

# Order

Michigan Supreme Court  
Lansing, Michigan

October 22, 2014

Robert P. Young, Jr.,  
Chief Justice

149580

Michael F. Cavanagh  
Stephen J. Markman  
Mary Beth Kelly  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano,  
Justices

MATTHEW COLE,  
Plaintiff-Appellee,

v

SC: 149580  
COA: 313824  
Macomb CC: 2012-000263-NO

HENRY FORD HEALTH SYSTEM,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the May 22, 2014 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 and we REMAND this case to the Macomb Circuit Court for entry of an order granting summary disposition to the defendant. The Court of Appeals erred by affirming the circuit court's determination that the hazard that caused the plaintiff's slip and fall was not an open and obvious danger that an average user of ordinary intelligence would discover on casual inspection. *Hoffner v Lanctoe*, 492 Mich 450, 461 (2012). Here, the so-called "black ice" was detected by four other witnesses who viewed the premises after the plaintiff's accident. There were several patches of ice evident in the area where the plaintiff fell. In addition, there were numerous indicia of a potentially hazardous condition being present, *Janson v Sajewski Funeral Home, Inc*, 486 Mich 934 (2010), including seven inches of snow on the ground, some precipitation the previous day, and a recent thaw followed by consistent temperatures below freezing. A reasonably prudent person would foresee the danger of icy conditions on the mid-winter night the plaintiff's accident occurred. In light of the open and obvious nature of the hazard in this case, we do not consider the defendant's arguments regarding the applicability of MCL 600.2955a.



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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.

October 22, 2014

Clerk