STATE OF MICHIGAN

COURT OF APPEALS

PEGGY CUSTER, Plaintiff-Appellant,	UNPUBLISHED November 9, 2001
v	No. 225701 Oakland Circuit Court
GORDON FOOD SERVICE, INC., Defendant-Appellee.	LC No. 99-014322-NO

Before: Doctoroff, P.J., and Wilder and Schmucker*, JJ.

MEMORANDUM.

Plaintiff appeals as of right from a circuit court order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(10) in this premises liability action. We affirm. 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, 455; 597 NW2d 28 (1999).

A business owner is liable to invitees for injuries resulting from an unsafe condition on his premises. *Berryman v Kmart Corp*, 193 Mich App 88, 92; 483 NW2d 642 (1992). A business owner is liable to invitees for injuries incurred on his premises where the injury results from an unsafe condition caused by the active negligence of the owner or his employees. If the unsafe condition results from other causes, the shop owner is liable if the condition is known to him "or is of such a character or has existed a sufficient length of time that he should have knowledge of it." *Id.*, quoting *Serinto v Borman Food Stores*, 380 Mich 637, 640-641; 158 NW2d 485 (1968).

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

Plaintiff slipped on a puddle of water on defendant's floor. The puddle resulted when snow plaintiff had tracked into the store melted. Neither defendant nor its employees created that condition and there was no evidence that defendant had actual notice of its existence. In addition, plaintiff's testimony clearly established that the melt water had only been on the floor for a few moments. Because the condition had not existed for a considerable time, defendant could not be charged with constructive notice. *Whitmore v Sears, Roebuck & Co,* 89 Mich App 3, 8; 279 NW2d 318 (1979). Accordingly, we find no error in the trial court's ruling.

Affirmed.

/s/ Martin M. Doctoroff
/s/ Kurtis T. Wilder
/s/ Chad C. Schmucker