

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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NANCY LIANG,

Plaintiff-Appellant,

v

LUIGI LIASE,

Defendant-Appellee.

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UNPUBLISHED

July 30, 1999

No. 206647

Oakland Circuit Court

LC No. 96-517892 NO

Before: White, P.J., and Markey and Wilder, JJ.

MEMORANDUM.

Plaintiff appeals by right the trial court's order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(10) in this premises liability action based upon the open and obvious danger doctrine. We reverse and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In the owner/possessor-invitee context, the open and obvious danger doctrine does not preclude liability where the risk of harm remains unreasonable despite its obviousness or despite the invitee's knowledge of it. *Bertrand v Alan Ford, Inc*, 449 Mich 606, 611; 537 NW2d 185 (1995). While the dangers presented by steps and differing floor levels are generally open and obvious, the risk of harm may be unreasonable where there is something unusual about the steps because of their character, location or surrounding circumstances. *Id.* at 614-617.

Here, plaintiff testified in her affidavit and at her deposition that the stairs in question were unusually dangerous because the steps were narrower than usual. Also, a dryer at the foot of the stairs prevented her from using approximately one-half the stairway, thereby requiring her to go down the stairs sideways. Additionally, plaintiff testified that the carpeting on the stairs was loose, that there was no handrail, that defendant admitted the steps were very dangerous, and that someone could be seriously injured if the dangerous condition was not corrected.

Viewing the evidence in the light most favorable to plaintiff, we find that a genuine issue of fact exists regarding whether defendant breached his duty to protect plaintiff, as an invitee,<sup>1</sup> against an

unreasonable risk of harm despite the obviousness of the danger or plaintiff's knowledge of it. Accordingly, summary disposition under MCR 2.116(C)(10) is not appropriate.

Reversed and remanded for further proceedings on plaintiff's claim. We do not retain jurisdiction.

/s/ Helene N. White

/s/ Jane E. Markey

/s/ Kurtis T. Wilder

<sup>1</sup> We express no opinion as to whether plaintiff had the status of an invitee or mere licensee in relation to defendant. It appears that the issue of plaintiff's alleged invitee status was not challenged and decided below, and the existing evidentiary record is insufficiently developed for this Court to resolve the issue on appeal. Cf. *Miller v Inglis*, 223 Mich App 159, 168; 567 NW2d 253 (1997).