

# Order

Michigan Supreme Court  
Lansing, Michigan

November 28, 2023

Elizabeth T. Clement,  
Chief Justice

164574

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

MARY DIPERNA,  
Plaintiff-Appellant,

v

SC: 164574  
COA: 355207  
Wayne CC: 19-011789-NO

GIUSEPPE MAINELLA and FILIPPO  
MAINELLA,  
Defendants-Appellees.

\_\_\_\_\_/

By order of October 7, 2022, the application for leave to appeal the April 14, 2022 judgment of the Court of Appeals was held in abeyance pending the decisions in *Kandil-Elsayed v F & E Oil, Inc* (Docket No. 162907), *Pinsky v Kroger Co of Mich* (Docket No. 163430), and *Becker v Enterprise Leasing Co of Detroit LLC* (Docket No. 163702). On order of the Court, *Becker* having been dismissed on March 1, 2023, and *Kandil-Elsayed* and *Pinsky* having been decided on July 28, 2023, 512 Mich \_\_\_\_ (2023), the application is again 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 and REMAND this case to that court for reconsideration in light of our decision in *Kandil-Elsayed* and *Pinsky*.

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