

**STATE OF MICHIGAN  
IN THE 22nd CIRCUIT COURT FOR THE COUNTY OF WASHTENAW**

GUY BOYD

*Plaintiff,*

v.

NOT AN LLC d/b/a JSD SUPPLY and  
KYLE THUEME,

*Defendants.*

Case No: 24-000304-NP  
Hon. Julia B. Owdziej

CIVIL-CRIMINAL LITIGATION CLINIC  
By: David Santacroce (P61367)  
Attorney for Plaintiff  
363 Legal Research Building  
801 Monroe Street  
Ann Arbor, MI 48109-1215  
(734) 763-4319

PENTIUK, COUVREUR & KOBILKAJ, P.C.  
By: Kerry L. Morgan (P32645) &  
Randall A. Pentiuik (P32556)  
Attorneys for Not an LLC d/b/a JSD Supply,  
2915 Biddle Avenue, Suite 200  
Wyandotte, MI 48192  
(734) 281-7100

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**ORDER DENYING IN PART DEFENDANT NOT AN LLC D/B/A JSD SUPPLY'S  
MOTION FOR SUMMARY DISPOSITION PURSUANT TO MCR 2.116(C)(8)**

At a session of the Court held in the  
County of Washtenaw, State of Michigan  
This 24 day of July, 2024

The Court, having considered Defendant Not an LLC d/b/a JSD Supply's ("JSD") motion for summary disposition pursuant to MCR 2.116(C)(8), the briefs offered in support thereof, and written responses and oral argument thereon, and considering the factual allegations contained in Plaintiff's well-pleaded Complaint, accepting them as true, and construing them in the light most favorable to Plaintiff, finds that:

**Count 1 Negligence:** as to Plaintiff's common law negligence claim, the Court finds that the Plaintiff has stated a claim upon which relief can be granted. There is a duty owed to the Plaintiff not to expose him to an unreasonable risk of harm. The case is analogous to the *Moning v. Alfono* 400 Mich 425 (1977). Whether the Defendant JSD created an unreasonable risk of harm in marketing their product is a question for the

jury. The obligation to avoid negligent conduct extends to persons within the foreseeable scope of risk, such as Plaintiff.

As to Plaintiff's negligence per se claim, the Court finds that the Plaintiff has not stated a claim upon which relief can be granted. There has been no showing that Defendant, JSD, violated any federal or state law or aided and abetted in any violation of law.

**Count 3 Negligent entrustment:** Plaintiff has sufficiently alleged a negligent entrustment claim against Defendant JSD. The *Moning* case is also analogous in this claim. JSD had a duty to not entrust chattel to a group of consumers including minors that it knew or should have known was likely to use it in a manner involving an unreasonable risk of physical harm.

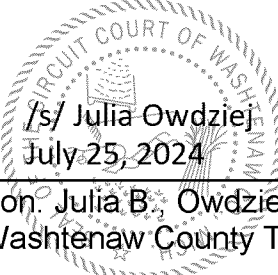
**Count 4 Michigan Consumer Protection Act:** Plaintiff has sufficiently alleged a negligent entrustment claim against Defendant JSD. Plaintiff does have standing to bring an action under the MCPA even though he was not the purchaser of the product. Defendant JSD has failed to establish that it is exempt from MCPA with its argument that their conduct was specifically authorized by law.

IT IS ORDERED:

As to the common law negligence claim in count 1, count 3 and count 4, Defendant JSD's motion for summary disposition is **DENIED**.

As to the negligence per se claim in count 1, Defendant JSD's motion for summary disposition is **GRANTED**.

This is not a final order.

The seal of the Circuit Court of Washtenaw County, Michigan, is circular with a scalloped outer edge. Inside the seal, the text "CIRCUIT COURT OF WASHTENAW COUNTY, MICHIGAN" is written around the perimeter. In the center, there is a smaller emblem featuring a building and a scale of justice.  
/s/ Julia Owdziej  
July 25, 2024

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Hon. Julia B. Owdziej  
Washtenaw County Trial Court