STATE OF MICHIGAN

COURT OF APPEALS

ROGER HEACOCK,

Plaintiff-Appellant,

v

MEIJER, INC.,

Defendant-Appellee.

UNPUBLISHED
January 23, 2001

No. 216802
Oakland Circuit Court
LC No. 98-004510-NO

Before: Markey, P.J., and Whitbeck and J. L. Martlew*, JJ.

PER CURIAM.

Plaintiff appeals by right from a circuit court order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(8) and (10). We affirm in part, reverse in part, and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court's ruling on a motion for summary disposition is reviewed de novo. *Gibson v Neelis*, 227 Mich App 187, 189; 575 NW2d 313 (1997). A motion brought under MCR 2.116(C)(10) tests the factual support for a claim. In ruling on such a motion, the trial court must consider not only the pleadings, but also depositions, affidavits, admissions and other documentary evidence, MCR 2.116(G)(5), and must give the benefit of any reasonable doubt to the nonmoving party, being liberal in finding a genuine issue of material fact. Summary disposition is appropriate only if the opposing party fails to present documentary evidence establishing the existence of a material factual dispute. *Smith v Globe Life Ins Co,* 460 Mich 446, 454-455; 597 NW2d 28 (1999).

Plaintiff was an invitee in that he was on defendant's premises for a commercial purpose, i.e., to shop at defendant's store. *Stitt v Holland Abundant Life Fellowship,* 462 Mich 591, 597-598, 604; 614 NW2d 88 (2000). "[A]n invitor has a duty to take reasonable measures within a reasonable time after an accumulation of ice and snow to diminish the hazard of injury to an invitee." *Orel v Uni-Rak Sales Co, Inc*, 454 Mich 564, 567; 563 NW2d 241 (1997); see, also, *Anderson v Wiegand*, 223 Mich App 549, 553-554; 567 NW2d 452 (1997). This does not mean that the invitor's duty arises only after the snow has stopped falling. "Whether it was reasonable to wait for the snow to stop falling before [defendant] shoveled or whether salt or sand should

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

have been spread in the interim is a question for the jury." *Lundy v Groty,* 141 Mich App 757, 760-761; 367 NW2d 448 (1985).

Plaintiff testified that there was an inch or more of snow and sleet on the parking lot at the time he fell. The climatological records for the hour around the time he fell indicate that there was less than half an inch of the water equivalent of precipitation. Whether that is the same as, less than, or more than a half inch of snow is unclear. Defendant was aware of the hazard and spread salt by the front entrance, but did not salt the area where plaintiff fell. Whether defendant should have done something to reduce the hazard throughout the parking lot or whether it was reasonable to spread salt around the entrance and wait for the snow to stop falling to do more was a question of fact for the jury. Therefore, the trial court erred in granting defendant's motion for summary disposition on plaintiff's negligence claim.

Assuming without deciding that the trial court erred in dismissing plaintiff's nuisance claim under MCR 2.116(C)(8), we find no basis for reversing that decision. Plaintiff's nuisance claim is no more than a restatement of his negligence claim, *Young v Groenendal,* 10 Mich App 112, 116-117; 159 NW2d 158 (1968), aff'd 382 Mich 456 (1969), and thus was properly stricken as redundant. *Awkerman v Tri-County Orthopedic Group, PC,* 143 Mich App 722, 725-726; 373 NW2d 204 (1985); *Greenfield Constr Co, Inc v Detroit,* 66 Mich App 177, 185; 238 NW2d 570 (1975). This Court will not reverse when the trial court reaches the right result for the wrong reason. *Gray v Pann,* 203 Mich App 461, 464; 513 NW2d 154 (1994).

We affirm in part, reverse in part, and remand. We do not retain jurisdiction.

/s/ Jane E. Markey
/s/ William C .Whitbeck
/s/ Jeffrey L. Martlew