

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

**WILLIAM MOORE,**  
**Plaintiff**

vs.

**SUSQUEHANNA REGIONAL  
HEALTHCARE ALLIANCE t/d/b/a  
SUSQUEHANNA HEALTH SYSTEM,**  
**Defendant**

:  
: **No. 06-00800**  
:  
: **CIVIL ACTION – LAW**  
:  
:  
:  
: **Defendant’s Motion for**  
: **Summary Judgment**

**ORDER**

AND NOW, this \_\_\_ day of December 2007, the Court DENIES Defendant’s Motion for Summary Judgment. There are factual issues regarding the size and dimensions of the ‘hole’ in question. Plaintiff did not see the hole before he stepped in it. Although Plaintiff testified in his deposition that if his car had been out of the space and he were looking at an empty parking space, the hole would have been obvious; his car was in the parking space when he fell and he did not see the hole before he fell. This is not a situation where Plaintiff saw the hole and knowingly and voluntarily proceeded to encounter it. Furthermore, even when a danger is known and obvious, a possessor of land can still be found liable if the possessor should anticipate the harm despite such knowledge and obviousness. Rst (2d) of Torts, §343A. The court believes at the very least there is an issue for the jury whether Defendant should have anticipated the harm. The hole was in a parking space in the emergency room parking lot, and Plaintiff testified he was feverish and headed to the emergency room to determine whether he had pneumonia or some similar ailment. Therefore, although Defendant has a claim that Plaintiff was contributorily negligent, the Court finds Defendant is not entitled to summary judgment.

By The Court,

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Kenneth D. Brown,  
President Judge

cc: Brian Bluth, Esquire  
Joel Wiest, Esquire  
5 North Second Street, Sunbury, PA 17801  
Work file  
Gary Weber, Esquire (Lycoming Reporter)