

Order

Michigan Supreme Court
Lansing, Michigan

November 28, 2023

Elizabeth T. Clement,
Chief Justice

165469

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

MICHAEL RADKE and KATHLEEN RADKE,
Plaintiffs-Appellants,

v

SC: 165469
COA: 359866
Ingham CC: 20-000513-NO

CHARLES TRUESDELL, d/b/a
TRUESDELL INDUSTRIES,
Defendant-Appellee,

and

RONALD SWENSON,
Defendant.

_____/

On order of the Court, the application for leave to appeal the December 29, 2022 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE the judgment of the Court of Appeals to the extent that it is inconsistent with our decision in *Kandil-Elsayed v F & E Oil, Inc*, 512 Mich ____ (July 28, 2023) (Docket No. 162907) and *Pinsky v Kroger Co of Mich*, 512 Mich ____ (July 28, 2023) (Docket No. 163430), and REMAND this case to that court for reconsideration in light of *Kandil-Elsayed* and *Pinsky*. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.

We do not retain jurisdiction.



s1120

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.

November 28, 2023

Clerk