[Cite as *Nunn v. Scott*, 2001-Ohio-3952.]

IN THE COURT OF CLAIMS OF OHIO

KRIS NUNN	:	
Plaintiff	:	**CASE NO. 2000-08575-PR**
v.	:	**DECISION**
DONALD E. SCOTT, et al.	:	
Defendants/Third-Party	:	**Plaintiffs**
	:	
v.		
	:	
OHIO EXPOSITIONS COMMISSION		
	:	
Third-Party Defendant		

: : : : : : : : : : : : : : : : :

On August 27, 2001, defendants/third-party plaintiffs filed a motion for summary judgment. On November 1, 2001, plaintiff submitted a response to the motion. On November 20, 2001, defendants/third-party plaintiffs submitted a reply to plaintiff's response. This matter is now before the court for a non-oral hearing upon defendants/third-party plaintiffs' motion for summary judgment.

Initially, the court *sua sponte* GRANTS the parties leave to file memoranda on or after October 30, 2001.

Civ.R. 56(C) states, in part, as follows:

> ***** Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact,**

> **if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. No evidence or stipulation may be considered except as stated in this rule. A summary judgment shall not be rendered unless it appears from the evidence or stipulation, and only from the evidence or stipulation, that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence or stipulation construed most strongly in the party's favor. ***

See, also, *Williams v. First United Church of Christ* (1974), 37 Ohio St.2d 150; *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317.

Plaintiff alleges that defendants/third-party plaintiffs are liable for their failure to warn plaintiff of, or to remove dangerous conditions associated with, an accumulation of ice on a walkway at the Ohio Expositions Center. Defendants/third-party plaintiffs contend that they were under no duty to warn plaintiff, as a business invitee, of the dangers associated with a natural accumulation of ice and snow, or to remove such a natural accumulation from private sidewalks or premises.

In Ohio, it is well-established that an owner or occupier of land ordinarily owes no duty to business invitees to remove natural accumulations of ice and snow from the private sidewalks on the premises, or to warn the invitee of the dangers associated with such natural accumulations of ice and snow. In *Debie v. Cochran Pharmacy-Berwick, Inc.* (1967), 11 Ohio St.2d 38,

paragraphs one and two of the syllabus, the Supreme Court of Ohio held:

> **1. When the owner or occupier of business premises is not shown to have notice, actual or implied, that the natural accumulation of snow and ice on his premises has created there a condition substantially more dangerous to his business invitees than they should have anticipated by reason of their knowledge of conditions prevailing generally in the area, there is a failure of proof of actionable negligence.**
>
> **2. The mere fact standing alone that the owner or occupier has failed to remove natural accumulations of snow and ice from private walks on his business premises for an unreasonable time does not give rise to an action by a business invitee who claims damages for injuries occasioned by a fall thereon.**

In *Sidle v. Humphrey* (1968), 13 Ohio St.2d 45, paragraphs one, two and three of the syllabus, the Supreme Court of Ohio held:

> **1. An occupier of premises is under no duty to protect a business invitee against dangers which are known to such invitee or are so obvious and apparent to such invitee that he may reasonably be expected to discover them and protect himself against them.**
>
> **2. The dangers from natural accumulations of ice and snow are ordinarily so obvious and apparent that an occupier of premises may reasonably expect that a business invitee on his premises will discover those dangers and protect himself against them. *****

> **3. Ordinarily, an owner and occupier has no duty to his business invitee to remove natural accumulations of snow and ice from private walks and steps on his premises. ***

The rationale underlying both *Debie* and *Sidle*, *supra*, is that individuals are assumed to expect the risks associated with natural accumulations of ice and snow and, therefore, are responsible for their own protection against such inherent risks.

In this case, the evidence shows that plaintiff was aware of the icy condition of the sidewalk. Furthermore, plaintiff provided deposition testimony that the outside temperature was approximately zero degrees when he arrived at the expositions center. Although plaintiff testified that he believed the walkway to be wet, the court finds the testimony to be without merit, given plaintiff's acknowledgment of the weather conditions.

Upon review, the court finds that there is no genuine issue of material fact and that defendants/third-party plaintiffs are entitled to judgment as a matter of law. Therefore, judgment shall be rendered in favor of defendants/third-party plaintiffs.

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JUDGE

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KRIS NUNN	:	
Plaintiff	:	**CASE NO. 2000-08575-PR**
v.	:	**JUDGMENT ENTRY**
DONALD E. SCOTT, et al.	:	
Defendants/Third-Party	:	**Plaintiffs**
	:	
v.		
	:	
OHIO EXPOSITIONS COMMISSION		
	:	
Third-Party Defendant		

: : : : : : : : : : : : : : : : :

Defendants/third-party plaintiffs' August 27, 2001, motion for summary judgment is hereby GRANTED and judgment is rendered in favor of defendants/third-party plaintiffs. Court costs are assessed against plaintiff. Defendants/third-party plaintiffs' third-party complaint is hereby *sua sponte* DISMISSED, without prejudice, pursuant to Civ.R. 41(A)(2). The clerk is directed to serve upon all parties notice of this judgment and its date of entry upon the journal.

The clerk is directed to return the original papers to the Franklin County Court of Common Pleas.

_____

JUDGE

Entry cc:

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KWP/cmd
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