

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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EMILY KRAFT,

Plaintiff-Appellant,

v

SCOTT HOUGHTON,

Defendant-Appellee,

and

CITY OF GROSSE POINTE FARMS,

Defendant.

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UNPUBLISHED

May 25, 2001

No. 220587

Wayne Circuit Court

LC No. 98-824233-NO

Before: McDonald, P.J., and Smolenski and K. F. Kelly, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendant's motion for summary disposition under MCR 2.116(C)(10). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff fell while walking on a sidewalk next to defendant's house, and fractured her right knee. She brought this action asserting that plaintiff's failure to clear the sidewalk of fallen twigs and branches posed an unreasonable risk of harm. The trial court granted summary disposition, finding that there was no evidence that defendant's trees caused the condition, and the danger was open and obvious.

In reviewing a motion under MCR 2.116(C)(10), a trial court considers affidavits, pleadings, depositions, admissions and any documentary evidence submitted in the light most favorable to the party opposing the motion. A court may grant summary disposition if the evidence shows that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Quinto v Cross & Peters*, 451 Mich 358, 362-363; 547 NW2d 314 (1996). If the opposing party fails to present documentary evidence establishing a factual dispute, the motion is properly granted. *Id.*

As the trial court found, plaintiff offered no proof showing that defendant's trees created a nuisance. Even if the twigs came from defendant's trees, defendant owed no duty to plaintiff as a licensee. A landowner owes a licensee a duty only to warn of any hidden dangers the owner knows or has reason to know of, if the licensee does not know or have reason to know of the dangers involved. *Stitt v Holland Abundant Life Fellowship*, 462 Mich 591, 596; 614 NW2d 88 (2000). The landowner owes no duty of inspection or affirmative care to make the premises safe for the licensee's visit. *Id.* at 596-597.

Defendant's affidavit indicated that he did not know and did not have any reason to know that twigs and branches covered his sidewalk. There is no evidence that defendant was in any better position than plaintiff to observe the condition of the sidewalk. Where the danger was open and obvious and did not pose an unreasonable risk, the trial court may properly grant summary disposition, even as to an invitee. *Bertrand v Alan Ford, Inc.*, 449 Mich 606; 537 NW2d 185 (1995).

Affirmed.

/s/ Gary R. McDonald  
/s/ Michael R. Smolenski  
/s/ Kirsten Frank Kelly