

03/14/2014 "See News Release 014 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

NO. 13-CC-2761

FRANCIS ELAINE REAGAN

V.

THE RECREATION AND PARK COMMISSION
FOR THE PARISH OF EAST BATON ROUGE (BREC)

GUIDRY, J. dissents and would grant the writ.

Although the opinion in *Broussard v. State*, 12-1238 (La. 4/5/13), 113 So. 3d 175, holds the determination of an unreasonable risk of harm is a question of fact, our jurisprudence does not preclude the granting of a motion for summary judgment in cases where the plaintiff is unable to produce factual support for his or her claim that a thing is unreasonably dangerous. *See Pitre v. Louisiana Tech. Univ.*, 95-1466 (La.5/10/96), 673 So. 2d 585.

In the instant case, defendant has presented evidence establishing an absence of factual support for plaintiff's claim that the small crack in the sidewalk was unreasonably dangerous. Plaintiff failed to produce factual support sufficient to establish that she will be able to satisfy her evidentiary burden of proof. Therefore, summary judgment in defendant's favor is mandated.