

Order

Michigan Supreme Court
Lansing, Michigan

December 14, 2012

Robert P. Young, Jr.,
Chief Justice

142515

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

MARK SMITH,
Plaintiff-Appellee,

v

SC: 142515
COA: 294311
Wayne CC: 08-113926-NO

SUBURBAN MOBILITY AUTHORITY FOR
REGIONAL TRANSPORTATION,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the December 16, 2010 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals, for the reasons stated in the Court of Appeals dissenting opinion, and we REINSTATE the September 9, 2009 order of the Wayne Circuit Court. See *Atkins v SMART*, 492 Mich 707 (2012).

MARILYN KELLY, J., would deny leave to appeal for the reasons set forth in her dissenting opinion in *Atkins v SMART*, 492 Mich 707, 723 (2012).

HATHAWAY, J., not participating due to a familial relationship with counsel of record.



t1211

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.

December 14, 2012

Corbin R. Davis

Clerk