STATE OF MICHIGAN

COURT OF CLAIMS

TRISTA SHUTTLEWORTH,

Plaintiff,

v

Case No. 25-000104-MZ

EASTERN MICHIGAN UNIVERSITY and EASTERN MICHIGAN UNIVERSITY BOARD OF REGENTS,

Hon. James Robert Redford

Defendants.
_____/

OPINION AND ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY DISPOSITION

Plaintiff, Trista Shuttleworth, filed this negligence and premises liability lawsuit after she was injured from falling on a sidewalk in a parking lot on the campus of Eastern Michigan University (EMU). Defendants, EMU and the EMU Board of Regents, move for summary disposition under MCR 2.116(C)(7) and (8), arguing that they are entitled to immunity in relation to plaintiff's claims or, alternatively, that plaintiff failed to state a claim on which relief may be granted. The Court agrees with defendants that governmental immunity bars plaintiff's claims. Therefore, the Court GRANTS the motion for summary disposition and DISMISSES the complaint with prejudice.

I. BACKGROUND

On April 27, 2024, plaintiff, an EMU student, attended her graduation ceremony at the Convocation Center on EMU's campus. After the ceremony, plaintiff started to walk to her vehicle, which was parked in a parking lot near the Convocation Center. According to plaintiff, she walked on a "long sidewalk that connects the Convocation Center to the parking lot." There is no dispute that both the sidewalk and the parking lot were on EMU's property. Plaintiff alleges that she fell on an uneven part of the sidewalk, which she alleges had a vertical discontinuity of 2 inches. Plaintiff alleges she filed an incident report with EMU before filing this lawsuit. There is no dispute plaintiff filed a timely notice of intent.

Plaintiff filed this lawsuit in June 2025, raising claims for "general and active negligence" and premises liability against both defendants. She pleaded that her claims fell within several exceptions to governmental immunity outlined in the governmental tort liability act (GTLA), MCL 691.1401 *et seq.*, but later limited her claims to falling under the exception for failure to maintain a public sidewalk, MCL 691.1402a.

Defendants move for summary disposition at the outset of the case, arguing, in relevant part, that plaintiff's claims are barred by governmental immunity and do not state a claim for relief. Defendants argue that EMU is not a proper defendant in this case under MCL 390.555 because EMU is not a "body corporate" capable of being sued in its own name. Defendants further argue that they are immune from plaintiff's tort claims under the GTLA and that none of the exceptions to governmental immunity cited in plaintiff's complaint apply in this case. Specifically, defendants argue that (1) the sidewalk exception does not apply to a public university, which is not a "municipal corporation;" (2) plaintiff does not plead facts to show actual or constructive knowledge of the condition, as required under MCL 691.1402a(2); and (3) the photographs

plaintiff attached to her complaint do not show a vertical discontinuity of at least 2 inches, as required under MCL 691.1402a(3)(a).[1]

Plaintiff responds by acknowledging EMU is not a proper party to the lawsuit. However, she argues that EMU's Board of Regents is a proper defendant. Plaintiff further argues that the EMU Board of Regents is not immune from the tort claims because the sidewalk exception applies in this case. She argues that the EMU Board of Regents is a municipal corporation and that defendants admitted this fact in their motion for summary disposition. She further argues that the sidewalk in question leads from the Convocation Center to Hewitt Road and is therefore a sidewalk adjacent to a municipal, county, or state highway.

Defendants reply by again emphasizing that they are not municipal corporations for purposes of the sidewalk exception to governmental immunity. They deny admitting that the EMU Board of Regents is a municipal corporation. Because the briefing is sufficient to address the issues, the Court dispenses with oral argument under Court of Claims LCR 2.119(E)(3).

II. STANDARD OF REVIEW

Defendants move for summary disposition under MCR 2.116(C)(7) (immunity) and (8). Because the Court concludes that the immunity issue is dispositive, the Court reviews the merits of the motion under MCR 2.116(C)(7). Summary disposition under MCR 2.116(C)(7) is granted when the plaintiff's claims are barred by governmental immunity. *Milot v Dep't of Transp*, 318

[1] Defendants raise arguments about several other exceptions to governmental immunity identified in plaintiff's complaint. However, plaintiff concedes in her response brief that no other exception to governmental immunity applies in this case. So the Court will not discuss those arguments further.

Mich App 272, 275; 897 NW2d 248 (2016). The Court will "accept as true all of the plaintiff's well-pleaded factual allegations and construe them in favor of the plaintiff unless disputed by documentary evidence submitted by the moving party." *Norman v Dep't of Transp*, 338 Mich App 141, 146; 979 NW2d 390 (2021). "The court must consider any affidavits, depositions, admissions, or other documentary evidence submitted, and the court must determine whether there are any genuine issues of material fact." *Id.* When no facts are in dispute, or reasonable minds could not disagree about the legal effect of the facts, then the question becomes one of law. *Id.* at 146-147. Plaintiff attaches several exhibits to her complaint, including photographs of the sidewalk in question, which are considered part of the pleading. See MCR 2.113(C)(1) and (2).

Because resolution of the motion requires interpretation of the GTLA, the Court is guided by the following principles:

> When interpreting a statute, [the] foremost rule of construction is to discern and give effect to the Legislature's intent. Because the language chosen is the most reliable indicator of that intent, [this Court will] enforce clear and unambiguous statutory language as written, giving effect to every word, phrase, and clause. If the statutory provision at issue is clear and unambiguous, it must be enforced as written, and no judicial construction is permitted or required. [*Lockport Twp v Three Rivers*, 319 Mich App 516, 520; 902 NW2d 430 (2017) (quotation marks and citations omitted; first alteration in original).]

III. SIDEWALK EXCEPTION TO GOVERNMENTAL IMMUNITY

At the outset, plaintiff concedes that EMU is not a proper defendant in this case. Therefore, the Court GRANTS summary disposition in favor of EMU and DISMISSES EMU as a defendant under MCR 2.116(C)(8). As for the EMU Board of Regents, the Court concludes that this defendant is entitled to governmental immunity from tort liability because it was engaged in the exercise or discharge of a governmental function, and plaintiff cannot establish that an exception

to governmental liability applies in this case. Therefore, the Court GRANTS summary disposition in favor of the EMU Board of Regents under MCR 2.116(C)(7).

Plaintiff pleads two tort claims against the EMU Board of Regents. The GTLA, MCL 691.1407(1), provides, in relevant part, that "a governmental agency is immune from tort liability if the governmental agency is engaged in the exercise or discharge of a governmental function." Thus, a plaintiff seeking to overcome governmental immunity for tort liability must establish that the governmental defendant either committed the alleged tort outside of the exercise or discharge of a governmental function or that the tort falls within one of the exceptions stated in the GTLA. *Genesee Co Drain Comm'r v Genesee Co*, 309 Mich App 317, 327; 869 NW2d 635 (2015). The Court must broadly construe the scope of governmental immunity and narrowly construe the exceptions. *Milot*, 318 Mich App at 276. "Governmental immunity is a characteristic of government, and plaintiffs bringing suit against the government must plead to avoid the government's immunity." *Margaris v Genesee Co*, 324 Mich App 111, 116; 919 NW2d 659 (2018).

Plaintiff does not dispute that defendants were engaged in the exercise or discharge of a governmental function. In her response brief, she acknowledges that the public highway, proprietary function, and intentional tort exceptions to governmental immunity cited in her complaint do *not* apply in this case, leaving the sidewalk exception as the sole exception at issue.

The sidewalk exception, MCL 691.1402a, provides, in relevant part:

> (1) A municipal corporation in which a sidewalk is installed adjacent to a municipal, county, or state highway shall maintain the sidewalk in reasonable repair.

(2) A municipal corporation is not liable for breach of a duty to maintain a sidewalk unless the plaintiff proves that at least 30 days before the occurrence of the relevant injury, death, or damage, the municipal corporation knew or, in the exercise of reasonable diligence, should have known of the existence of the defect in the sidewalk.

(3) In a civil action, a municipal corporation that has a duty to maintain a sidewalk under subsection (1) is presumed to have maintained the sidewalk in reasonable repair. This presumption may only be rebutted by evidence of facts showing that a proximate cause of the injury was 1 or both of the following:

(a) A vertical discontinuity defect of 2 inches or more in the sidewalk.

(b) A dangerous condition in the sidewalk itself of a particular character other than solely a vertical discontinuity.

(4) Whether a presumption under subsection (3) has been rebutted is a question of law for the court.

(5) In a civil action, a municipal corporation that has a duty to maintain a sidewalk under subsection (1) may assert, in addition to any other defense available to it, any defense available under the common law with respect to a premises liability claim, including, but not limited to, a defense that the condition was open and obvious.

Defendants argue that the sidewalk exception does not apply to a public university, which is not a "municipal corporation" for purposes of MCL 691.1402a(1). The Court agrees and further concludes that the sidewalk exception does not apply because the sidewalk in question was not adjacent to a municipal, county, or state highway.

MCL 691.1402a applies specifically to "municipal corporations" and applies to sidewalks that are "installed adjacent to a municipal, county, or state highway." MCL 691.1402a(1). The GTLA defines the term "municipal corporation" to mean "a city, village, or township or a combination of 2 or more of these when acting jointly." MCL 691.1401(d). This is different from a "governmental agency," which means "this state or a political subdivision." MCL 691.1401(a).

The "State" is defined as "this state and its agencies, departments, commissions, courts, boards, councils, and statutorily created task forces," and "includes a public university or college of this state, whether established as a constitutional corporation or otherwise." MCL 691.1401(g). Thus, public universities such as EMU fall within the definition of the State. In contrast, a municipal corporation is included within the definition of a "political subdivision" of the State, and "political subdivision" is defined as

> a municipal corporation, county, county road commission, school district, community college district, port district, metropolitan district, or transportation authority or a combination of 2 or more of these when acting jointly; a district or authority authorized by law or formed by 1 or more political subdivisions; or an agency, department, court, board, or council of a political subdivision. [MCL 691.1401(e).]

Also relevant to this case, the GTLA defines the term "highway" to mean "a public highway, road, or street that is open for public travel," which includes, "a bridge, sidewalk, trailway, crosswalk, or culvert on the highway." MCL 691.1401(c). Except as used in the definition of "highway," a "sidewalk" means "a paved public sidewalk intended for pedestrian use situated outside of and adjacent to the improved portion of a highway designed for vehicular travel." MCL 691.1401(f).

Starting with the issue whether the EMU Board of Regents is a municipal corporation, plaintiff contends that defendants "admitted" in their motion for summary disposition that the EMU Board of Regents is a municipal corporation. However, defendants argue the direct opposite in their motion for summary disposition: "The University is not a city, village, or township. Instead, a 'public university' is included in the definition of a 'state.' " Therefore, defendants did not waive this argument in their motion for summary disposition.

On the merits, the Court concludes that the EMU Board of Regents, as part of the State, has no statutory duty to repair or maintain sidewalks for purposes of this exception to governmental immunity. The Legislature chose not to impose liability on a "governmental agency" or the "State." Instead, the Legislature imposed liability under the sidewalk exception only on "municipal corporations." MCL 691.1402a(1). The EMU Board of Regents is not a city, township, or village. So it is not a municipal corporation. The fact that the Legislature chose to give "municipal corporation" a specific definition and apply that definition in the context of the sidewalk exception supports a legislative intent to exclude public universities (and other entities falling within the definition of the State) from those entities liable for defective sidewalk conditions. Therefore, plaintiff's tort claims are barred by governmental immunity because the EMU Board of Regents is not a municipal corporation, and the sidewalk exception does not apply in this instance. See *id.*

Even if the EMU Board of Regents could be considered a municipal corporation, the sidewalk exception would not apply because the sidewalk in question led from the Convocation Center into a parking lot and was not adjacent to a public highway. Plaintiff argues that the sidewalk was adjacent to a municipal, county, or state highway because the sidewalk "leads from the convocation center all the way to Hewitt Road." Plaintiff cites the photographs she attached to her complaint as support for her contention. The photographs attached to the response brief and the complaint show that the alleged defect in question was on a sidewalk that was adjacent to a parking lot on one side and a grassy area on the other side. In the distance, the sidewalk connects with the Convocation Center. There is no public highway visible in the photographs.

Even assuming the sidewalk at some point after passing the parking lot connects to a public highway, plaintiff's interpretation of the sidewalk exception is not supported by the language of the GTLA. The GTLA defines a sidewalk as including the paved sidewalk "intended for pedestrian use situated outside of and adjacent to the improved portion of a highway." The Legislature's choice to define a sidewalk as being "situated outside of" and "adjacent to" the highway suggests that the portion of the sidewalk on which the plaintiff was injured must be the portion of the sidewalk adjacent to, i.e. beside or near, the highway. Additionally, the Michigan Court of Appeals has held that a driveway and a parking lot on municipal property are not public highways. *Richardson v Warren Consol Sch Dist*, 197 Mich App 697, 704-705; 496 NW2d 380 (1992) (holding that parking lot and public school driveway did not fall within the meaning of a "public highway" for purposes of the public highway exception under the GTLA).[2] The fact that a parking lot is not a public highway supports that a sidewalk leading from a building to a parking lot is not "adjacent to" a public highway.

In *Haaksma v Grand Rapids*, 247 Mich App 44, 55; 634 NW2d 390 (2001), the Court of Appeals held that the sidewalk where the plaintiff was injured was not adjacent to a public roadway

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[2] *Richardson* predated the enactment of MCL 691.1402a and involved the public highway exception, but at the time the case was decided, "[m]unicipalities [were] liable for defective construction or maintenance of public highways, roads, and streets open for public travel, including bridges, sidewalks, crosswalks, and culverts on the highway." *Richardson*, 197 Mich App at 704. See also *Mann v Detroit*, 21 NW3d 451, 452 (Mich, 2025) (explaining that before the enactment of the current version of MCL 691.1402a in 2012, "municipalities may have been held liable for defective public sidewalks under the highway exception to governmental immunity, MCL 691.1402, because the GTLA previously defined the term 'highway' to include sidewalks. . .").

when it ran between a parking lot and a private building.[3] In that case, the sidewalk where the plaintiff stepped on exposed electrical wires and was injured was connected to two public roadways, but the incident occurred on the portion of the sidewalk adjacent to a parking lot and a private building, which the Court of Appeals held was not "beside or near" the public streets. *Id.* at 55 n 5. The Court reached this conclusion despite the plaintiff's claim that the sidewalk was short and " 'part of one interconnected sidewalk system' " and emphasized that the portion of the sidewalk where the plaintiff fell was not adjacent to the public roadway. *Id.* at 55.

A comparable situation exists in this case. Although the sidewalk in question may have eventually connected to or become adjacent to a public roadway, the photographs show that the area of the sidewalk where plaintiff fell was adjacent to a parking lot on one side and a grassy area on the other. Because a parking lot is not considered a public highway, the sidewalk in question was not adjacent to a public highway for purposes of the sidewalk exception. Therefore, plaintiff cannot establish that the sidewalk exception applies in this instance. Plaintiff has not pleaded in avoidance of governmental immunity in relation to the EMU Board of Regents, and the EMU Board of Regents is entitled to summary disposition under MCR 2.116(C)(7).[4]

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[3] Although *Haaksma* predated the current version of the sidewalk exception and involved an earlier iteration of the public highway exception, the key issue in that case was whether the sidewalk was "adjacent to" a public highway, which is also the key issue in this case. *Haaksma*, 247 Mich App at 55-56. *Haaksma* therefore supports that the sidewalk in question in this case is *not* adjacent to a public highway.

[4] Because the Court concludes that the sidewalk exception does not apply to the facts of this case, the Court will not address defendants' argument about the vertical discontinuity defect depicted in plaintiff's photographs, and the Court need not reach the issue whether plaintiff stated a claim on which relief may be granted in relation to her negligence or premises liability claims.

IT IS ORDERED:

1. Defendants' motion for summary disposition is GRANTED under MCR 2.116(C)(7) for defendant EMU Board of Regents and under MCR 2.116(C)(8) for defendant EMU.

2. Plaintiff's complaint is DISMISSED WITH PREJUDICE.

3. This order resolves the last pending claim and closes the case.

Date: May 8, 2026

James Robert Redford
Judge, Court of Claims

