

**IN THE SUPREME COURT OF PENNSYLVANIA  
EASTERN DISTRICT**

MICHAEL AND MELISSA SULLIVAN, H/W	:	No. 324 EAL 2021
	:	
	:	
v.	:	Petition for Allowance of Appeal
	:	from the Order of the Superior Court
	:	
WERNER COMPANY AND LOWE'S	:	
COMPANIES, INC., AND MIDDLETOWN	:	
TOWNSHIP LOWE'S STORE #1572	:	
	:	
	:	
PETITION OF: WERNER COMPANY AND	:	
LOWE'S COMPANIES, INC.	:	

**ORDER**

**PER CURIAM**

**AND NOW**, this 8<sup>th</sup> day of June, 2022, the Petition for Allowance of Appeal is **GRANTED**. The issue, as stated by petitioner, is:

Was it an error of law, under the product liability principles this Court established in *Tincher v. Omega Flex, Inc.*, 104 A.3d 328 (Pa. 2014), to prevent the jury from considering the product's compliance with pertinent industry and governmental safety standards, where this exclusion of evidence:

- (1) was contrary to *Tincher's* expressed intent to provide juries with greater, rather than less, ability to decide if an unreasonably dangerous defect exists in a product;
- (2) was contrary to *Tincher's* recognition that strict liability and negligence substantially overlap in product liability cases, particularly as to the "risk/utility" defect theory plaintiffs pursued in this case; and
- (3) would once again leave Pennsylvania product liability law in a distinct minority position, concerning admissibility of compliance evidence.