

STATE OF MICHIGAN
COURT OF APPEALS

LARRY W. FILLMORE,

Plaintiff-Appellant,

v

GENESYS HEALTH SYSTEMS,

Defendant-Appellee.

UNPUBLISHED

April 21, 2000

No. 213162

Genesee Circuit Court

LC No. 97-054642-NO

Before: Gribbs, P.J., and Doctoroff and T. L. Ludington*, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendant's motion for summary disposition under 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).

Plaintiff fell and injured his knee while participating in an aerobics class on defendant's premises. Plaintiff maintained that he slipped on water spilled from water bottles brought into the room by class members, and asserted that defendant was negligent in allowing the bottles to be brought in, failing to supervise the area, and in failing to warn of the hazard.

To establish a prima facie case of negligence, a plaintiff must prove that the defendant owed a duty to the plaintiff, that the defendant breached that duty, that the breach of duty was a proximate cause of plaintiff's damages, and that plaintiff suffered damages. *Babula v Robertson*, 212 Mich App 45, 48; 536 NW2d 834 (1995). A possessor of land has a duty to exercise reasonable care to protect invitees from an unreasonable risk of harm caused by a dangerous condition of the land. *Williams v Cunningham Drug Stores, Inc.*, 429 Mich 495, 499; 418 NW2d 381 (1988). A business invitor may be held liable for injuries resulting from negligent maintenance of the premises or defects in the physical structure. *Id.* The duty to invitees does not extend to conditions from which an unreasonable risk cannot be anticipated. The occupier is not an insurer of the safety of its invitees, and the duty is only to exercise reasonable care for their protection. *Id.*, 500.

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

Defendant is responsible for a condition caused by the active negligence of its employees, or where the condition existed long enough that defendant should have had knowledge of it. *Hampton v Waste Management of Michigan, Inc*, 236 Mich App 598, 604; 601 NW2d 172 (1999). There is no allegation that defendant's employees caused a water spill, and plaintiff failed to present any evidence of notice. Plaintiff's testimony revealed that he was merely speculating as to the cause of his fall, which is insufficient to support his cause of action. *Stefan v White*, 76 Mich App 654; 257 NW2d 206 (1977).

Affirmed.

/s/ Roman S. Gibbs

/s/ Martin M. Doctoroff

/s/ Thomas L. Ludington