

STATE OF MICHIGAN
COURT OF APPEALS

MARIANNE GRISTY,

Plaintiff-Appellant,

v

VIC'S WORLD CLASS MARKET and VICTOR
J. VENTIMIGLIA, JR.,

Defendants-Appellees.

UNPUBLISHED

April 13, 2006

No. 267004

Oakland Circuit Court

LC No. 2005-064622-NI

Before: Smolenski, P.J. and Saad and Owens, JJ.

SMOLENSKI, P.J. (*dissenting*).

I respectfully dissent. After consideration of the evidence, I conclude that there is a question of fact as to whether the plate and bolts were readily apparent or easily discoverable upon casual inspection by an average user of ordinary intelligence. See *Novotney v Burger King (On Rem)*, 198 Mich App 470, 473-475; 499 NW2d 379 (1993). Therefore, I would reverse and remand for further proceedings.

/s/ Michael R. Smolenski