

Order

Michigan Supreme Court
Lansing, Michigan

April 11, 2007

132903 & (56)

LINDA MIERZEJEWSKI and RAYMOND
MIERZEJEWSKI,
Plaintiffs-Appellees,

v

TORRE & BRUGLIO, INC.,
Defendant-Appellant.

SC: 132903
COA: 269599
Oakland CC: 2005-064147-NO

Clifford W. Taylor,
Chief Justice

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

On order of the Court, the motion for miscellaneous relief is GRANTED. The application for leave to appeal the September 26, 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 we REMAND this case to the Oakland Circuit Court for entry of an order of summary disposition in favor of the defendant. The Court of Appeals erred in reinstating the plaintiffs' claim on the basis of a duty owed by the defendant to the plaintiffs. The defendant did not owe any duty to the plaintiffs separate and distinct from the contractual promise made under its snow removal contract with the premises owner. *Fultz v Union-Commerce Assoc*, 470 Mich 460 (2004).

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



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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.

April 11, 2007

Clerk