

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CAROL A. BELANGER and FRED H. BELANGER,

UNPUBLISHED

August 26, 1997

Plaintiffs-Appellants,

and

No. 194933

Washtenaw Circuit Court

BLUE CROSS BLUE SHIELD OF MICHIGAN,

LC No. 95-001953-NO

Intervening Plaintiff-Appellee,

v

MURRAY'S DISCOUNT AUTO STORES, INC.,

Defendant-Appellee.

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Before: Sawyer, P.J., and Bandstra and E. A. Quinnell\*, JJ.

MEMORANDUM.

Plaintiffs appeal by right summary disposition under MCR 2.116(C)(10) in this slip and fall case. This case is being decided without oral argument pursuant to MCR 7.214(E).

As plaintiff makes no contention that the oil on which she slipped and fell in defendant's parking lot was spilled by an agent or employee of defendant, she must establish that defendant was on constructive notice, due to the character or length of time the hazard existed, of the danger and thus that defendant's failure to ameliorate the problem prior to plaintiff encountering it was negligence. *Serinto v Borman Food Stores*, 380 Mich 637, 640-641; 158 NW2d 485 (1968); *Ritter v Meijer, Inc*, 128 Mich App 783; 341 NW2d 220 (1983).

In support of her theory of constructive notice, plaintiff offers that the oil was covered with snow and dirty. However, plaintiff's deposition testimony indicates that it had been snowing immediately before her fall, and that the oil was dirty is equally explained by the oil either having spilled or leaked

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\* Circuit judge, sitting on the Court of Appeals by assignment.

from the crankcase of a motor vehicle with dirty engine oil or the oil having landed in some dirt. These possibilities fail to establish, beyond speculation and conjecture, that the hazard must have existed a sufficient length of time that it should have come to the attention of defendant or one of its employees. *McCune v Meijer, Inc*, 156 Mich App 561, 563 n 1; 402 NW2d 6 (1986). Summary disposition was therefore properly granted.

Affirmed.

/s/ David H. Sawyer

/s/ Richard A. Bandstra

/s/ Edward A. Quinnell