

STATE OF MICHIGAN
COURT OF APPEALS

MARIO PICCIONE, as next friend of GAVINO R.
PICCIONE, a minor,

Plaintiff-Appellant,

v

LYLE A. GILLETTE and PLUMBER’S
PORTABLE TOILET SERVICE,

Defendants-Appellees.

FOR PUBLICATION
January 17, 2019

No. 342826
Kent Circuit Court
LC No. 17-002385-NI

Before: MARKEY, P.J., and M. J. KELLY and SWARTZLE, JJ.

MARKEY, P.J. and SWARTZLE, J. (*concurring*).

We concur in the *per curiam* opinion. This case is factually analogous to *Neci v Steel*, 488 Mich 971; 790 NW2d 828 (2010). For reasons similar to those set out by Justice Young in his concurring opinion in *Neci*, we conclude that binding precedent compels reversal and remand in this case.

/s/ Jane E. Markey
/s/ Brock A. Swartzle