

# Order

Michigan Supreme Court  
Lansing, Michigan

November 28, 2023

Elizabeth T. Clement,  
Chief Justice

164091

DEBRA B. FORD,  
Plaintiff-Appellant,

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

v

SC: 164091  
COA: 355541  
Calhoun CC: 2020-000348-NO

CITY OF MARSHALL, BAILEY  
EXCAVATING, INC., LIBERTA  
CONSTRUCTION COMPANY, d/b/a CIOFFI  
& SON CONSTRUCTION, and GIVE-EM A  
BRAKE SAFETY, LLC,  
Defendants,

and

CONSUMERS ENERGY COMPANY,  
Defendant-Appellee.

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By order of May 31, 2022, the application for leave to appeal the January 13, 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) and *Pinsky v Kroger Co of Mich* (Docket No. 163430). On order of the Court, these cases 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 Part III.B. of the judgment of the Court of Appeals 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 question 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