

STATE OF MICHIGAN
COURT OF APPEALS

MICHELLE MANNING,

Plaintiff-Appellant,

v

IRON HORSE COUNTRY STORE, LLC,

Defendant-Appellee.

UNPUBLISHED

December 17, 2009

No. 286787

St. Clair Circuit Court

LC No. 06-001210-NI

Before: Donofrio, P.J., and Sawyer and Owens, JJ.

PER CURIAM.

In this premises liability claim, plaintiff appeals as of right the entry of a judgment of no cause of action in favor of defendant and against plaintiff. Plaintiff was injured when she fell over a downspout across defendant's sidewalk, which resulted in injury to her wrist and knee. We affirm.

Plaintiff first argues that the trial court erred in denying her motion for summary disposition. We disagree. Summary disposition is proper under MCR 2.116(C)(10) if the documentary evidence submitted by the parties, viewed in the light most favorable to the nonmoving party, shows that there is no genuine issue regarding any material fact and the moving party is entitled to judgment as a matter of law. *Veenstra v Washtenaw Country Club*, 466 Mich 155, 164; 645 NW2d 643 (2002). A question of material fact exists when the record leaves open an issue upon which reasonable minds might differ. *West v Gen Motors Corp*, 469 Mich 177, 183; 665 NW2d 468 (2003).

Plaintiff argues that defendant was liable to plaintiff for her injuries as a matter of law because it had violated its statutory duty to her under the Single State Construction Code Act (SSCCA), MCL 125.1501 *et seq.* "Whether a defendant owes a plaintiff a duty of care is a question of law for the court." *Beaudrie v Henderson*, 465 Mich 124, 130; 631 NW2d 308 (2001). It is true that violation of a statute may create a rebuttable presumption of negligence. *Kennedy v Great Atlantic & Pacific Tea Co*, 274 Mich App 710, 720-721; 737 NW2d 179 (2007). However, plaintiff must establish, in part, that the cited statute is intended to protect against the result of the violation. *Klanseck v Anderson Sales*, 426 Mich 78, 87; 393 NW2d 356 (1986). The SSCCA adopted a single construction code applicable throughout the state that includes the various national and international residential and building codes. MCL 125.1504(2); MCL 125.1508a(1). While the objectives and standards of the act include "insur[ing] adequate maintenance of buildings and structures throughout this state and to

adequately protect the health, safety, and welfare of the people,” MCL 125.1504(3)(e), the purpose of the construction act “is not to protect the public against harm . . . but merely to establish the authority . . . to ‘prepare and promulgate’ a state construction code consistent with, and protective of, the ‘health, safety, and welfare of the occupants and users of buildings and structures.’” *Rakowski v Sarb*, 269 Mich App 619, 628 n 4; 713 NW2d 787 (2006). The SSCCA was not intended to provide a private cause of action stemming from a violation of the code by a property owner.

Plaintiff’s remaining issues on appeal are premised on the conclusion that the trial court erred in concluding that no statutory duty existed under the SSCCA. In light of our conclusion that the trial court did not err in denying plaintiff’s motion for summary disposition, it is not necessary to address her remaining arguments.

Affirmed.

/s/ Pat M. Donofrio
/s/ David H. Sawyer
/s/ Donald S. Owens