

Order

Michigan Supreme Court
Lansing, Michigan

October 25, 2006

Clifford W. Taylor,
Chief Justice

130901

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

ELIZABETH A. BANASZAK,
Plaintiff-Appellee,

v

SC: 130901
COA: 263305
Wayne CC: 02-200211-NO

NORTHWEST AIRLINES, INC.,
Defendant/
Cross-Plaintiff,

and

OTIS ELEVATOR COMPANY,
Defendant/Cross-
Defendant-Appellant,

and

COUNTY OF WAYNE, and HUNT
CONSTRUCTION GROUP, INC,
Defendants.

On order of the Court, the application for leave to appeal the February 28, 2006 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals and REINSTATE the order of the Wayne Circuit Court granting summary disposition to defendant Otis Elevator Company. Otis entered into a contract to install moving walkways in a new airport terminal. As part of that contract, Otis was required to provide a cover over the “wellway,” an opening at the end of the moving walkway that contains the mechanical elements. The purpose of the cover was to protect persons using that area. The plaintiff was injured when she stepped on an inadequate piece of plywood covering the “wellway.” This hazard was the subject of the Otis contract. As a result, Otis owed no duty to plaintiff that was “separate and distinct” from its duties under the contract. *Fultz v Union-Commerce Associates*, 470 Mich 460 (2004).

CAVANAGH and KELLY, JJ., would deny leave to appeal.



11018

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 25, 2006

Corbin R. Davis

Clerk