STATE OF MICHIGAN

COURT OF APPEALS

VERNIA WILLIAMS,

Plaintiff-Appellant,

v

MEIJER, INC, d/b/a MEIJER THRIFTY ACRES,

Defendant-Appellee.

UNPUBLISHED
January 13, 1998

No. 197072
Wayne Circuit Court
LC No. 95-528821 NO

Before: Gage, P.J., and Murphy and Reilly, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the summary dismissal of her negligence action pursuant to MCR 2.116(C)(10). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

A shopkeeper's liability for injuries caused on its premises is summarized as follows:

> "It is the duty of a storekeeper to provide reasonably safe aisles for customers and he is liable for injury resulting from an unsafe condition either caused by the active negligence of himself and his employees or, if otherwise caused, where known to the storekeeper or is of such character or has existed a sufficient length of time that he should have knowledge of it." [*Serinto v Borman Food Stores*, 380 Mich 637, 640-641; 158 NW2d 485 (1968), reh den 9/25/68, quoting *Carpenter v Herpolsheimer's Co*, 278 Mich 697; 271 NW 575 (1937) (emphasis deleted). See also *Berryman v K-mart Corp*, 193 Mich App 88, 92; 483 NW2d 642 (1992).]

Plaintiff presented no evidence that contradicted defendant's employee's statement that the floor was clean and dry when she left the restroom at 1:55 p.m., particularly where plaintiff did not see any water or muddy foot prints on the restroom floor when she entered the room. Because the employee's statement remains uncontradicted and because plaintiff did not testify that the floor was wet when she entered the restroom, the logical inference is that the dangerous condition was caused by an unknown third party. Accordingly, viewing the record evidence, and all inferences that may be drawn from it, in a

light most favorable to plaintiff, reasonable jurors could not honestly have reached differing conclusions with regard to whether defendant's employee created the condition that caused plaintiff's fall. *Serinto*, 380 Mich 640-641; *Hunt v Freeman*, 217 Mich App 92, 98-99; 550 NW2d 817 (1996).

Moreover, because the employee left the restroom at 1:55 p.m., at which time the floor was dry and clean, and because plaintiff's fall occurred between 1:55 p.m. and 2 p.m., at which time the floor was wet and muddy, reasonable jurors could not have honestly reached differing conclusions with regard to whether the dangerous condition existed for sufficient time that defendant should have had notice of it. *Serinto, supra*, 640-641; *Hunt, supra*, 98-99. Viewing the record evidence, and all inferences that may be drawn from it, in a light most favorable to plaintiff, the dangerous condition did not exist for sufficient time to place defendant on notice of the condition.

Affirmed.

/s/ Hilda R. Gage
/s/ William B. Murphy
/s/ Maureen Pulte Reilly