[Cite as *Cisco v. Cleveland State Univ.*, 2003-Ohio-6036.]

IN THE COURT OF CLAIMS OF OHIO

SUSAN CISCO	:	
Plaintiff	:	
v.	:	CASE NO. 2003-05101-AD
CLEVELAND STATE UNIVERSITY	:	MEMORANDUM DECISION
Defendant	:	

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

{¶1} On May 19, 2001, plaintiff, Susan Cisco, suffered some personal injury when she slipped and fell upon a tile floor in a location identified as the Chester Building, a structure owned by defendant, Cleveland State University (CSU). Specifically, plaintiff claimed she slipped on a "smelly, sticky substance" of unknown origin deposited on the floor of the Chester Building. Plaintiff complained of pain in her right calf after her slip and fall. On June 2, 2001, plaintiff sought medical attention for any leg injury she may have suffered as a result of the May 19, 2001 incident. On June 4, 2001, plaintiff received additional medical attention. Plaintiff subsequently filed this complaint seeking to recover $2,500.00 for medical expenses and pain and suffering resulting from the May 19, 2001 occurrence. Plaintiff has contended her slip and fall event was proximately caused by negligence on the part of CSU in maintaining a dangerous condition on the floor area of the Chester Building.

{¶2} Included with documents in plaintiff's complaint was a description of the slip and fall injury occurrence. Plaintiff apparently drove to CSU and parked her car on the first level of the Chester Building Annex. After entering the Chester Building and conducting some business inside, plaintiff began to leave the building by the same path as she had

entered the building. Plaintiff walked along a carpeted hallway, moved down three steps to an intersection where she turned to the left, and eventually walked from an uncarpeted floor area onto a tiled floor. Seemingly, plaintiff took one step from the carpeted floor onto the tiled floor and fell. This slip and fall incident was supposedly caused by a foreign substance on the tile floor characterized by plaintiff as a "smelly, sticky substance." Puddles of this unidentified substance were present on the tile floor. After she fell plaintiff arose and walked through the hallway corridor navigating around mops and buckets which, according to plaintiff, were being utilized as barricades.

{¶3} Defendant acknowledged the area of the CSU Chester Building where plaintiff fell was mopped and waxed on the morning of May 19, 2001. However, defendant denied this maintenance activity created a hazardous condition with resulting liability. Furthermore, defendant asserted warning signs stating "Caution Wet Floor" were placed around the mopped and waxed floor area to warn pedestrian traffic, such as plaintiff, about the condition of the floor. Defendant explained when floors are mopped and waxed warning signs and barricades are positioned in the area as standard procedure. Defendant contended standard procedure was followed on May 19, 2001. Defendant argued plaintiff failed to establish her fall and resulting injury were proximately caused by any breach of a duty of care owed by CSU. Defendant asserted any danger presented by the condition of the floor at the Chester Building was open and obvious to plaintiff. Therefore, defendant insisted it cannot be held liable for plaintiff's damages claimed.

{¶4} On July 31, 2003, plaintiff filed a motion for extension of time to submit a response. On August 28, 2003, plaintiff filed a response to defendant's investigation report. Plaintiff contends she did not see any "wet floor" signs and she maneuvered around the barricade defendant had erected with mop buckets and mops after she fell.

{¶5} Plaintiff was present on defendant's premises for such purposes which would classify her under the law as an invitee. *Scheibel v. Lipton* (1985), 156 Ohio St. 308, 102 N.E. 2d 453. Consequently, defendant was under a duty to exercise ordinary care for the safety of invitees such as plaintiff and to keep the premises in a reasonably safe condition for normal use. *Presley v. City of Norwood* (1973), 36 Ohio St. 2d 29. The duty to

exercise ordinary care for the safety and protection of invitees such as plaintiff includes having the premises in a reasonably safe condition and warning of latent or concealed defects or perils which the possessor has or should have knowledge. *Durst v. VanGundy* (1982), 8 Ohio App. 3d 72; *Wells v. University Hospital* (1985), 86-01392-AD. As a result of plaintiff's status, defendant was also under a duty to exercise ordinary care in providing for plaintiff's safety and warning her of any condition on the premises known by defendant to be potentially dangerous. *Crabtree v. Shultz* (1977), 57 Ohio App. 2d 33.

{¶6} However, an owner of a premises has no duty to warn or protect an invitee of a hazardous condition, where the condition is so obvious and apparent that the invitee should reasonably be expected to discover the danger and protect herself from it. *Parsons v. Lawson Co.* (1989), 57 Ohio App. 3d 49; *Blair v. Ohio Department of Rehabilitation and Correction* (1989), 61 Ohio Misc. 2d 649. This rationale is based on principles that an open and obvious danger is itself a warning and the premises owner may expect persons entering the premises to notice the danger and take precautions to protect themselves from such dangers. *Simmers v. Bentley Constr. Co.* (1992), 64 Ohio St. 3d 642. In the instant claim, plaintiff has acknowledged the substance which caused her slip and fall was readily noticeable to her.

{¶7} To recover damages in a negligence action an invitee must establish:

{¶8} "1. That the defendant through its officers of employees was responsible for the hazard complained of; or

{¶9} "2. That at least one of such persons had actual knowledge of the hazard and neglected to give adequate notice of its presence or remove it promptly; or

{¶10} "3. That such danger had existed for a sufficient length of time reasonably to justify the inference that the failure to warn against it or remove it was attributable to a want of ordinary care." *Evans v. Armstrong*, (Sept. 23, 1999) Franklin App. No. 99AP-17, quoting *Johnson v. Wagner Provision Co.* (1943), 141 Ohio St. 584, 589.

{¶11} In the instant claim, plaintiff has failed to show defendant did not provide adequate warning of the wet floor. Evidence regarding the placement of warning signs does not appear to be in dispute. Plaintiff has failed to prove she did not receive adequate

warning of the floor condition. Consequently, plaintiff's claim is denied since plaintiff has failed to prove defendant breached a duty of care owed to her which resulted in the damages claimed.

{¶12} Plaintiff's motion for extension of time is MOOT. Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

_____
DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Richard W. Dunson
21851 Center Ridge Road
Suite 410
Rocky River, Ohio 44116

Attorney for plaintiff

Nancy J. Cribbs
University Legal Counsel
Cleveland State University
2121 Euclid Avenue
Cleveland, Ohio 44115

For Defendant

RDK/laa
9/5
Filed 10/17/03
Sent to S.C. reporter 11/10/03