

# boundaries

A GUIDE FOR PROPERTY OWNERS AND INSURERS IN A LITIGIOUS SOCIETY

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## Possible Obligation of Homeowner to Obtain a Permit Did Not Establish Notice

By James Swaim

In *Smith v. Monczunski*, an unpublished decision of the Michigan Court of Appeals, Plaintiff received an electric shock while performing remodeling work near two electrical service panels in Defendant's home. Plaintiff brought a negligence claim under a premises liability theory.

Plaintiff argued that Defendant homeowner should have known of the hazardous condition of the electrical system in her home because an electrical contractor hired by Defendant had installed the circuit breaker box that caused the hazard. Additionally, Defendant had failed to obtain a permit or to ensure a permit was obtained for the work. Plaintiff relied on provisions of the Michigan Administrative Code detailing the circumstances under which a person must apply for a permit.

The trial court dismissed the case based on lack of notice. Simply put, that there was no evidence to show that Defendant knew or should have know of the condition which injured Plaintiff.

The Michigan Court of Appeals agreed with Defendant that the language of the Administrative Code did not impose an obligation on Defendant to obtain

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The duty owed by a possessor of land in a premises liability case depends on whether the plaintiff is an invitee, a licensee, or a trespasser. A licensee is someone on the land with permission for a purpose other than business, such as a social guest. In this decision by the Court, Plaintiff's status as a licensee was not an issue.

The duty owed to a licensee is less than the duty owed to an invitee. Unlike the duty owed to an invitee, there is no duty owed to a licensee to inspect for possible dangerous conditions. Instead, the landowner merely owes a licensee a duty to warn of any hidden dangers the landowner knows of or has reason to know of if (1) the danger involves an unreasonable risk of harm and (2) the licensee does not know or have reason to know of the hidden danger and the risk involved.

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a permit unless the homeowner was installing the equipment. Further, Plaintiff cited no other authority in support of his position that Defendant should have known of the danger because she had an obligation to obtain a permit or ensure that one was obtained. Accordingly, summary disposition was affirmed.

## CONTACT US

### **Farmington Hills**

30903 Northwestern Highway, P.O. Box 3040  
Farmington Hills, MI 48333-3040  
Tel: 248-851-9500 Fax: 248-851-2158

### **Mt. Clemens**

94 Macomb Place, Mt. Clemens, MI 48043-5651  
Tel: 586-465-7180 Fax: 586-465-0673

### **Lansing**

6639 Centurion Drive, Ste. 130, Lansing, MI 48917  
Tel: 517-886-1224 Fax: 517-886-9284

### **Grand Rapids**

1550 East Beltline, S.E., Ste. 305, Grand Rapids, MI 49506-4361  
Tel: 616-285-0143 Fax: 616-285-0145

### **Champaign, IL**

2919 Crossing Court, Ste. 11, Champaign, IL 61822-6183  
Tel: 217-378-8002 Fax: 217-378-8003

[www.secrestwardle.com](http://www.secrestwardle.com)

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## CONTRIBUTORS

### **Premises Liability Practice Group Chair**

Mark F. Masters

### **Editor**

Carina Nelson

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