

1 HONORABLE RONALD B. LEIGHTON

2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 EVELYN MESNEAK,

10 Plaintiff,

11 v.

12 LOWE'S HOME CENTER, LLC,

13 Defendant.

CASE NO. C17-5958 RBL

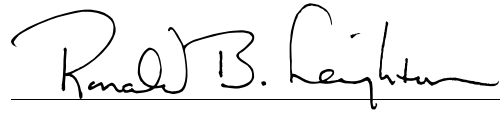
ORDER

14 THIS MATTER is before the Court on Defendant Lowe's Motion for Summary  
15 Judgment Dkt. [14]. The Court has reviewed the materials for and again the motion, and for the  
16 reasons below the motion is DENIED.

17 Plaintiff Mesneak stepped down off a crumbled and eroded curb on Lowe's property.  
18 Suddenly, she lost her footing, fell, and injured herself. The curb had obviously been deteriorated  
19 for some time. The uneven contour of the curb could have caused Mesneak's fall. She does not  
20 remember whether her left foot contacted the crumbled edge of the curb, causing the fall.  
21 Nevertheless, the open and obvious nature of a damaged curb raises a question of fact to be  
22 resolved by a jury. *Millson v. Lyden*, 174 Wn. App. 303 311 (2013). The Motion is DENIED.

23 IT IS SO ORDERED.

1 Dated this 27th day of December, 2018.

2  
3 

4 Ronald B. Leighton  
5 United States District Judge  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24