[Cite as *Roddy v. Columbus State Community College*, 2005-Ohio-1809.]

IN THE COURT OF CLAIMS OF OHIO

MICHELLE D. RODDY	:	
Plaintiff	:	CASE NO. 2004-03608 Judge Joseph T. Clark
v.	:	DECISION
COLUMBUS STATE COMMUNITY COLLEGE	:	
Defendant	:	

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{¶ 1} Plaintiff brought this action alleging a single claim of negligence. By agreement of the parties and with the consent of the court, the case was submitted on stipulated facts and briefs.

{¶ 2} Plaintiff's claim arises as a result of physical injury she sustained when she slipped and fell on defendant's premises on January 23, 2003. The following are the facts as stipulated by the parties:

{¶ 3} "1. Ms. Roddy was a student at Columbus State on January 23, 2003.

{¶ 4} "2. Ms. Roddy was familiar with Columbus State.

{¶ 5} "3. Ms. Roddy had observed 'caution' signs in the past where there had been snow fall or moisture.

{¶ 6} "4. Some of the buildings do not have rubber mats outside the doors.

{¶ 7} "5. [Ms.] Roddy left work at [The Bureau of Workers' Compensation] at approximately 5:00 p.m. on January 23, 2003.

{¶ 8} "6. Ms. Roddy was wearing snow boots with rubber soles.

{¶ 9} "7. Ms. Roddy walked to her car on Spring [Street]. There was an accumulation of snow on the sidewalks and in her parking lot.

{¶ 10} "8. Ms. Roddy drove to Columbus State and parked on the [first] floor of the garage.

{¶ 11} "9. Ms. Roddy walked outside for approximately 1 ½ blocks to Eibling Hall.

{¶ 12} "10. Ms. Roddy walked from the street up the stairs to the main entrance of Eibling Hall and crossed a black rubber no-slip mat outside the door.

{¶ 13} "11. Ms. Roddy saw water on the interior floor.

{¶ 14} "12. There was no sign warning students of a slippery floor or mat on January 23, 2003 at Eibling Hall.

{¶ 15} "13. Ms. Roddy walked 10-12 steps over the wet floor to the soft drink machine.

{¶ 16} "14. Ms. Roddy then turned and retraced her steps.

{¶ 17} "15. As Ms. Roddy exited the main door, she stepped on the black rubber no-slip mat outside the doors and fell. The mat had 'lots of water' on top of it. The water was visible as she was looking at it.

{¶ 18} "16. Though Ms. Roddy slipped, the black rubber no-slip mat did not move.

{¶ 19} "17. Ms. Roddy broke her leg as a result of the fall.

{¶ 20} "18. No other identifiable persons observed the fall or the condition of the mat at the time of the fall.

{¶ 21} "19. It had been snowing earlier in the day on January 23, 2003, but was not snowing at the time of the fall."

{¶ 22} Based upon the stipulated facts, briefs of counsel, and the relevant case law, the court makes the following determination.

{¶ 23} In order for plaintiff to prevail upon her claim of negligence, she must prove, by a preponderance of the evidence, that defendant owed her a duty, that it breached that duty, and that the breach proximately caused her injuries. *Strother v.*

Hutchinson (1981), 67 Ohio St.2d 282, 285. The duty owed to plaintiff depends upon her purpose for being on defendant's premises. The law is clear that as a student of a state university plaintiff's status was that of an invitee. *Baldauf v. Kent State Univ.* (1988), 49 Ohio App.3d 46; *Shimer v. Bowling Green State Univ.* (1999), 96 Ohio Misc.2d 12, 16.

{¶ 24} "The possessor of premises owes a duty to an invitee to exercise ordinary or reasonable care for his or her safety and protection. This duty includes maintaining the premises in a reasonably safe condition and warning an invitee of latent or concealed defects of which the possessor has or should have knowledge." *Baldauf*, supra, at 48 citing *Scheibel v. Lipton* (1951), 156 Ohio St. 308. "However, it is also well-established that balanced against this duty, the owner of premises is not to be held as an insurer against all forms of risk." Id. Citing *S.S. Kresge Co. v. Fader* (1927), 116 Ohio St. 718.

{¶ 25} The critical issue for determination by this court is whether defendant had actual or constructive notice of any hazard created either by accumulated water on the no-slip floor mats or by the no-slip mats themselves. The distinction between actual and constructive notice is in the manner in which notice is obtained rather than the amount of information obtained. Wherever the trier of fact is entitled to find from competent evidence that information was personally communicated to or received by the party, the notice is actual. Constructive notice is that which the law regards as sufficient to give notice and is regarded as a substitute for actual notice. *In re Estate of Fahle* (1950), 90 Ohio App. 195, 197.

{¶ 26} In the present case, there are no facts to support a finding that defendant had either actual or constructive knowledge of the alleged hazard. While it was stipulated that there was an

accumulation of snow on the sidewalks that day, there is no indication that the amount of snow was anything other than that which would ordinarily be expected for that time of year. In addition, it is clear that plaintiff observed the weather conditions when she left work and, again, when she arrived at Columbus State, and that she both observed and walked through the water on the floor at Eibling Hall. Whether plaintiff slipped either because of accumulated water or because of a defective floor mat, it simply has not been established that defendant had any notice of a hazardous condition which those circumstances may have created. Plaintiff acknowledges that no one observed her fall or saw the condition of the floor mat at the time she fell.

{¶ 27} The owner of premises has no duty to warn of a dangerous condition which is so open and obvious that a person may reasonably be expected to discover it and protect themselves against it. *Armstrong v. Best Buy Company, Inc.*, 99 Ohio St.3d 79, 2003-Ohio-2573. Here, the court finds that the water on the mat was plainly visible and so open and obvious that it could easily have been avoided. Thus, the court concludes that the sole proximate cause of plaintiff's injury was her own failure to be observant as she crossed the floor mat for the second time. As such, plaintiff has failed to prove her negligence claim by a preponderance of the evidence. Judgment shall be entered in favor of defendant.

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		JUDGMENT ENTRY
COLUMBUS STATE COMMUNITY	:	

COLLEGE

:

Defendant

: : : : : : : : : : : : : : : : :

{¶ 28} This case was submitted to the court on stipulated facts and briefs for determination on the issue of liability. The court has considered the facts and the arguments of counsel and, for the reasons set forth in the decision filed concurrently herewith, judgment is rendered in favor of defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

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JOSEPH T. CLARK
Judge

Entry cc:

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