

boundaries

A GUIDE FOR PROPERTY OWNERS AND INSURERS IN A LITIGIOUS SOCIETY

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Lock-Less, Inward Swinging Bathroom Stall Door Was Open and Obvious

By Todd M. Rowe

In *Arnold v. Country Brothers, Inc.*, unpublished decision of the Michigan Court of Appeals, Plaintiff claimed injuries when the door of a stall in the women's restroom on Defendant's premises was pushed open and struck her in the face. Plaintiff argued that the door on the bathroom stall was a dangerous condition because it had no locking mechanism coupled with the fact that the door opened inward toward the occupant. Plaintiff, an invitee on Defendant's premises, alleged Defendant negligently failed to maintain the premises in a safe condition and to warn of the unsafe condition.

The trial court granted Defendant's motion for summary disposition. The trial court found that the condition was open and obvious, and that no special aspects of the lock-less bathroom stall door made it unreasonably dangerous. The Court of Appeals affirmed the trial court's dismissal.

The Court of Appeals found that even if the door on the stall constituted a dangerous condition because it did not have a locking device and opened inward, no issue of fact existed regarding the fact

SECRET WARDLE NOTES:

The open and obvious doctrine attacks the duty element that a Plaintiff must establish in a negligence case. In a typical premises liability action, a Defendant must exercise reasonable care to protect a Plaintiff from unreasonable risks of harm caused by dangerous conditions on the premises. As this case demonstrates, a Plaintiff is compelled to provide evidence the condition remained unreasonably dangerous even though it was open and obvious.

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that the condition was open and obvious. There was no evidence to establish that the condition remained unreasonably dangerous despite being open and obvious. Plaintiff had been using the bathroom stall for over thirty years and was aware of the condition. Accordingly, the Court of Appeals found the trial court properly granted Defendant's motion for summary disposition.

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We welcome your questions and comments.

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