

Order

Michigan Supreme Court
Lansing, Michigan

January 22, 2010

Marilyn Kelly,
Chief Justice

139787

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

ELIZABETH A. BANASZAK,
Plaintiff-Appellee,

v

SC: 139787
COA: 263305
Wayne CC: 02-200211-NO

NORTHWEST AIRLINES, INC.,
Defendant-Appellant,
and

OTIS ELEVATOR COMPANY, COUNTY OF
WAYNE, and HUNT CONSTRUCTION
GROUP, INC.,
Defendants.

On order of the Court, the application for leave to appeal the July 21, 2009 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE in part the decision of the Court of Appeals and we REINSTATE the ruling of the Wayne Circuit Court granting summary disposition to defendant Northwest Airlines, Inc. on the plaintiff's premises liability claim. The Court of Appeals erred by reinstating the premises liability claim in this construction site injury case. Ordinarily a landowner is not responsible for injuries caused by a carefully selected contractor to whom he has delegated the task of erecting a structure. *Funk v General Motors Corp*, 392 Mich 91, 101 (1974). Northwest Airlines, as controller of the premises, did not have a duty to protect the plaintiff, an employee of an independent contractor hired to perform construction work on the owner's premises, from the construction site hazardous condition that caused the plaintiff's injury. *Perkoviq v Delcor Homes-Lake Shore Pointe, Ltd*, 466 Mich 11, 18-20 (2002). On remand, the plaintiff's common work area claim against Northwest Airlines as a general contractor and as an owner with retained control may proceed in accordance with the Court of Appeals decision.

HATHAWAY, J., would deny leave to appeal.



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.

January 22, 2010

Corbin R. Davis

Clerk