

STATE OF MICHIGAN  
COURT OF APPEALS

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LONANNETTA NICHOLE SILAS-THOMAS,  
a/k/a LONETTA SILAS-THOMAS,

UNPUBLISHED  
March 18, 2008

Plaintiff-Appellant,

v

EMMANUEL CASSAR,

No. 276665  
Wayne Circuit Court  
LC No. 05-525476-NO

Defendant-Appellee.

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Before: O’Connell, P.J., and Borrello and Gleicher, 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). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff testified in her deposition that she slipped and fell as she descended from defendant’s porch. She explained that although there was snow in the vicinity and a slick spot elsewhere on the step, the area of the step where she placed her foot was “clear,” and when she examined it after she fell, she did not see “anything.”

Summary disposition may be granted under MCR 2.116(C)(10) when “there is no genuine issue of material fact, and the moving party is entitled to judgment . . . as a matter of law.” This Court reviews a trial court’s decision on a motion for summary disposition de novo. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

Plaintiff alleged that defendant breached his duty to maintain the premises in a reasonably safe condition, but her deposition testimony failed to support this theory of liability. Instead, plaintiff stated that she stepped on an area that was clear, not on a slippery area of the step. Although plaintiff seemed to indicate in other portions of her deposition that the step was covered in snow or that the slick spot was in the clear area, she clarified those points in her

subsequent responses.<sup>1</sup> Under the circumstances, plaintiff's evidence simply did not establish a genuine issue of material fact regarding the existence of a defect that caused her to fall.

Affirmed.

/s/ Peter D. O'Connell  
/s/ Stephen L. Borrello  
/s/ Elizabeth L. Gleicher

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<sup>1</sup> We note that plaintiff's deposition testimony appears extraordinarily strained by a desire to avoid the legal pitfalls in the open and obvious doctrine. However, we are not at liberty to assign fault to a defendant on the basis that a plaintiff slipped and fell on a stable step that was properly cleared of snow and ice. Nor is this a situation in which *res ipsa loquitor* could apply, because slipping off a step in winter is not such a rare event that it will ordinarily only occur if the property owner is negligent. See *Cloverleaf Car Co v Phillips Petroleum Co*, 213 Mich App 186, 193-194; 540 NW2d 297 (1995).