

STATE OF MICHIGAN
COURT OF APPEALS

REBECCA ROCK, Next Friend of SAMANTHA
OTT, a Minor,

Plaintiff-Appellant,

v

LUXURY LANES & LOUNGE, INC. and PAUL
STUART,

Defendants-Appellees,

and

CINDY RHINEHART, ROBERT RHINEHART,
CAITLIN RHINEHART, a Minor, JOHN FURA
and BRANDON FURA, a Minor,

Defendants.

UNPUBLISHED
December 28, 2001

No. 226777
Oakland Circuit Court
LC No. 99-012138-NO

Before: White, P.J., and Talbot and E.R. Post*, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendants' motion for summary disposition pursuant to MCR 2.116(C)(8) and (10). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

We review de novo the trial court's ruling on a motion for summary disposition. *Gibson v Neelis*, 227 Mich App 187, 189; 575 NW2d 313 (1997). When reviewing a motion under MCR 2.116(C)(8), the Court accepts as true all factual allegations and any reasonable inferences drawn from them in support of the claim. Summary disposition for failure to state a claim should be upheld only when the claim is so clearly unenforceable as a matter of law that no factual development could establish the claim and thus justify recovery. *Stott v Wayne Co*, 224 Mich App 422, 426; 569 NW2d 633 (1997), *aff'd* 459 Mich 999 (1999).

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

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

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. Summary disposition is appropriate 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 invitor has a duty to maintain its premises in a reasonably safe condition and to exercise ordinary care to keep the premises reasonably safe. *Schuster v Sallay*, 181 Mich App 558, 565; 450 NW2d 81 (1989). This duty is not absolute. It does not extend to conditions from which an unreasonable risk of harm cannot be anticipated. *Perez v KFC Nat'l Management Co, Inc*, 183 Mich App 265, 268; 454 NW2d 145 (1990). Premises liability requires proof of a condition that poses an unreasonable risk of harm. *Bertrand v Alan Ford, Inc*, 449 Mich 606, 609; 537 NW2d 185 (1995).

Plaintiff cites no authority to support her argument that the tables in the bowling alley's game room constituted an unreasonably dangerous condition, thus the issue is not properly presented for review. *Silver Creek Twp v Corso*, 246 Mich App 94, 99; 631 NW2d 346 (2001). Tables are useful, everyday objects that are not inherently dangerous, and the fact that they were arranged in a circle did not make them unreasonably dangerous because it did not increase the risk of any harm posed by the tables. Rather, it was the fact that someone knocked a table over that created the risk of harm, and that could have happened regardless of how the tables were arranged. Therefore, plaintiff's premises liability claim against Luxury Lanes was properly dismissed.

Plaintiff's premises liability claim against defendant Stuart, the president and shareholder of Luxury Lanes, was also properly dismissed. Premises liability is conditioned on possession and control of the property, *Merritt v Nickelson*, 407 Mich 544, 552; 287 NW2d 178 (1980), and plaintiff does not dispute that the premises were owned and controlled by Luxury Lanes and not by Stuart personally.

Plaintiff cites no authority to support her argument that defendants owed a duty to supervise the children in the game room where the injury occurred, and the issue is thus not properly presented for review. *Silver Creek Twp, supra*. This Court has held that it is contrary to public policy to impose a duty on homeowners to supervise the children of their licensees. *Bradford v Feeback*, 149 Mich App 67, 71-72; 385 NW2d 729 (1986). We decline to impose such a duty on business inviters in the absence of any undertaking by them to provide such supervision.

Affirmed.

/s/ Helene N. White
/s/ Michael J. Talbot
/s/ Edward R. Post