

CONSTANCE L. McKINNEY,

Plaintiff

vs.

WEIS MARKETS, INC.,

Defendant

: IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA

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: NO. 01-00,904

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: MOTION FOR SUMMARY JUDGMENT

Date: June 28, 2002

OPINION and ORDER

Before the Court is Defendant’s Motion for Summary Judgment filed March 18, 2002. The Motion seeks to dismiss Plaintiff’s claims for injury, which she alleges, occurred when she slipped and fell on black ice in the Weis’ parking lot. Defendant preliminarily relies upon the argument that Plaintiff has not produced any evidence to support her claim that Weis Markets actually knew the small isolated patch of ice existed on its parking lot nor that there are any facts from which a fact finder could infer that they had constructive notice thereof.

Considering the briefs and arguments as well as the documentation supplied to this Court we find the Motion for Summary Judgment must be denied. It appears there is a genuine issue of fact as to whether or not Defendant did or did not ever inspect the parking lot at or near the time in question. There also is evidence offered by Plaintiff from which it may be inferred that the climatic conditions were such that this patch of ice would have been in existence for a sufficiently long period of time so as to allow Defendant to have discovered its presence, if it had made a reasonable inspection of the parking area.

Accordingly, the following Order will be entered.

ORDER

Defendant's Motion for Summary Judgment, filed March 18, 2002, is hereby DENIED. This matter shall be listed for arbitration in accordance with the prior Order of May 1, 2002.

BY THE COURT:

William S. Kieser, Judge

cc: Nancy Borgess, Court Scheduling
Lester L. Greevy, Jr., Esquire
James M. Wetter, Esquire
459 Wyoming Avenue; Kingston, PA 18704
Judges
Paul J. Petcavage, Law Clerk
Gary L. Weber, Esquire (Lycoming Reporter)