# STATE OF MICHIGAN

# COURT OF APPEALS

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| RAY GILLARD,<br><br>Plaintiff-Appellant, | UNPUBLISHED<br>May 22, 2001 |
| v | No. 220421<br>Genesee Circuit Court |
| HURLEY MEDICAL GROUP,<br><br>Defendant-Appellee. | LC No. 98-062343-NO |

Before: White, P.J., and Wilder and Zahra, JJ.

PER CURIAM.

Plaintiff appeals as of right from a trial court order granting defendant's motion for summary disposition. We affirm.

On March 20, 1997, plaintiff went to defendant's medical center to visit a resident of the center. It is undisputed that as plaintiff approached the center's entrance, he encountered a woman in a wheelchair who was exiting the building. To avoid the woman, plaintiff stepped off defendant's paved sidewalk into a graveled area that was part of a shrub bed, and began to utilize that area as a shortcut to the building's entrance. Plaintiff slipped and fell on what he characterized as "black ice" that had formed in the graveled area. Plaintiff allegedly suffered injuries to his head, back and elbow. Plaintiff brought suit, under a premises liability theory. Defendant filed a motion for summary disposition pursuant to MCR 2.116(C)(10), which the trial court granted.

On appeal, plaintiff argues that the trial court erred in granting summary disposition for defendant. We disagree.

We review a trial court's decision on a motion for summary disposition de novo. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). In reviewing a motion for summary disposition under MCR 2.116(C)(10), we consider the affidavits, pleadings, depositions, admissions or any other documentary evidence submitted in a light most favorable to the nonmoving party to decide whether a genuine issue of material fact exists. *Ritchie-Gamester v City of Berkley*, 461 Mich 73, 76; 597 NW2d 517 (1999); *Rollert v Dep't of Civil Service*, 228 Mich App 534, 536; 579 NW2d 118 (1998). All reasonable inferences are resolved in the nonmoving party's favor. *Hampton v Waste Mgt of MI, Inc*, 236 Mich App 598, 602; 601 NW2d 172 (1999).

A possessor of land is subject to liability for physical harm caused to an invitee by a condition on the land if the owner:

> (a) knows of, or by the exercise of reasonable care would discover, the condition and should realize that the condition involves an unreasonable risk of harm to such invitees; (b) should expect that invitees will not discover or realize the danger, or will fail to protect themselves against it; and (c) fails to exercise reasonable care to protect invitees against the danger. [*Stitt v Holland Abundant Life Fellowship*, 462 Mich 591, 597; 614 NW2d 88 (2000).]

Viewing the evidence in the present case in the light most favorable to plaintiff, there was no condition upon defendant's premises that involved an unreasonable risk of harm to invitees. By all indications, defendant cleared and maintained a designated walkway in a dry, snow and ice-free manner. See *Quinlivan v Great Atlantic & Pacific Tea Co, Inc*, 395 Mich 244, 261; 235 NW2d 732 (1975). A business invitor cannot expect and should not be made to expect that reasonable invitees would not utilize such a walkway and, instead, choose to utilize a shortcut route through a shrub bed. Because there was no condition upon defendant's premises that involved an unreasonable risk of harm to plaintiff, plaintiff's claim fails as a matter of law. *Prebenda v Tartaglia*, __ Mich App __; __ NW2d __ (Docket No. 215643, issued 3/27/01).

Affirmed.

/s/ Helene N. White
/s/ Kurtis T. Wilder
/s/ Brian K. Zahra