal the March 4, 2010 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other preemptory action. MCR 7.302(H)(1). The parties may file supplemental briefs within 42 days of the date of this order, but they should not submit mere restatements of their application papers.

The Michigan Association for Justice and the Michigan Defense Trial Counsel, Inc. are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.

MARKMAN, J. (*concurring*).

I concur in the Court's order that oral argument be heard on the application in this case. I write separately only to request that the parties address, at least, the following issues: (1) specifically, the means by which to distinguish under these facts between an ordinary negligence and a premises liability claim, see *James v Alberts*, 464 Mich 12 (2001); and (2) specifically, whether, and in what manner, the "open and obvious" doctrine operates in the context of each of these claims.

CORRIGAN, J., joins the statement of MARKMAN, J.



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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.

October 1, 2010

*Corbin R. Davis*

Clerk