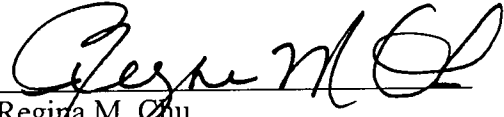


LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Regina M. Chu", written over a horizontal line.

Regina M. Chu
Judge of District Court

Dated: December 1, 2009

MEMORANDUM

I. INTRODUCTION

In this case, Plaintiff allegedly slipped and fell on glare ice in a parking lot operated by the defendant municipality. The municipality contends that it is not liable for Plaintiff's injuries due to the nature and formation of the ice on which Plaintiff fell, its alleged lack of notice regarding that ice, and the discretionary immunity tort liability exception for municipalities.

II. FACTUAL BACKGROUND

Plaintiff Diane Letta worked at the Minneapolis-St. Paul International Airport as a transportation security officer for the Transportation and Security Administration ("TSA"). Defendant Metropolitan Airports Commission ("MAC") owns and operates the airport and is responsible for maintaining its parking lots, ramps, sidewalks, and streets. MAC employs its own maintenance personnel to upkeep these areas. In addition, when there is a snowfall of two inches or more ("an event"), MAC relies on independent contractors to remove snow from the lots and ramps. Specifically, MAC contracted with Ron Kassa Construction, Inc. to provide snow removal services in Employee Parking Lot A ("Lot A") and B when an event occurred. MAC employees, though, were still responsible for salting and sanding Lot A and B.

There were three snow events during the week of March 13, 2006: on Monday, March 13, 9.9 inches of snow fell; on Wednesday, March 15, 2.8 inches of snow fell; and on Thursday, March 16, another 5.8 inches fell. On March 17, 2006, the reported high temperature for the Twin Cities area was 36 degrees and a 12 degree low, and on March 18, the low was 13 degrees. During this week, Ron Kassa performed snow removal on,

among other areas, Lot A. MAC employees also allegedly sanded and salted Lot A on March 16 and 17.

On Saturday March 18, 2006, Plaintiff Diane Letta drove to the airport and parked her vehicle in Lot A around 3:20 a.m. During that time of the year, TSA employees were directed to park in Lot A and then ride a shuttle bus to the terminal. Plaintiff exited her vehicle and walked towards the bus shelter. Plaintiff walked through the rows of parked cars and into the open driving area of the parking lot. After walking out of the area of the parked cars and upon entering the open driving area, Plaintiff noted the changed ice condition and adjusted her mode of walking by taking small steps like, as Plaintiff described, a duck. (Dep. of Diane M. Letta, at 17:25-18-2, Aug. 28, 2009.) While walking in this open driving area, Plaintiff slipped and fell, sustaining injuries.

According to Plaintiff, Lot A's surface conditions varied between the rows of parked cars and the open driving area. Plaintiff described the area between the parked cars as "snow packed . . . and which had turned to ice mounds." (*Id.* at 17:18-19.) She stated that ruts had formed from the parked vehicles and that the surface was "lumpy and all uneven." (*Id.* at 19:5-7.) Plaintiff stated that the snow packed condition ended at the parked cars, after which ice began and covered the driving area of the lot. Plaintiff described the driving area as having "slick ice everywhere." (*Id.* at 17:22.)

Regarding the surface Plaintiff slipped on, Plaintiff does not claim any ice/snow obstructions or irregularities caused her fall. Instead, she claims that she slipped on "glare ice." Plaintiff described the ice as "runoff," where snow had melted during warmer temperatures, drained across the driving area, and then refroze during the night. (*Id.* at 14:23-15:4, 19:20-24.) She described the surface as "sheet glare ice." (*Id.* at

19:24.) Plaintiff had also described the ice as “smooth,” “glare ice,” and without having snow on it. (Statement of Diane Letta, April 5, 2006, at 14.) Plaintiff also claimed that she did not see any salt or sand on the ice. (Letta Dep. at 20:6.)

Debra Anderson, a fellow TSA employee, found Plaintiff lying on the ground after her fall. Ms. Anderson likewise differentiated between the surface conditions around the parked cars and the open driving areas, and she also described how melting snow and refreezing water caused ice to spread out into the traveled surfaces areas of the lot. (Aff. of Debra Anderson, at ¶ 6.) Ms. Anderson did not describe the exact spot where Plaintiff fell, other than to state that Plaintiff “was surrounded by ice—both sheet glare ice and ice with irregularities, depressions, and ridges which had accumulated over the several days and since the last snowfall . . .” (*Id.* at ¶ 8.) With regard to salt and sand, Ms. Anderson and Dennis Cordle, another TSA employee who helped Plaintiff after her fall, stated that there was no sand or salt in the parking lot. (Anderson Aff., at ¶ 9; Dep. of Denis Cordle, at 10:19-24, Sept. 11, 2009.)

Plaintiff brought this action against MAC alleging negligence, and MAC now moves for summary judgment.

III. SUMMARY JUDGMENT STANDARDS

Summary judgment is appropriate when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no issue as to any material fact and that either party is entitled to judgment as a matter of law.” Minn. R. Civ. P. 56.03. A material issue of fact is one that would affect the outcome of the case. *Rathbun v. W.T. Grant Co.*, 219 N.W.2d 641, 646 (Minn. 1974). To successfully oppose a motion for summary judgment, a party cannot rely upon mere

general statements of fact but must demonstrate specific facts are in evidence that create a genuine issue for trial. *Erickson v. General United Life Ins. Co.*, 256 N.W.2d 255, 258-59 (Minn. 1977).

IV. ANALYSIS

A. “Mere Slipperiness” Rule

MAC, a municipality pursuant to Minnesota Statutes section 466.01, owes a duty to the public to exercise reasonable care in the maintenance of sidewalks and other public ways in a safe condition for the traveling public. *Larson v. City of Mankato*, 59 N.W.2d 312, 313 (Minn. 1953). This duty extends to the elimination of dangerous conditions caused by accumulations of ice and snow. *Bury v. City of Minneapolis*, 102 N.W.2d 706, 708 (Minn. 1960). Minnesota law distinguishes between falls occurring on “newly formed glaze ice” and falls sustained where a municipality “negligently permits an accumulation of ice and snow to remain on a [surface] for such a period of time that slippery and dangerous ridges, hummocks, depressions, and other irregularities develop there.” *Doyle v. City of Roseville*, 524 N.W.2d 461, 464 (Minn. 1994). Under this distinction, municipalities are not liable where an injury results from the “mere slipperiness” of the surface. *Id.* (reversing court of appeals and reinstating trial court’s grant of summary judgment to defendant city based on mere slipperiness rule where plaintiff fell in a parking lot on newly formed glare ice). In contrast, a municipality may be held liable where the injury results from snow/ice ridges, hummocks, depressions, and other surface irregularities. *Id.* The policy of the mere slipperiness rule is based on the impracticality of expecting municipalities to eliminate all ice from surfaces, particularly within the context of Minnesota’s cold climate. *Henkes v. City of Minneapolis*, 44 N.W.

1026, 1027 (Minn. 1890). To require a municipality to keep its surfaces entirely free of ice would be a “physical impossibility” and would “bankrupt any city.” *Id.*

The Minnesota Supreme Court has stated that “[a] municipality has never been held liable for injuries sustained in a fall on newly formed glare ice . . .”, *Doyle*, 524 N.W.2d at 463, and has commented that “a municipality is not required to guard against mere slipperiness caused by a natural flow of water from melted ice and snow.” *Bury*, 102 N.W.2d at 708. In *Doyle*, the plaintiff slipped in the City of Roseville’s hockey arena parking lot on glare ice. 524 N.W.2d at 462. During the day of her fall, the temperature rose above freezing and water from melted snow ran across the parking lot. *Id.* Later in the evening at the time of the plaintiff’s fall, the temperature had dropped and the running water had turned to what the plaintiff described as smooth glare ice. *Id.* at 362, 364. The supreme court noted that the plaintiff had alleged the ice was smooth—not ridged. *Id.* Because the plaintiff slipped on smooth, glare ice, the mere slipperiness rule applied, and the supreme court reinstated the trial court’s grant of summary judgment to the City of Roseville. *Id.* at 364.

Facts similar to *Doyle* exist in this case. There is no factual dispute regarding the nature of the surface on which Plaintiff slipped and fell—as in *Doyle*, Plaintiff alleges she slipped on “smooth,” “sheet glare ice.” Like *Doyle*, the temperature during the day of Plaintiff’s fall had risen above freezing, but then cooled later in the evening. Plaintiff even described that the ice formed when water from melted snow ran into the open driving area of Lot A and then refroze during the cold night. While Plaintiff stresses that there were rough ice accumulations in the form of ridges, depressions, and other irregularities between the parked cars in the *parking* area of Lot A, the relevant focus is

on the ice Plaintiff actually slipped on, and Plaintiff undisputedly slipped in the open *driving* area of Lot A on smooth, glare ice. *See e.g. id.* at 462 (focusing on the parking lot ice at the point of the slip and fall); *Bury*, 102 N.W.2d at 707 (“There was no other evidence as to the existence of hummocks, ruts, or depressions caused by ice and snow *at the place where the plaintiff fell.*”) (emphasis added); *Bufkin v. City of Duluth*, 291 N.W.2d 225, 394 (Minn. App. 2000) (“The sidewalk where [Plaintiff] fell was not obstructed; it was only slippery.”); *see also Kuehl v. Metropolitan Airports Commission*, 2007 WL 2034434, *4 (Minn. App. 2007) (stating that “the slip and fall here occurred in a portion of a parking ramp used by vehicles, not in front of a dedicated, heavily used pedestrian walkway, let alone a building entrance.”). Accordingly, the mere slipperiness rule requires the entry of summary judgment in favor of the MAC. As the Court has granted summary judgment on that ground, it need not address Defendant’s remaining arguments.

V. CONCLUSION

For the foregoing reasons, Defendant’s motion for summary judgment is granted. Plaintiff concedes she slipped on glare ice; the mere slipperiness rule bars this action.

RMC