

**SUSAN LAFAYE**

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**NO. 2018-C-0905**

**VERSUS**

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**COURT OF APPEAL**

**SES ENTERPRISES, LLC, ET  
AL**

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**FOURTH CIRCUIT**

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**STATE OF LOUISIANA**

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**LOBRANO, J., CONCURS IN THE RESULT WITH REASONS.**

I respectfully concur. I agree with the majority that the district court’s denial of summary judgment was improper and would grant the writ reversing the judgment of the district court. I would also render judgment in favor of the defendants granting the motion for summary judgment and dismissing the plaintiff’s case with prejudice.

I write separately to note the distinction between the case *sub judice* and my dissent in *Edgefield v. Audubon Nature Inst., Inc.*, 2017-1050 (La. App. 4 Cir. 9/12/18), — So.3d—, WL 4403983 (Lobrano, J., dissenting). Unlike the condition in *Edgefield*, the plaintiff, in her deposition testimony, indicates that she observed the suspended hose and could have went around, but that she thought she could clear the hose while walking her dog. The condition giving rise to plaintiff’s injuries was open and obvious by her own admission. “In order for a hazard to be considered open and obvious, this Court has consistently stated that the hazard should be one that is open and obvious to all, i.e., everyone who may potentially encounter it.” *Broussard v. State ex rel. Office of State Bldgs.*, 2012-1238, p. 10 (La. 4/5/13), 113 So.3d 175, 184. “The open and obvious inquiry thus focuses on the global knowledge of everyone who encounters the defective thing or dangerous

condition, not the victim's actual or potentially ascertainable knowledge." *Id.*, 2012-1238, p. 18, 113 So.3d at 188.

In *Edgefield*, the alleged dangerous condition was an underground grease trap covered by two large metal grates that was located on the pathway leading to the kitchen and stairs where the accident occurred. In *Edgefield*, the plaintiff was not aware of the condition of the pathway as was anyone who encountered the grease trap. It was not obvious that the grates were in fact a grease trap or that they posed a danger. Moreover, the plaintiff testified that condition of the grease trap on the pathway and potential greasy pathways were not open and obvious to him.

Therefore, unlike *Edgefield*, the condition in the case *sub judice* was open and obvious. The hose was visible to everyone who encountered it, including plaintiff, and thus the condition was apparent to all those who could potentially encounter it.