# STATE OF MICHIGAN

# COURT OF CLAIMS

ELLY BELMORE,

Plaintiff,

v

Case No. 26-000058-MZ

WAYNE STATE UNIVERSITY, a Michigan University, and CITY OF DETROIT, a municipal governmental agency,

Hon. Michael F. Gadola

Defendants.
_____ /

**OPINION AND ORDER GRANTING DEFENDANT WAYNE STATE UNIVERSITY'S MOTION FOR SUMMARY DISPOSITION AND DISMISSING CASE**

Plaintiff filed this lawsuit against defendants Wayne State University and City of Detroit after she fell and suffered personal injuries on a public sidewalk on June 30, 2025. The Court dismissed the claims against the City of Detroit under MCL 600.6419(a) of the Court of Claims Act (COCA), MCL 600.6401 *et seq*., without prejudice and without limiting plaintiff's ability to file suit against the City of Detroit in the circuit court.

According to plaintiff's complaint, she was walking on the sidewalk at 5700 Cass Avenue in the City of Detroit when she tripped on a "piece of metal screwed/fastened into" the sidewalk and suffered injuries as a result of the dangerous and defective condition of the sidewalk. Plaintiff sued both the University and the City of Detroit, asserting that each had "exclusive ownership and/or, maintenance and/or, management and or, possession and/or control" of the sidewalk. Her complaint purports to assert a claim for premises liability premised on ownership, possession, or

control of the sidewalk,[1] as well as a claim of liability under MCL 691.1402a of the Governmental Tort Liability Act (GTLA), MCL 691.1401 *et seq*.

The University moved for summary disposition under MCR 2.116(C)(7), (8), and (10) on April 29, 2026. Under Court of Claims LCR 2.119(C)(2), plaintiff's response to the motion had to be filed and served within 14 days of April 29. Plaintiff has not filed a response to the motion. "The failure to file a response to a motion will result in the treatment of the motion as uncontested." LCR 2.119(C)(3). The University's motion is, therefore, treated as uncontested.

The University first requests summary disposition under MCR 2.116(C)(7) because plaintiff did not file a notice of intent or a claim within six months of the event that gives rise to the claim as a condition precedent to suing a state entity under MCL 600.6431(4) of the COCA. Under MCR 2.116(C)(7), summary disposition is appropriate when "immunity granted by law" bars the plaintiff's claims. In assessing a motion under that rule, the Court must review the "affidavits, pleadings, and other documentary evidence," to determine whether immunity applies as a matter of law. *McLean v Dearborn*, 302 Mich App 68, 72-73; 836 NW2d 916 (2013). If "no facts are in dispute" and if "reasonable minds could not differ regarding the legal effect of those facts, whether the claim is barred is an issue of law for the court." *Dextrom v Wexford Co*, 287 Mich App 406, 429; 789 NW2d 211 (2010). Immunity is the applicable defense when a governmental entity seeks summary disposition for failure to comply with the notice requirements of the COCA. *McCahan v Brennan*, 492 Mich 730, 736-738; 822 NW2d 747 (2012).

[1] The Counts in plaintiff's complaint are not labeled. Counts I and II together appear to raise a claim of premises liability.

The Court takes judicial notice of the documents filed with the clerk of this Court. Plaintiff filed a properly verified notice of intent to file a claim with the clerk of this Court on August 25, 2025—just under two months after her alleged trip and fall. Despite the uncontested nature of the University's motion, the Court cannot grant summary disposition to the University under MCR 2.116(C)(7) on the basis of the notice provisions of the COCA.

The University also requests summary disposition under MCR 2.116(C)(7) and (8) on the basis that it does not have a duty to repair the sidewalk under MCL 691.1402a. A motion under MCR 2.116(C)(8) tests the legal sufficiency of a claim based on the pleadings alone. *Bailey v Schaaf*, 494 Mich 595, 603; 835 NW2d 413 (2013). In deciding a motion under subrule (C)(8), the court must accept as true the plaintiff's allegations in the complaint. *Id*. The motion is properly granted "if no factual development could justify the plaintiff's claim for relief." *Id*. (quotation marks and citation omitted).

Under the GTLA, "[a] municipal corporation in which a sidewalk is installed adjacent to a municipal, county, or state highway shall maintain the sidewalk in reasonable repair." MCL 691.1402a(1). The GTLA defines "municipal corporation" as "a city, village, or township, or a combination of 2 or more of these when acting jointly." MCL 691.1401(d). The University is not a city, village, or township. MCL 691.1402a does not apply to the University. Because the University is not assigned responsibility for maintaining the sidewalk at issue under the GTLA, no factual development could justify plaintiff's claim under MCL 601.1402a. The Court therefore GRANTS the University's uncontested motion for summary disposition under MCR 2.116(C)(8).

To the extent that plaintiff's complaint raises a premises liability claim premised on ownership or possession of the sidewalk, the University requests summary disposition under MCR

2.116(C)(10). A motion under MCR 2.116(C)(10) "tests the *factual sufficiency* of a claim." *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 60; 934 NW2d 665 (2019). When evaluating such a motion, the Court must consider "affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties" in "the light most favorable to the party opposing the motion." *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999). If that evidence does not establish a genuine issue of material fact, summary disposition is appropriate. *Jewett v Mesick Consol Sch Dist*, 332 Mich App 462, 470; 957 NW2d 377 (2020). "If no facts are in dispute, and if reasonable minds could not differ regarding the legal effect of those facts, whether summary disposition is proper is a question of law for the Court." *Miller Estate v Angels' Place, Inc*, 334 Mich App 325, 330; 964 NW2d 839 (2020). "Whether a defendant owes a plaintiff a duty of care is a question of law." *Hill v Sears, Roebuck and Co*, 492 Mich 651, 659; 822 NW2d 190 (2012). Because the University has submitted documentary evidence in support of its argument, the Court will consider the motion under MCR 2.116(C)(10).

It is well-established that "[a]ll negligence actions, including those based on premises liability, require a plaintiff to prove four essential elements[,]" and one of those elements is duty. *Kandil-Elsayed v F & E Oil, Inc*, 512 Mich 95, 111; 1 NW3d 44 (2023). An action for premises liability arises when a landowner fails in its duty of care to make the premises reasonably safe for invitees. *James v Alberts*, 464 Mich 12, 19-20; 626 NW2d 158 (2001). The duty to make a premises safe requires the owner or possessor of the land to "inspect the premises and, depending upon the circumstances, make any necessary repairs or warn of any discovered hazards." *Id*. (quotation marks and citation omitted).

The University presented with its motion the affidavit of Bradley Dick, Senior Associate Vice President for Finance and Business Affairs and Deputy Chief Business officer at the

University. Mr. Dick stated in his affidavit that the sidewalk where plaintiff alleges the incident occurred is a public sidewalk that is owned and maintained by the City of Detroit. He stated that the University did not have possession or control over the sidewalk and was not responsible for inspection, repair, or maintenance of the sidewalk surface and related sidewalk fixtures. He also stated that the University did not "install or remove a sign or pole and did not leave the metal base/'seat' in the sidewalk." Plaintiff presented no evidence to contradict the University's evidence that the University does not own or possess the sidewalk such that the University had a duty of care.[2] The Court therefore also GRANTS the University's uncontested motion for summary disposition of plaintiff's premises liability claim under MCR 2.116(C)(10).

IT IS SO ORDERED. This is a final order that resolves the last pending claim and closes the case.

Date: June 25, 2026

Hon. Michael F. Gadola
Chief Judge, Court of Claims

[2] Even if the University owned, possessed, or controlled the sidewalk, plaintiff has not pleaded in avoidance of governmental immunity because she failed to state a claim that fits one of the statutory exceptions to governmental immunity. *Eplee v City of Lansing*, 327 Mich App 635, 644; 935 NW2d 104 (2019).