2014 IL App (1st) 140155-U

No. 1-14-0155

September 30, 2014

FIFTH DIVISION

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

MADELINE SWAGLER,	)	Appeal from
	)	the Circuit Court
Plaintiff-Appellant,	)	of Cook County
	)	
v.	)	No. 12 L 012594
	)	
RESURRECTION AMBULATORY SERVICES,	)	
	)	The Honorable
Defendant-Appellee.	)	Jeffrey Lawrence and
	)	Honorable Randye Kogan, Judges presiding.

PRESIDING JUSTICE PALMER delivered the judgment of the court.
Justices Robert E. Gordon and Reyes concurred in the judgment

O R D E R

¶ 1 Held: We affirm the circuit court's orders granting summary judgment to defendant, denying plaintiff's motion to reconsider and dismissing plaintiff's action with prejudice; no question of material fact is raised on the evidence regarding defendant's liability to plaintiff for injuries plaintiff suffered when she slipped on ice on defendant's premises.

¶ 2 Plaintiff Madeline Swagler filed a personal injury action against defendant Resurrection Ambulatory Services for injuries she sustained when she slipped on ice on defendant's property. The circuit court granted defendant's motion for summary judgment, denied plaintiff's motion to reconsider and dismissed the case with prejudice. Plaintiff appeals, arguing the court erred in granting the motion for summary judgment. We affirm.

¶ 3 BACKGROUND

¶ 4 In December 2010, while exiting an immediate care center in Norridge, Illinois, plaintiff slipped and fell on ice outside the entrance to the facility. In November 2012, she filed a complaint against defendant, the owner of the premises, claiming damages for injuries she sustained as a result of the incident. In her subsequent amended complaint, she charged that, when she exited the center, she slipped on an unnatural accumulation of ice on the parking lot as a result of defendant's failure to maintain the property in a reasonably safe and proper condition, supervise the area to prevent people from getting hurt, post warnings on the premises regarding hazardous conditions and remove the dangerous condition when it should have known of the hazard created by the condition. She asserted defendant negligently permitted the area to remain in a dangerous condition for an unreasonable length of time when it knew or should have known that the condition existed.

¶ 5 Defendant moved for summary judgment, arguing it was not liable to plaintiff because plaintiff could not establish that the ice on which she slipped was an unnatural accumulation and/or was created directly or indirectly by the defendant.[1] It argued the evidence showed the ice was a natural accumulation commonly occurring during December in Chicago and, even if it was an unnatural accumulation, there was no evidence that defendant had notice of the icy conditions that developed while plaintiff was inside the immediate care center.

¶ 6 Defendant supported its motion with plaintiff's discovery deposition. In the deposition, plaintiff testified that she drove her husband to the immediate care clinic on

[1] A plaintiff cannot recover for injuries sustained by a fall on ice unless she can establish that the accumulation was not natural and was created directly or indirectly by the defendant. *Finn v. Dominick's Finer Foods, inc.*, 244 Ill. App. 3d 278, 281 (1993).

the evening of December 27, 2010. The weather that day had been "really cold and snowy and icy," "very cold below freezing" and it had snowed the day before. All of the center's parking lot that she could see was "wet" and had "moisture" on it. It was plaintiff's understanding that the moisture was a result of the weather conditions and she saw snow "around the lot." Plaintiff parked in a handicapped parking space across from the front entrance to the health care facility. A sidewalk ran along the front of the building. To reach the front door from her automobile, plaintiff had to cross a "no parking" lane immediately in front of the building. Walking toward the building, neither plaintiff nor her husband had any difficulty navigating the parking lot. There was moisture on the ground but they entered the building through the front entrance without any problem. As there was a parked automobile in the no parking lane in front of the building, she walked around the vehicle to reach the front door.

¶ 7 Forty-five minutes later, plaintiff exited the building through the same front entrance, intending to retrieve her husband's driver's license from her automobile. She testified that, during the 45 minutes she had been inside, the weather had changed, it "was much colder," "frigid" and pitch black outside. She lost her footing when she walked out of the door. Plaintiff testified that she opened the front door, took "maybe" two or three steps straight out of the door, slipped, fell backwards onto her buttocks and slid "across the whole parking lot because it was a sheet of ice, rail thin ice. I couldn't even get myself up." She came to rest at the rear bumper of her vehicle. Plaintiff stated that she had been walking at a leisurely pace and did not remember whether she lost her footing on the sidewalk or the parking lot. Her feet had slipped out from underneath her. She had not tripped on anything lying on the ground.

¶ 8 Plaintiff was able to get up by holding onto her automobile. She sat in the car for a few minutes and then walked back to the building. She did not go back the way she had come and instead walked around her vehicle, holding onto it and stepping carefully to avoid icy patches as best she could. The parking lot was "dark" but she was able to tell by the "glaze" that there were patches of ice in the parking lot. Where there was no ice, there was moisture. Plaintiff acknowledged that the ice she observed was the result of the weather as, when the temperature dropped, the moisture began to turn to ice. She stated she had not been aware of the condition because she had been inside and

could not state when the ice formed. She saw no sprinkler or overflowing gutter that might have caused the water that resulted in the ice, just the moisture and snow she had seen initially. She stated that there was no curb in front of the clinic door but a slope, "like a little ramp," presumably for wheelchairs. The ground was pitched "right where [she] was walking." Asked whether the pitch in the handicapped curb had caused her fall, plaintiff testified: "I can't tell you -- I believe I stepped down the -- I think I stepped on that and that's what made me slide because there was moisture and ice there. I don't even -- I can't recall." But, "coming back," she had no problem because she "walked around." She had not seen the curb before because, when she had arrived at the clinic, a truck parked in the no parking lane had blocked the area where she subsequently fell. Plaintiff subsequently returned to the clinic early the next morning and many days thereafter for treatment of the injuries she suffered as a result of the fall. She had no further difficulty in accessing or exiting the front entrance of the building.

¶ 9 Defendant also submitted the discovery depositions of Jamicha McCullum and Margaret Jusko. McCullum worked as the registrar and medical assistant at the immediate care center and Jusko was the lead supervisor for the center. McCullum testified that she was working at the clinic at the registration desk on the evening that plaintiff slipped, had entered the building through the front entrance for the start of her shift at 5 p.m. and had not noticed anything unusual about the front entrance. Plaintiff had told McCullum about her accident immediately after it had happened. Jusko testified that she arrived at the center at 7:30 a.m. on the morning after the accident, parked around the corner from the front entrance and had no problem entering the building. She had never noticed a build-up of snow or ice on the ramp in front of the building and had never had complaints from patients regarding the conditions of the sidewalk or parking lot. To her knowledge no one had ever slipped or fallen on the sidewalk or parking lot in the three years she had been at the facility.

¶ 10 Plaintiff responded, claiming that she fell because there was an area of ice on the sidewalk/parking lot "formed by water that was trapped in a depression and that had frozen as much as thirty hours before she fell." She asserted the depression on the sidewalk edge and adjacent pavement was caused by settlement, it was predictable that water would flow and/or settle in this location and form ice in cold weather and

defendant's failure to have the depression properly repaired or to have ensured that it did not create a slippery condition during cold weather caused her fall. Plaintiff also argued that defendant was *prima facie* negligent because it violated 10 enumerated codes and standards relating to the upkeep of building and walkways. In support of her arguments, plaintiff cited to a report prepared by her expert witness, architect Daniel J. Robison, and to discovery deposition of Ricardo Morales, the maintenance worker assigned by defendant to maintain the immediate care facility.

¶ 11 Robison reported that he had inspected the property in December 2011 and March 2012. He described the immediate care center as having a drive aisle and a single row of parking in front of the entrance to the building. An 8- to 10-foot-wide sidewalk ran along the front of the building. Centered on the double door entrance was a depressed curb and curb ramp to the sidewalk. Robison described the ramp as being "10'0" long by 3'6" deep and pitched to the curb." He stated "[t]he southeast corner of the ramp was deteriorated and patched with asphalt. The north edge of this patch has failed further." A flat-roofed canopy with can lights but no gutter covered the sidewalk up to the sidewalk edge. Robison reported that weather conditions recorded at O'Hare International airport by the National Climate Data Center (NCDC) showed intermittent rain and snow for three days prior to December 27, 2010, the snow had stopped by 1 p.m. on December 26 and the temperature had steadily dropped during December 26 and 27. Temperatures had ranged from a nighttime low of 20 degrees F to a daytime high of 33 degrees F but, at the time of plaintiff's fall, the temperature was 12 degrees F. Robison stated the cause of the accident as follows:

> "[Plaintiff] fell because there was an area of ice on the sidewalk. The ice was formed by water that was trapped in a depression and that had frozen as much as thirty hours before she fell.
>
> The depression in the sidewalk edge and adjacent pavement was caused by settlement. It was predicable that the water would flow to and/or settle in this location, be trapped and form ice in cold weather.

> The failure of Resurrection Immediate Care Center to have properly repaired the depression, or at least to have ensured that it did not create a slippery condition during cold weather, caused [plaintiff]'s fall."

¶ 12 In his analysis of "maintenance," Robison cited to "Chapter 10 of the International Building Code, 2003, Commentary" (requiring that a public way at an exit discharge portion of a building "be maintained in good condition, monitored and kept in a safe condition during predictable substandard weather") and "Chapter one, section one, of the International Property Maintenance Code, 2003" (requiring that structures or premises be altered or repaired "to provide a minimum level of health and safety as required herein"). He stated that the "deteriorated sidewalk where [plaintiff] fell" is a triangular patch at the south edge of the curb ramp east of the entrance, 30 inches long parallel to the drive and 18 inches wide. He stated that the "deteriorated concrete was improperly patched," the north edge of the patch had deteriorated further and created a low spot 1/4" to 1" deep that collected water and ice and the drive aisle pavement at that location had cracked, settled and created a low spot collecting water and ice.

¶ 13 Citing to "ANSI/ASTM F1637, Standard Practice for Safe Walking Surfaces" (providing that walking surfaces "shall be stable, flush and even to the extent possible" and "exterior walkways shall be maintained to provide safe walking conditions"), Robison stated that defendant "should have been aware of the improper repair and that water would accumulate in this location. The area should have been properly repaired when it became a dangerous condition and before [plaintiff] fell." He stated that, "[g]iven the conditions at the improperly patched walkway ramp, it was foreseeable that ice would form there once temperatures dropped," and defendant had "had over 30 hours after precipitation ended [at 1 p.m. the previous day] to monitor and maintain the walk and parking lot as temperatures dropped from the low 30s down to 12 degrees and surface water froze."

¶ 14 Citing "ANSI/ASTM F 1637" ("walkways shall be slip resistant under expected environmental conditions"), "*A Complete Guide to Building and Plant Maintenance*" ("sidewalks, entrances, drives *** should be as free as possible from accumulation of snow and ice" and, "[a]s required, *** kept sanded and chemically treated to provide safe footing and traction") and "*Parking Principals*: by the National Research Council,

US Highway Research Board" ("After snow has been removed, the aisles shall be sanded and salted if needed. It is wise to also clear, salt and sand pedestrian walkways"), Robison determined that defendant "had more than sufficient time to remove ice and snow following the storm, and to maintain walking surfaces in a safe condition by continue to monitor and treat surfaces that continued to become icy."

¶ 15 Citing to the standards set forth in "ANSI A1264.2-2006, Standards for the Provision of Slip Resistance on Walking/Working Surfaces" ("[a] warning shall be provided whenever a slip/fall hazard has been identified, until appropriate corrections can be made, or the area is barricaded" and "warning signs shall be placed at approaches to areas where slip/fall hazards exist *** [and] shall surround *** the perimeter of the hazardous area so that is it clear as to where the hazard exists") and ASTM F 1637-09, *Standard Practice for Safe Walking Surfaces*" ("the use of visual cues such as warnings *** are recognized as effective in some applications), Robison stated that there was no warning of dangerous condition posted at any location on the sidewalk leading to parking. Citing to "Chapter 24: subsection 3401.2" of the "International Building Code, 2003" (owner or owner's designated agent is responsible for maintaining buildings and structures "in a safe and sanitary condition"), "chapter 1: subsection 101.2" of the "Property Maintenance Code, 2003" (code provisions apply to all existing residential and nonresidential structures and premises and constitute minimum requirements and standards for *** protection from the elements, life safety, safety from fire and other hazards and for safe and sanitary maintenance" and "Section 302 of PMC, 2003" ("all sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions"), Robison found defendant was "responsible to maintain property [*sic*] public pathways and to keep them in a safe condition for walking."

¶ 16 Robison synopsized his findings as follows:

> "1. The sidewalk where [plaintiff] slipped and fell was dangerous in a manner that caused her to fall and be injured. The sidewalk area was improperly repaired and was icy.

2. The ice that caused [plaintiff]'s fall existed for hours before she fell and should have been treated to make it safe for walking, before her fall.

3. Resurrection Immediate Care Center violated the Standard of Care for safe property maintenance by not properly repairing a deteriorated section of the sidewalk and by not properly treating the sidewalk for icy conditions. This made the sidewalk dangerous in a manner that caused [plaintiff] to fall.

4. Resurrection's failure to have warned the public of unsafe walkway conditions deprived [plaintiff] of information that would have assisted her to avoid falling and was a cause of her fall."

¶ 17 In Morales' discovery deposition, he testified that, for the past 15 years, he had worked for defendant as a maintenance worker assigned to service numerous facilities, including the immediate care clinic in 2010. During the 12 years he maintained the facility, he tried to visit it daily to check the interior and exterior lighting, to fix "whatever [was] broken" and make sure the grounds were clean and safe. Because a lot of people used the facility or walked by it, he wanted to make sure the ramps were clear "so the people don't fall." No other employee checked the property after him. His shift was from 7 a.m. to 3 p.m., Monday through Friday, but he was available to work as necessary if called in or if the weather warranted it.

¶ 18 Morales testified that, in December 2010, due to the extreme temperature drop, "all the city was really dangerous to walk" and, as usual in winter, he had received calls from numerous facilities asking for salt to be put down. Defendant employed a snow plowing contractor. It was Morales' job to visit each facility and make sure that the contractor had properly plowed the snow and put down salt. Morales would put salt on spots that the contractor had missed. On December 27, 2010, he had started his shift shortly before 7 a.m., picked up his work truck and started on his rounds to the various properties. The truck had a plow on the front and, if it was wintertime, he usually got started right away, "plowing and salting, whatever need to be done." Morales stated that although "we got contractors, *** [it was his] responsibility to make sure everything [was]

clear and safe." If the temperature dropped, water would freeze again "because of the weather" despite previous salting and he would bring his "scraper up and salt it again."

¶ 19 The immediate care center was the second stop on Morales' daily route. He did not specifically remember being at the immediate care center on December 27, 2010 but his usual routine was to arrive at the center at approximately 8 a.m. and, after checking the outside, go inside to check for maintenance issues. He had not received any calls for salt at this facility. He did not remember how much time he spent there on the morning of December 27 or exactly what he did there. He did remember that it "was below zero *** freezing" because all the facilities were having "the same problem *** ice all over the place. All the city was." He also stated the parking lot at the immediate care center that morning "was salted and clear, clean," the sidewalks were "clean" and he did not have to salt because "it was already salted." He specifically remembered this because he had been off work for the Christmas holiday for the previous three days and, at his first stop on this, his first day back at work, he had had to apply salt because the contractors had not yet cleaned the premises but did not have to apply salt at the immediate care center because the contractor had already been there and the premises were clear and salted.

¶ 20 Morales testified that he followed the same routine the next day, December 28, 2010, but remembered no specifics about the day. He must have entered the facility by the front entrance as he usually did but remembered nothing about the condition of the parking lot. Until called for his deposition, Morales had not been aware that plaintiff or anyone else had slipped on ice at the facility the day before and no one had ever called him to discuss the conditions of the parking lot at the center. He had not been requested to take any remedial measures at the building. Morales had never seen water or ice accumulate in the area of the handicap ramp. Shown photographs of the entrance to the immediate care center, he stated that he had patched a triangular area, filling a crack and making it "nice and smooth," but it is unclear from the deposition where exactly he performed the patch. If snow melted, it would not collect in the patched area because the canopy covered it and snow did not fall off the flat canopy. He had never seen ice form in that spot, only in the south parking lot on the side of the building and behind the building.

¶ 21 Defendant responded, arguing that the evidence showed plaintiff did not slip on the ice-filled depression in the sidewalk and, assuming *arguendo* that plaintiff did encounter the depression, the undisputed material facts showed that the ice formed in the depression was a natural accumulation. Defendant supported its response with the discovery deposition of Larry Latas, defendant's director of facilities in 2010 and Morales' supervisor. Latas testified that defendant's agreement with the snow plowing contractor was a "zero tolerance, and no caps snowfall" contract, meaning that the contractor had to come and remove snow from all sidewalks and driveways of the facilities and salt the premises whenever it snowed and regardless of how little it snowed. Morales would address snow removal " as a backup" to the contract. Shown photographs of the front of the building, Latas identified "the ramp from the sidewalk to the parking lot drain." He stated that he could see cracks and that it had been repaired at some point but did not see a tripping hazard and would not have blocked the area off. He stated the patched area was "the south end of the *** 30-foot ramp" and was 10 to 12 feet south of the door.

¶ 22 The circuit court granted the motion for summary judgment and denied plaintiff's subsequent motion to reconsider.[2] On December 20, 2013, the court dismissed plaintiff's case with prejudice. Plaintiff filed a timely notice of appeal on January 13, 2013.

¶ 23 ANALYSIS

¶ 24 Plaintiff argues that the court erred in granting defendant's motion for summary judgment. She concedes that, in Illinois, a landowner is not liable for the failure to remove a natural accumulation of ice or snow. She asserts, however, that she presented sufficient evidence to show that the ice on which she slipped was either an unnatural accumulation or caused by defendant's negligent removal of the ice and snow and, therefore, liability should be imposed.

¶ 25 A drastic means of disposing of litigation, summary judgment should be granted only when the right of the moving party is clear and free from doubt. *Mashal v. City of*

[2] The record does not contain reports of any of the proceedings before the circuit court. We, therefore, do not know the basis of the court's decisions.

Chicago, 2012 IL 112341, ¶ 49. The movant has the burden of production on a summary judgment motion, and the movant's affidavits may be contradicted by deposition testimony or other evidence. *Mashal*, 2012 IL 112341, ¶ 49. When ruling on a motion for summary judgment, we construe the pleadings, depositions, admissions and affidavits strictly against the movant and liberally in favor of the respondent. *Gauthier v. Westfall*, 266 Ill. App. 3d 213, 219 (1994). Summary judgment is granted only when " '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.' " *Axen v. Ockerlund Construction Co.*, 281 Ill. App. 3d 224, 229 (1996) (quoting *Purtill v. Hess*, 111 Ill. 2d 229, 240 (1986)). We review the trial court's entry of summary judgment *de novo*. *Golden Rule Insurance Co. v. Schwartz*, 203 Ill. 2d 456, 462 (2003*).*

¶ 26 "One is generally not liable for injuries caused by natural accumulations of ice or snow, and there is no duty to remove natural accumulations of ice or snow." *Ordman v. Dacon Management Corp.*, 261 Ill. App. 3d 275, 279 (1994)). However, liability will be imposed on a defendant-premises owner where the plaintiff shows either that the defendant voluntarily undertook to remove natural accumulations of ice or snow and did so negligently or that the injury was caused by an unnatural accumulation of ice or snow and the defendant was responsible for the unnatural accumulation. O*rdman*, 261 Ill. App. 3d at 279.

¶ 27 Plaintiff argues her evidence shows that the ice on which she slipped resulted from a depression in the sidewalk edge caused by settlement of asphalt. She asserts she showed that the ice froze some thirty hours before she fell, it was predictable that water would accumulate in the depression and form ice in cold weather, defendant knew or should have known of the dangerous condition and its failure to properly repair the depression caused the ice to unnaturally accumulate. Plaintiff also argues that the circuit court erred in failing to consider any of the "codes and standards" she brought to the court's attention to show that defendant failed to maintain the sidewalk/parking lot in a reasonably safe manner. Defendant responds that the material facts show that the ice that caused plaintiff's fall was naturally accumulating and not the result of defendant's negligence. We agree.

¶ 28 First, although plaintiff argues that she slipped on ice in the depression, she made no mention of slipping on ice in the depression in her discovery deposition. She stated that she could not recall exactly where she fell or whether she lost her footing on the parking lot or the sidewalk. She later stated that she believed moisture and ice on the ramp caused her "slide," but made no mention of a seeing or slipping on a depression. Further, Latas's testimony shows that the depression was 10 to 12 feet to the south of the entrance, at the far end of the 30-foot ramp. Plaintiff would have had to veer 10 to 12 feet south (to her right) when she stepped out of the front entrance in order to encounter the depression. By her own testimony, plaintiff "was walking straight out the door" when she slipped, walking in "a straight line" from the door to her car, which was parked directly in front of the entrance, and she could, therefore, could not have encountered the depression 10 to 12 feet to her right.

¶ 29 Second, there is no showing that defendant was negligent in removing the snow and ice at the immediate care center. Rosales' testimony shows that, on the morning of plaintiff's accident, defendant's snow removal contractor had cleaned and salted the front sidewalk and parking lot at the immediate care center. Rosales remembered this distinctly because he had been off work for three days and, unlike the first property he visited that morning, he did not have to salt or plow at the center. Plaintiff's testimony that she had no trouble walking into the building and saw the parking lot was covered in "moisture" and had snow around the perimeter when she arrived supports finding that the contractor had properly plowed and salted the premises that morning. McCullum's testimony that she had no problem entering through the front entrance at 5 p.m., two-and-a-half hours before plaintiff arrived, supports finding that the premises were properly plowed and salted on the morning of plaintiff's accident.

¶ 30 Defendant voluntarily undertook the removal of snow from the parking lot and was, therefore, under a duty to perform that task with reasonable care. O*rdman*, 261 Ill. App. 3d at 279. The testimony from Rosales, McCullum and plaintiff shows it exercised that reasonable care on the morning that plaintiff fell. The fact that the moisture on the parking lot and sidewalk froze less than an hour after plaintiff entered the building does not make defendant negligent in its maintenance of the premises. There is no evidence that defendant was under any duty, contractual or otherwise, to continually plow and

salt the premises. It took on the task voluntarily and had properly plowed and salted the premises on the morning of the accident. In situations in which, as here, a duty would not otherwise arise, a duty to act reasonably may be imposed when a defendant negligently performs a voluntary undertaking. O*rdman*, 261 Ill. App. 3d at 279. However, defendant's gratuitous performance of removing snow and spreading salt does not alone create a continuing duty to perform those tasks. O*rdman*, 261 Ill. App. 3d at 280. It would be unreasonable to require defendant to monitor the premises on an hourly basis in order to prevent ice from forming. Further, there is nothing to show that defendant had notice that the depression created a hazard in freezing weather that should have been remedied. Defendant was not negligent in its performing its voluntary removal of snow and ice from the premises.

¶ 31 Third, plaintiff failed to present evidence to show that the accumulation of ice in the depression was an unnatural accumulation. "[W]hen a defendant causes an unnatural accumulation of ice or snow by the defendant's use or maintenance of the area, and the accumulation exists on the premises long enough to charge the defendant with knowledge, the defendant is under a duty to make the premises reasonably safe." O*rdman*, 261 Ill. App. 3d at 281. However, the "[p]laintiff must allege some facts to show that the accumulation of ice was unnatural or caused by the defendant." *Id*. Plaintiff has alleged no facts sufficient to create a question of fact regarding whether the ice in the depression on which she allegedly slipped was an unnatural accumulation. Plaintiff's expert failed to show that the depression in the sidewalk caused unnatural accumulations of ice and plaintiff failed to show that, even if the accumulation was unnatural, it was in the area where she fell.

¶ 32 "A finding of an unnatural or aggravated natural condition must be based upon an *identifiable cause* of the ice formation," such as a leaky roof or surface irregularities leading to the collection of water. (Emphasis added.) *Gilberg v. Toys "R" Us, Inc*., 126 Ill. App. 3d 554, 557 (1984). Plaintiff presented no identifiable cause for the ice formation in the depression. In her testimony, she testified that she saw no leaking sprinkler, dripping gutter or other reason for the moisture on the parking lot. In fact, she did not mention the depression, let alone provide an identifiable cause for any ice in the depression. The evidence did not show that the water that froze in the depression was

anything other than a natural accumulation resulting from the melting of the winter snow and ice. Specifically, no evidence was presented that water was unnaturally caused to flow to the depression as opposed to it merely falling from the sky. Further, plaintiff presented no evidence that defendant knew that there was an icy patch on the side of the ramp or that the patch was dangerous. The fact that the water accumulated in a depression is not, without more, evidence that the accumulation was unnatural. See *Gilberg*, 126 Ill. App. 3d 554 (court affirmed summary judgment to defendant on plaintiff's claim that he slipped and fell on ice in a depression in defendant's parking lot; court found no facts were presented to show that the ice patch was anything other than a natural accumulation; no genuine issue of material fact presented where plaintiff did not present evidence of the origin of the ice, cause of the depression or defective design of the parking lot); *Rush v. Simon & Mazian, Inc.,* 159 Ill. App. 3d 1081 (1987) (court affirmed summary judgment to defendant on plaintiff's claim that he slipped and fell on ice in a "dip" in the sidewalk on defendant's property; court held plaintiff's testimony that there was a dip at the intersection where he fell and that water puddle in the dip was not sufficient to indicate the ice accumulated unnaturally). With nothing to show that the ice in the depression was caused by anything other than the weather, by the naturally accumulating melting snow and the subsequent drop in temperature, we see no basis for finding the ice in the depression was an unnatural accumulation.

¶ 33 Lastly, we find the 10 codes and standards cited by plaintiff do not, as she asserts, create a question of fact regarding whether defendant failed to maintain the sidewalk and/or parking lot in a reasonably safe manner. As plaintiff points out, violation of a statute or ordinance designed to protect human life or property is *prima facie* evidence of negligence. *Kalata v. Anheuser-Busch Cos., Inc.*, 144 Ill. 2d 425, 434-35 (1991). However, violation of such a statute or ordinance does not constitute negligence *per* se. *Kalata*, 144 Ill. 2d at 435. Further, the "codes and standards" to which plaintiff cites are not statutes or ordinances at all. The cited references were variously disseminated by a private author (*A Complete Guide to Building and Plant Maintenance* is a book published in 1971 and authored by Thomas F. Sack) and by assorted nongovernmental organizations, including the International Code Council, the American National Standards Institute and the U.S. Highway Research Board of the National

Research Council. Statutes are "law[s] passed by a legislative body" (Black's Law Dictionary 1420 (7th ed. 1999)) while ordinances are "legislative act[s] and *** the equivalent of a municipal statute" (*Namur v. The Habitat Co*., 294 Ill. App. 3d 1007, 1013 (1998). The codes and standards appear to be neither given that plaintiff presents nothing to show that they have been adopted by the town of Norridge, the County of Cook or the State of Illinois.[3] Moreover, assuming *arguendo* that the codes and the standards have been adopted into an ordinance or statute, plaintiff's failure to raise a question of material fact regarding whether defendant was negligent in maintaining its property or whether plaintiff's injury was caused by anything other than a natural accumulation of ice leads to the conclusion that there is nothing to show that defendant's conduct in maintaining the property was in violation of the codes and standards.

¶ 34 CONCLUSION

¶ 35 For the reasons stated above, we affirm the decision of the circuit court.

¶ 36 Affirmed.

[3] In Robison's report, without citation to any authority, he states the "International Building Code, 2003 is the adopted municipal standard" and refers to "Property Maintenance Code, 2003, referenced by IBC and also adopted by the municipality. Without any reference to which municipality(ies) adopted the two codes, Robison's assertions are insufficient to show that the codes have the force of ordinances.