

STATE OF MICHIGAN
COURT OF APPEALS

RACHEL NAWROCKI and LAWRENCE
NAWROCKI,

UNPUBLISHED
November 12, 1996

Plaintiff-Appellants,

v

No. 181350
LC No. 93-5021

MACOMB COUNTY ROAD COMMISSION,

Defendant-Appellees.

Before: White, P.J. and Smolenski and R.R. Lamb,* JJ.

PER CURIAM.

Plaintiffs appeal the circuit court's grant of summary disposition to defendant on governmental immunity grounds, MCR 2.116(C)(7), in this negligence action alleging liability under the public highway exception to governmental immunity, MCL 691.1402; MSA 3.996(102). We affirm.

In a supplemental appellate brief, defendant argues that *Suttles v Department of Transportation*, 216 Mich App 166; 548 NW2d 671 (1996) is controlling. Plaintiff has not attempted to distinguish *Suttles*. *Suttles* involved a nonmotorist who was injured on a public street directly next to the curb, after getting out of a parked car and stepping onto the street, where she slipped on an unnatural accumulation of ice and snow. 216 Mich App at 167. This Court, relying on *Mason v Wayne Cty Bd of Comm'rs*, 447 Mich 130; 523 NW2d 791 (1994), held that "the part of the highway adjacent to a parked car onto which an occupant of the car, especially the driver, might exit the car" is included within the scope of the phrase "any other installation outside of the improved portion of the highway designed for vehicular travel," MCL 691.1402(1); MSA 3.996(102)(1), and thus held that the defendant was immune. The *Suttles* Court analyzed the "any other installation" exclusion and concluded that:

. . . the trial court correctly interpreted the scope of the exclusions to the highway exception and that such exclusions, specifically the "any other installation" exclusion,

* Circuit judge, sitting on the Court of Appeals by assignment.

fairly encompass the part of a highway adjacent to a parked car onto which an occupant of the car, especially the driver, might step when getting out of the car.

Suttles is binding authority under Administrative Order 1996-4.

The description of the location of plaintiff's injury before us is the same as presented to the circuit court, i.e., she got out of a truck on the passenger side, stepped onto the curb, and then stepped off the curb onto the street and fell because the street was cracked and broken. Given the similarity in the locations of the accidents in the instant case and *Suttles*, both having occurred in the area of a public street directly next to the curb, plaintiffs' claim must be dismissed as a matter of law because that area of the street was held in *Suttles* to fall under the "any other installation" exclusion of the highway exception.

Affirmed.

/s/ Michael R. Smolenski

/s/ Richard R. Lamb