

**BILLIE WARREN**

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**NO. 2010-CA-1580**

**VERSUS**

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**COURT OF APPEAL**

**ROBERT KENNY AND ABC  
INSURANCE COMPANY**

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**FOURTH CIRCUIT**

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**STATE OF LOUISIANA**

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**MCKAY, J., DISSENTS**

I respectfully dissent and would affirm the trial court's granting of summary judgment.

The Louisiana Supreme Court has specifically held that, if the facts of a particular case show that the complained of condition should be obvious to all, the condition may not be unreasonably dangerous, and the landowner may owe no duty to the plaintiff. Dauzat v. Curnest Guillot Logging, Inc., 2008-0528 (La. 12/2/08), 955 So.2d 1184; Hutchinson v. Knights of Columbus, 2002-1533 (La. 2/20/04), 866 So.2d 234. Furthermore, a landowner is not liable for any injury which results from a condition which should have been observed by the plaintiff in the exercise of reasonable care or which was obvious to the visitor as it was to the landowner. Hutchinson at 235.

In the instant case, the risk was obvious, yet the plaintiff decided to use the ladder to access the balcony anyway. Both the land owner and the tenant of the other apartment testified that they did not give the plaintiff permission to access balcony via the ladder. There is no dispute as to the facts of this case. The plaintiff clearly took it upon herself to act in an unreasonable manner and she suffered the consequences.