

STATE OF MICHIGAN
COURT OF APPEALS

RONALD WILLIAMS,

Plaintiff-Appellant,

v

TOWNSHIP OF VAN BUREN,

Defendant-Appellee.

UNPUBLISHED
October 25, 2012

No. 305167
Wayne Circuit Court
LC No. 10-006001-NO

Before: O'CONNELL, P.J., and DONOFRIO and BECKERING, JJ.

BECKERING, J. (*concurring*).

I concur in result only. Although *Gadigian v City of Taylor*, 282 Mich App 179; 774 NW2d 352 (2008), aff'd in part and vacated 486 Mich 936 (2010), is no longer binding precedent, I believe its analysis of the evidentiary standard for a "rebuttable inference" in the former version of MCL 691.1402a(2) remains sound. In any event, I agree with the majority that plaintiff, Ronald Williams, has failed to establish that defendant, Township of Van Buren, had either actual or constructive notice of the condition as required by MCL 691.1403. This case does not involve a deteriorated sidewalk but, rather, a sidewalk that has been tampered with, apparently by an adjacent homeowner in order to connect a sump pump to the gutter in the street. As aptly analyzed by the majority, plaintiff's evidence does not establish that the alleged defect existed for a period of 30 days or longer before his injury.

/s/ Jane M. Beckering