

Order

Michigan Supreme Court
Lansing, Michigan

April 22, 2011

Robert P. Young, Jr.,
Chief Justice

141691 & (65)

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

CANDICE BINNO, Personal Representative
of the Estate of RYAN BINNO, Deceased,
Plaintiff-Appellant/
Cross-Appellee,

v

SC: 141691
COA: 291437
Oakland CC: 2007-086216-NO

FREDERICK BINNO,
Defendant-Appellee/
Cross-Appellant,

and

GIAN BENCIVENGA and JEFFREY DABISH,
Defendants-Appellees.

On order of the Court, the application for leave to appeal the June 15, 2010 judgment of the Court of Appeals and the application for leave to appeal as cross-appellant are considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE only that portion of the judgment of the Court of Appeals holding that two of the defendants owed the decedent a statutory duty of care under the Natural Resources and Environmental Protection Act, MCL 324.101 *et seq.* As the trial court correctly concluded, these defendants were not “operating” a vessel within the meaning of MCL 324.80103(g), (h), in these circumstances. We AFFIRM the judgment of the Court of Appeals in all other respects.



p0419

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 22, 2011

Corbin R. Davis

Clerk