STATE OF MICHIGAN

COURT OF APPEALS

JACQUELYN ROBBINS, Plaintiff-Appellant,	UNPUBLISHED July 30, 2013
v	No. 300842 Oakland Circuit Court
VILLAGE CREST CONDOMINIUM ASSOCIATION Defendant-Appellee.	LC No. 2009-106178-NO

ON REMAND

Before: SAAD, P.J., and STEPHENS and KRAUSE, JJ.

SAAD, P.J. (*dissenting*).

I. OPEN AND OBVIOUS

Once again, I respectfully dissent.

I disagree with the inverted logic used by the majority. The trial court and I say that under Michigan law, the winter conditions put plaintiff on notice of the potential for slippery conditions and accordingly, her claim is barred by the open and obvious doctrine. Moreover, plaintiff also failed to prove the necessary element of her claim – that ice actually caused her fall – because she could not testify what caused her fall and admitted that she never saw ice, before or after the fall.

The majority takes these same weather conditions, but says that these elements did not put plaintiff on notice of the possibility of an icy surface, but nonetheless these very conditions suffice to prove that ice caused her fall despite her binding and dispositive admissions that she could not say what caused her to slip and fall.

Therefore, I would affirm the trial court because the conditions were sufficiently open and obvious to preclude plaintiff's claim as is her failure to identify the cause of her fall.

/s/ Henry William Saad