

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *Beary v. Larry Murphy Dump Truck Serv., Inc.*, Slip Opinion No. 2012-Ohio-5626.]

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**SLIP OPINION NO. 2012-OHIO-5626**

**BEARY v. LARRY MURPHY DUMP TRUCK SERV., INC., ET AL.**

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Slip Opinion No. 2012-Ohio-5626.]**

(No. 2011-1899—Submitted December 4, 2012—Decided December 5, 2012.

APPEAL from the Court of Appeals for Stark County,

No. 2011-CA-00048, 2011-Ohio-4977.

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{¶ 1} Sua sponte, the judgment of the court of appeals is reversed on the authority of *Hewitt v. L.E. Meyers*, \_\_\_ Ohio St.3d \_\_\_, 2012-Ohio-5317, \_\_\_ N.E.2d \_\_\_, and the cause is remanded to the trial court to apply this court’s decision in *Hewitt* to determine whether the back-up alarm is “an equipment safety guard.”

O’CONNOR, C.J., and PFEIFER, LUNDBERG STRATTON, O’DONNELL, LANZINGER, CUPP, and MCGEE BROWN, JJ., concur.

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Young & Sucher, P.L.L., and Daniel M. Sucher, for appellant.

SUPREME COURT OF OHIO

Hanna, Campbell, & Powell, L.L.P., Kenneth A. Calderone, and John R. Chlysta, for appellees.

Andrew Cooke & Assoc., L.L.C., Adam J. Bennett, and Andrew P. Cooke, Special Counsel for the Ohio Attorney General, for the Ohio Bureau of Workers' Compensation.

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