

Order

Michigan Supreme Court
Lansing, Michigan

December 23, 2015

Robert P. Young, Jr.,
Chief Justice

151963

Stephen J. Markman
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Joan L. Larsen,
Justices

COLBY SMITH,
Plaintiff-Appellee,

v

SC: 151963
COA: 318702
Lenawee CC: 11-004180-NO

MICHIGAN PALLET, INC., JONATHAN J.
POORTENGA, and KENNETH ENGELSMA,
Defendants-Appellants,

and

LPS EQUIPMENT & ACQUISITION
COMPANY, INC., ADRIAN ROCSKAY, TODD
STRONG, JAMES KIVELL, and JOHN DOE,
Defendants.

On order of the Court, the application for leave to appeal the June 2, 2015 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals and we REMAND this case to the Lenawee Circuit Court for entry of an order granting the motion for summary disposition filed by the defendants-appellants. The Court of Appeals erred by finding that the plaintiff established a prima facie case of an intentional tort falling within the exception to the worker's compensation exclusive remedy that is found at MCL 418.131(1). There is no evidence in this case that the defendants had a specific intent to injure the plaintiff. Nor does the evidence establish that the defendants "had actual knowledge that an injury was certain to occur and willfully disregarded that knowledge." *Id.* See also *Travis v Dreis & Krump Mfg Co*, 453 Mich 149 (1996).



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I, Larry S. Royster, 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.

December 23, 2015


Clerk