IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

William D. Cliff,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 20 L 895
	)	
The University of Chicago Medical Center,	)	
	)	
Defendant.	)	

MEMORANDUM OPINION AND ORDER

Summary judgment is appropriate only if the record shows that the moving party's right to relief is clear and free from doubt. Here, genuine issues of material fact exist as to whether the defendant owed the plaintiff a duty and proximately caused his injuries. The defendant's summary judgment motion must, therefore, be denied.

Facts

On January 22, 2019, William Cliff slipped, fell, and was injured in the automatic revolving door at the entrance of the Duchossois Center for Advanced Medicine (DCAM). The University of Chicago Medical Center (UCMC) owns DCAM. On January 22, 2020, Cliff filed a one-count complaint asserting a claim of negligence against UCMC. On April 20, 2021, UCMC filed its answer, and the case proceeded to discovery. On June 3, 2022, UCMC filed a summary judgment motion that the parties fully briefed.

Cliff testified that on January 22, 2019, he went to DCAM for a doctor's appointment. On the way to his appointment—between 2:00 and 2:30 p.m.—it began to snow, sleet, and rain. Cliff arrived at approximately 2:30 p.m. and attempted to enter through the automatic revolving door. After entering the revolving door, Cliff observed that the door was moving slowly and then came to a stop while he was still inside. Cliff attempted to push the door, the force of which caused his foot to slip on an "icy, slushy buildup" that had accumulated inside the door. Cliff struck his right shoulder and chest in the fall.

On January 13, 2019, prior to the fall at issue in this case, Cliff had suffered a fall at his home, from which he reported injuries to his right shoulder, left elbow, and face. Cliff's treating physicians, Drs. Robert Strugala and William Heller, were both deposed for this case. Each testified that when they treated Cliff on January

28, 2022, they attributed his right shoulder injury to the first fall. Strugala also noted that when he evaluated Cliff's injuries on January 14, Strugala was concerned that Cliff had suffered a torn rotator cuff. Strugala also testified, however, that Cliff's fall into the revolving door may have caused or aggravated his injuries.

On February 1, 2022, Cliff received a medical resonance imaging (MRI) scan that confirmed he had suffered a full thickness rotator cuff tear with superior migration of the humeral head. Strugala testified that he was unable to discern from the MRI whether the injury was ten-days, two-weeks, or six-months old.

Analysis

The Code of Civil Procedure authorizes the issuance of summary judgment "if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." 735 ILCS 5/2-1005. The purpose of summary judgment is not to try a question of fact, but to determine whether one exists that would preclude the entry of judgment as a matter of law. *See Land v. Board of Educ. of the City of Chicago*, 202 Ill. 2d 414, 421, 432 (2002). A defendant moving for summary judgment may disprove a plaintiff's case by showing that the plaintiff lacks sufficient evidence to establish an element essential to a cause of action; this is the so-called "*Celotex* test." *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986), *followed Argueta v. Krivickas*, 2011 IL App (1st) 102166, ¶ 6. A court should grant summary judgment on a *Celotex*-style motion only when the record indicates the plaintiff had extensive opportunities to establish his or her case but failed in any way to demonstrate he or she could do so. *Colburn v. Mario Tricoci Hair Salons & Day Spas, Inc.*, 2012 IL App (2d) 110624, ¶ 33.

To determine whether a genuine issue as to any material fact exists, a court is to construe the pleadings, depositions, admissions, and affidavits strictly against the moving party and liberally in favor of the opponent. *See Adams v. Northern Ill. Gas Co.*, 211 Ill. 2d 32, 43 (2004). The inferences drawn in favor of the nonmovant must, however, be supported by the evidence. *Destiny Health, Inc. v. Connecticut Gen'l Life Ins. Co.*, 2015 IL App (1st) 142530, ¶ 20. A triable issue precluding summary judgment exists if the material facts are disputed, or if the material facts are undisputed but a reasonable person might draw different inferences from the undisputed facts. *Id.* Summary judgment may be granted only if the record shows that the moving party's right to relief is clear and free from doubt. *Robidoux v. Oliphant*, 201 Ill. 2d 324, 335 (2002). On the other hand, if no genuine issue of material fact exists, a court has no discretion and must grant summary judgment as a matter of law. *See First State Ins. Co. v. Montgomery Ward & Co.*, 267 Ill. App. 3d 851, 854-55 (1st Dist. 1994).

UCMC first argues that it had no duty to Cliff because there is no evidence that the icy, slushy buildup that allegedly caused his fall was an unnatural accumulation. A property owner generally has no common-law duty to remove natural accumulations of snow and ice because "it is unrealistic to expect property owners to keep all areas where people may walk clear from ice and snow at all times during the winter months." *Ordman v. Dacon Mgmt. Corp.*, 261 Ill. App. 3d 275, 281 (3d Dist. 1994); *see also Allen v. Cam Girls, LLC*, 2017 IL App (1st) 163340, ¶ 29; *McBride v. Taxman Corp.*, 327 Ill. App. 3d 992, 996 (1st Dist. 2002). For that reason, a plaintiff in a slip-and-fall case involving snow and ice must typically show that the accumulation of snow and ice was unnatural and that the property owner had actual or constructive notice of the condition. *See Hornacek v. 5th Ave. Prop. Mgmt.*, 2011 IL App (1st) 103502, ¶ 29. Illinois courts have held, however, that if a defendant creates the dangerous condition, the defendant's notice of it is either irrelevant and need not be proven, *see Caburnay v. Norwegian Amer. Hosp.*, 2011 IL App (1st) 101740, ¶ 45, or is presumed, *see Bernal v. City of Hoopeston*, 307 Ill. App. 3d 766, 772 (4th Dist. 1999) (quoting *Harding v. Highland Park*, 228 Ill. App. 3d 561, 571 (2d Dist. 1992)). All the plaintiff must prove is that the defendant negligently created the dangerous condition on its premises. *Reed v. Wal-Mart Stores, Inc.*, 298 Ill. App. 3d 712, 715 (4th Dist. 1998).

In *Schemonia v. Sandoval Sch. Dist. 501*, the Illinois Appellate Court reversed summary judgment for a defendant who had argued that the plaintiff had slipped on a natural accumulation. 2014 IL App (5th) 120514-U, ¶ 18. The court held that evidence of janitors mopping up tracked-in snow and water throughout the day was sufficient to permit a reasonable trier of fact to conclude that the defendant had created an unnatural accumulation or aggravated a natural accumulation. *See id.*, ¶ 17. Similarly here, Cliff alleges sufficient facts to permit a trier of fact to find that UCMC was responsible for creating an unnatural accumulation or aggravating a natural condition. *See id.; Bernard v. Sears, Roebuck & Co.*, 166 Ill. App. 3d 533, 535 (1st Dist. 1988). Specifically, Cliff has alleged that there was a slushy, icy buildup in the automatic revolving door. Even if that buildup had initially been caused by tracked-in water, snow, and ice—a natural accumulation—a jury could reasonably conclude that the constant turning of the door aggravated the condition by spreading those substances around the floor. Further, whether the buildup was natural or unnatural is not the only material issue in this case because Cliff testified that the automatic door stopped while he was inside it. A jury could thus reasonably infer that the automatic door was not reasonably maintained because Cliff had to exert force against the door to get it to move so that he could enter the lobby.

UCMC's second argument—that it had no notice of the door's dangerous condition—fails because Cliff does not need to prove the notice element if he proves that UCMC created the dangerous condition. *See Caburnay*, 2011 IL App (1st) 101740, ¶ 45. Here, genuine issues of material fact exist as to whether UCMC's

door spread the slushy, icy buildup across the floor or stopped because it was unreasonably maintained, thereby creating the dangerous condition. UCMC's third and final argument posits that it did not proximately cause Cliff's injuries on January 22, 2019, because his injuries resulted from his January 13, 2019, fall at home. The record on this fact, including Cliff's MRI on February 1, is inconclusive; however, Strugala testified that Cliff's striking his shoulder in a fall, as occurred to Cliff on January 22, 2019, could have caused or aggravated a previous rotator cuff injury. In sum, the record is simply insufficient to determine as a matter of law whether UCMC caused or aggravated Cliff's injuries.

Conclusion

For the reasons presented above, it is ordered that:

The defendant's summary judgment motion is denied.

John H. Ehrlich, Circuit Court Judge

Judge John H. Ehrlich

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