MISSOURI COURT OF APPEALS
WESTERN DISTRICT

WD88296

JEFF WOOSLEY,
Appellant,

v.

SUPER 6 INN, L.L.C., D/B/A MOTEL 6,
Respondent.

Opinion Filed: November 10, 2026

Appeal from the Circuit Court of Callaway County, Missouri
The Honorable Benjamin J. Miller, Judge

Before Division One: Alok Ahuja, Presiding Judge,
Thomas N. Chapman, Judge and Janet Sutton , Judge

Jeff Woosley slipped and fell on snow and ice in the parking lot of a Motel 6 operated by Super 6 Inn, LLC (the "Hotel"). Woosley sued the Hotel in the Circuit Court of Callaway County to recover compensation for his injuries. The Hotel moved for summary judgment, contending that it owed no duty to protect Woosley from ongoing weather conditions which applied generally to the entire community, and that any dangerous condition of its property was open and obvious. The circuit court granted the Hotel's motion and entered judgment in its favor. Woosley appeals. We reverse and remand for further proceedings.

Factual Background

The Hotel is located at 5750 Jade Road in Kingdom City. It is operated as a Motel 6 franchise by Super 6 Inn, LLC. Woosley was a guest at the Hotel on the night of January 21-22, 2024, while working as a maintenance training instructor at a nearby nuclear power plant.

The Hotel's parking lot consisted of two adjacent areas: a concrete area marked with designated spaces for passenger vehicles; and an adjoining area with a gravel surface, where larger trucks and cargo vehicles parked.

The concrete parking surface had been cleared of snow from a previous winter storm. Unlike the concrete area, however, the gravel area had not been cleared or treated during or following the earlier storm. A snow and ice management expert observed that trucks parking on the gravel had created an area that was "all rutted up," with packed snow and ice accumulated in the tire tracks. In addition, the snow from the cleared concrete area had been pushed to the boundary between the concrete and gravel areas, causing snow to pile up unnaturally in the gravel area.

On the morning of January 22, light freezing rain mixed with sleet began at approximately 12:15 a.m., and fell intermittently until approximately 10:45 a.m. Because of the ambient temperature, the rain was falling as a liquid, but was freezing on the surface of the parking lot.

At approximately 6:00 a.m., Woosley received a text message from his employer notifying him of a delayed start time due to weather. At that time, less

than a half-inch of snow and ice cover was present on untreated, undisturbed, and exposed outdoor surfaces. Woosley decided to go have breakfast at a nearby restaurant, and went outside to start his truck. Woosley chose to wear his work boots with heavy tread because he had observed the winter weather conditions, and anticipated that he would encounter icy conditions while walking outside. After starting his vehicle, Woosley went back inside the Hotel to let his truck warm up.

Approximately twenty minutes later, while it was still dark, Woosley returned to his vehicle and backed it out of a parking space. When Woosley applied his brakes, his truck began to slide on the inclined icy surface of the concrete parking lot. Moving at a slow speed, Woosley's truck slid into a white work van which was parked partially on the concrete pad, and partially on the gravel surfaced area.

After briefly inspecting the damage, Woosley walked back across the concrete parking lot to the Hotel's entrance. Once inside, Woosley called the Highway Patrol to report the accident. A dispatcher informed him that it would be some time before a patrol vehicle could arrive to take an accident report, because there had been a large number of accidents due to the icy conditions.

Woosley informed the Hotel's desk attendant that he had collided with another vehicle and asked for information on the vehicle's owner. The desk attendant was unable to identify the vehicle's owner without a license plate number.

Between 6:30 and 7:00 a.m., Woosley went back outside to get the van's license plate number, and to document the damage to both vehicles. It was still dark. Woosley took photographs of the front bumper of his truck, where it had struck the driver's side of the van. Woosley then videorecorded the accident scene from different angles, which caused him to walk off the concrete parking surface and onto the adjacent gravel area. As Woosley was walking on the gravel area with his phone held up to photograph the van, his foot slipped. He fell and struck his left shoulder on the ground.

During his deposition, Woosley acknowledged that the entire parking area "was fairly uniformly icy." He testified, however, that the place where he fell was not merely ice-covered:

> [T]here was only that particular area that I went to that had the – the previous snowfall, snow that hadn't been removed that was covered, it was packed down with tire tracks. The rest of the parking lot was just the ice. The area where I fell was the ice plus snow from a previous precipitation event.
>
> Q. Okay. So is it your – was it your conclusion that there was ice from that precipitation event on top of the snow which hadn't been cleared?
>
> A. That's how it appeared to me.

After falling, Woosley got up and returned to the Hotel's lobby, where he informed the desk attendant of his fall. The desk attendant offered to get bandages, but Woosley declined assistance. Woosley waited to speak with a Highway Patrol Trooper, then left the Hotel. The Trooper offered to call an

ambulance, but Woosley again declined assistance. He then drove three hours to an emergency room in St. Joseph for treatment.

Woosley filed this suit against the Hotel on March 3, 2024. In his petition, Woosley asserted claims of negligence and premises liability. The petition alleged that Woosley "slipped on ice, snow and/or moisture that had accumulated and fell, hitting the ground and severely injuring his arm, shoulder, hands, back, neck and head." Woosley's petition contended that the Hotel's negligence had caused his fall, because it had "failed to properly remove, clear, or lay snow or ice melt on the parking lot and the snow, ice or moist conditions remained untreated on that area." The Hotel's answer denied that it owed a duty to Woosley in the circumstances of an active winter storm. In addition, the Hotel asserted as an affirmative defense that any allegedly dangerous condition of the parking lot "was open and obvious and the risk of harm existed solely due to [Woosley's] failure to exercise due care."

The Hotel moved for summary judgment. Its motion argued that, because the parking lot was covered with ice which had naturally accumulated across the entire community as the result of an ongoing storm, the Hotel owed no duty to address the ice at the time of Woosley's fall. The Hotel's summary judgment motion also contended that the icy condition of the parking lot was open and obvious to Woosley. In his response to the Hotel's summary judgment motion, Woosley argued, among other things, that the area where he fell was not impacted simply by a natural, community-wide, ongoing weather event. Instead,

Woosley asserted that a genuine factual issue existed concerning whether the place where he fell had been rendered dangerous by man-made circumstances: the Hotel's failure to properly clear snow from an earlier storm from the gravel surface; the shoveling of snow from the parking lot's concrete surface onto the graveled area; and the effect of vehicles driving over and creating ruts in the area.

The circuit court granted the Hotel's summary judgment motion on August 28, 2025. In its judgment, the court explained:

> The undisputed facts in this case show that [Woosley] cannot prove the existence of a duty which [Hotel] breached, and [Hotel] is therefore entitled to judgment as a matter of law. . . .
>
> The undisputed material facts demonstrate that [Hotel] had no duty to [Woosley] to clear or treat the ice in the area where he fell, both because the condition was open, obvious, and observed by [Woosley], and because under Missouri caselaw interpreting the Massachusetts Rule, a landowner has no duty to clear ice and snow from its open air parking lot when it is actively accumulating as a general condition of the area.

Woosley appeals.

Standard of Review

> [T]his Court . . . reviews the grant of summary judgment *de novo*. In reviewing the decision to grant summary judgment, this Court applies the same criteria as the trial court in determining whether summary judgment was proper. Summary judgment is only proper if the moving party establishes that there is no genuine issue as to the material facts and that the movant is entitled to judgment as a matter of law. . . . A material fact in the context of summary judgment is one from which the right to judgment flows.
>
> The record below is reviewed in the light most favorable to the party against whom summary judgment was entered, and that party is entitled to the benefit of all reasonable inferences from the record. However, facts contained in affidavits or otherwise in support of the

> party's motion are accepted as true unless contradicted by the non-moving party's response to the summary judgment motion.

Green v. Fotoohighiam, 606 S.W.3d 113, 115–116 (Mo. 2020) (cleaned up).

> Where the defending party is the movant, it may establish a right to judgment by showing: (1) facts negating any one of the non-movant's elements; (2) that the non-movant, after an adequate period of discovery, has not been able and will not be able to produce evidence sufficient to allow the trier of fact to find the existence of any one of the non-movant's elements; or (3) that there is no genuine dispute as to the existence of each of the facts necessary to support the movant's properly-pleaded affirmative defense.

O'Donnell v. PNK (River City), LLC, 619 S.W.3d 162, 166–67 (Mo. App. E.D. 2021) (citing *ITT Commercial Fin. Corp. v. Mid-Am. Marine Supply Corp.*, 854 S.W.2d 371, 381 (Mo. 1993)).

Discussion

Woosley asserts three Points on appeal, each arguing that the circuit court erred in granting the Hotel's motion for summary judgment. In his first Point, Woosley argues that genuine issues of material fact exist concerning whether the dangerous conditions where Woosley fell were open and obvious. In his second Point, Woosley contends that the "Massachusetts Rule" does not apply to this case, because the dangerous condition which caused his fall was artificial and man-made, and was not simply the result of ongoing, community-wide precipitation. Finally, in his third Point Woosley argues that the Massachusetts Rule is inapplicable because the Hotel voluntarily assumed the duty to remove snow and ice from the place where Woosley fell. We conclude that both Points 1

and 2 have merit and require reversal. Given our disposition of Points 1 and 2, it is unnecessary to address Woosley's third Point.

I.

We first address the circuit court's conclusion that the undisputed facts established that the dangerous condition which caused Woosley's fall was open and obvious as a matter of law.

The Missouri Supreme Court has held that,

> when the dangerous condition [of property] is so open and obvious that the invitee should reasonably be expected to discover it and realize the danger, a possessor of land does not breach the standard of care owed to invitees unless the possessor should anticipate the harm despite such knowledge or obviousness. This element acknowledges that a possessor of land is not an absolute insurer of the well-being of its invitees. As a general matter, therefore, a possessor's actions do not fall below the applicable standard of care if the possessor fails to protect invitees against conditions that are open and obvious as a matter of law.

Harris v. Niehaus, 857 S.W.2d 222, 226 (Mo. 1993) (citations omitted). "[A] 'landowner is entitled to expect that invitees will exercise ordinary perception, intelligence, and judgment to discover open and obvious conditions, appreciate the risk they present, and take the minimal steps necessary to protect themselves.'" *Allen v. 32nd Judicial Circuit*, 638 S.W.3d 880, 888 (Mo. 2022) (citation omitted).

Although invitees are expected to "exercise ordinary perception, intelligence, and judgment" to discover dangers on property they are visiting, *id.*, "Missouri courts have recognized that defects in a walking surface are not necessarily open and obvious, even though those defects would be visible to

anyone who was looking down." *Hursman v. City of Sedalia*, 728 S.W.3d 558, 565-66 (Mo. App. W.D. 2025). Where a pedestrian has not been alerted to the possible presence of a dangerous condition, he is "not required to look down at his feet or the pavement at every step, or to survey the pavement with a 'critical eye,' or walk with his eyes 'glued upon' the pavement." *Cunningham v. Bellerive Hotel, Inc.*, 490 S.W.2d 104, 108 (Mo. 1973).

As the Eastern District explained in *Anslinger v. Christian Hospital*, 687 S.W.3d 180 (Mo. App. E.D. 2024),

> in many . . . instances, Courts have . . . held a condition not to be open and obvious as a matter of law in the face of evidence indicating the condition was plainly visible and could have been seen by the plaintiff had he or she been looking down.
>
> In sum, prior Missouri holdings demonstrate that simply because a defendant presents evidence indicating a plaintiff *could have* seen an unobscured dangerous condition does not mean the condition is necessarily open and obvious as a matter of law. Moreover, whether an invitee fails to keep a careful lookout and notice potentially dangerous conditions, either obscured or openly visible, is a question for the finder of fact to answer at trial when allocating fault under Missouri's comparative fault principles. Likewise, the obviousness of the dangerous condition is also a factor for the jury to consider when evaluating comparative fault.

Id. at 186 (citations omitted).

In order to establish that the condition of a walking surface was open and obvious, the evidence must show that the pedestrian-plaintiff knew or should have known of the particular dangerous condition which caused their fall.

> [O]ne's knowledge of the general condition from which the danger arose (*i.e.*, the ice storm) does not necessarily constitute knowledge and appreciation of the specific danger involved, that is, the ice at the spot where plaintiff fell. Before a plaintiff can be denied

> submission of his case to the jury, a defendant must show plaintiff had knowledge of the danger posed by the area of the sidewalk where plaintiff fell.

Shannon v. Washington Univ., 575 S.W.2d 235, 238 (Mo. App. 1978) (citations omitted); *see also Turcol v. Shoney's Enterps., Inc.*, 640 S.W.2d 503, 508–09 (Mo. App. E.D. 1982).

In this case, the circuit court concluded that the danger presented by the icy condition of the Hotel's parking lot was open and obvious as a matter of law, because Woosley "slipped on his fifth trip to or from his vehicle," after "exercis[ing] care because of the ice on each trip he undertook." The circuit court stated that "all the facts conclusively prove that the icy condition which [Woosley] blames for his fall was observed by him numerous times before he made the choice to walk on an unpaved area that was covered with a uniform layer of ice."

The circuit court's judgment ignores, however, that the Hotel's parking lot consisted of two different areas, which were in dramatically different condition on the morning of Woosley's fall. While the *concrete-surfaced area* may be been "covered with a uniform layer of ice," as the judgment noted, Woosley testified that he fell on the separate *gravel-surfaced area*. Woosley testified in his deposition that, in the area where he fell, "the previous snowfall . . . hadn't been removed," and the snow "was packed down with tire tracks." Similarly, Woosley's expert described the area of Woosley's fall as "all rutted up," with packed snow and ice accumulated in the tire tracks.

On Woosley's prior trips back-and-forth to his vehicle, he traversed only the concrete-surfaced portion of the parking lot – not the separate, untreated, gravel-covered area where he actually fell. Woosley's familiarity with the general condition of the concrete-surfaced parking lot does nothing to establish that he had "knowledge and appreciation of the specific danger involved, that is, the [snow-covered, icy tire ruts] at the spot where [he] fell." *Shannon*, 575 S.W.2d at 238.

The Hotel argues that Woosley failed to preserve his argument, because he did not present his assertions concerning the condition of the gravelled area in separate, additional statements of fact. We disagree. The Hotel was the party moving for summary judgment. As the movant, the Hotel bore "'the burden of establishing both a legal right to judgment and the absence of any genuine issue of material fact required to support the claimed right to judgment.'" *Kinnaman-Carson v. Westport Ins. Corp.*, 283 S.W.3d 761, 765 (Mo. 2009) (citation omitted). "The trial court is prohibited from granting summary judgment, even if no responsive pleading is filed in opposition to a summary judgment motion, unless the facts and the law support the grant of summary judgment." *Id.*

Therefore, whether or not Woosley had responded to the Hotel's summary judgment motion, the Hotel bore the burden of identifying undisputed facts which established, as a matter of law, that the condition which caused Woosley's fall was open and obvious. Yet the Hotel's statements of undisputed material fact focused exclusively on the condition of the concrete-surfaced parking area. The

Hotel's fact statements did not address the condition of the graveled parking area where Woosley actually fell, or Woosley's actual or constructive knowledge of the condition of that area. As Woosley aptly notes in his Reply Brief, "[t]he right to judgment cannot flow from facts establishing the condition of property where Woosley did not fall." Woosley was entitled to describe the evidence concerning the condition of the location where he actually fell in his responses to the Hotel's statements of undisputed fact. By doing so, Woosley showed that the Hotel had failed to meet its burden as the summary judgment movant, because its evidence did not address the condition of the relevant location.

Viewed in the light most favorable to Woosley, the summary judgment record would support a jury finding that Woosley fell before sunrise when it was dark, in an area that was in an artificially dangerous condition due to the Hotel's failure to clear it; the snow pushed into the area from the concrete-covered area; and the rutting caused by large-vehicle traffic. The Hotel presented no evidence that Woosley was aware, or should have been aware, of the dangerous condition of that area. The evidence creates a genuine factual issue whether the place where Woosley fell was "covered with a uniform layer of ice" created by natural precipitation of which Woosley was aware, or whether that area was instead a non-uniform, artificially created, uneven surface of which Woosley was ignorant. In these circumstances, summary judgment was inappropriate on the basis that the condition which caused Woosley to fall was open and obvious.

II.

In his second and third Points, Woosley argues that the Hotel was not absolved of its duty to keep the parking area safe by application of the "Massachusetts Rule." Woosley's second Point argues that the Massachusetts Rule is inapplicable because the condition which caused his fall was not the result of a natural accumulation of ice and snow general to the community. Woosley argues in his third Point that, even if the Massachusetts Rule were otherwise applicable, the Hotel is nevertheless subject to potential liability because it voluntarily assumed the duty to clear the ice and snow. We agree with Woosley's arguments under his second Point, and therefore do not address Point 3.

Under the "Massachusetts Rule," a landowner is not liable for injuries caused by the natural accumulation of ice or snow as the result of weather conditions which exist community-wide.

> Generally, a possessor of land owes an invitee the duty to make safe both known dangers and dangers that should have been known. However, the general duty of care owed to invitees does not extend to naturally accumulated snow or ice, informally known as the Massachusetts Rule. Pursuant to the Massachusetts Rule, an invitor has no duty to remove snow or ice on outside areas where the snow or ice accumulated naturally as a result of general weather conditions within the community.

Brandes v. Bothwell Reg'l Health Ctr., 725 S.W.3d 283, 292–93 (Mo. App. W.D. 2025) (cleaned up).

> Our Supreme Court adopted the Massachusetts Rule in *Walsh v. City of St. Louis*, 346 Mo. 571, 142 S.W.2d 465 (Mo. 1940), a case in which a plaintiff sought damages against the City of St. Louis for personal injuries resulting from a fall caused by an icy sidewalk. The Court held as follows:

> A city is not required to remove snow and ice from its sidewalks where such condition is general throughout the city. It is, however, the duty of the city to exercise reasonable care to keep its sidewalks free from dangerous conditions, which are not classed as a generally dangerous condition, produced by natural causes such as snow and ice. Where snow accumulates on the sidewalk to such an extent that it produces a dangerous condition, not common to the general condition throughout the city, it is the duty of the city to exercise reasonable care to remedy such dangerous condition.
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> *Id.* at 466. The Massachusetts Rule was later expanded so that it applied equally to landlords, municipal corporations, invitors, and employers.

Brandes, 725 S.W.3d at 289 n.5 (other citations omitted).

The Massachusetts Rule has two parts: (1) the snow or ice must accumulate naturally; and (2) the place where the plaintiff fell must be in the same condition existing generally throughout the community. "'Naturalness' of snow or ice differs from 'generality,' and the latter is key. It is the generality of a situation resulting from natural causes that gives rise to the rule. Without that generality there would be no reason for the rule." *Hill v. Barry Cnty.*, 434 S.W.3d 115, 116 (Mo. App. S.D. 2014) (cleaned up). "[W]hether an accumulation of ice and snow is the product of a general condition in a geographical area or whether it is an isolated condition unique to a particular parcel of real estate is, under appropriate facts, an issue to be decided by a jury based upon proper instructions by the court." *Willis v. Springfield Gen. Osteopathic Hosp.*, 804 S.W.2d 416, 421 (Mo. App. S.D. 1991). "The factual question to be asked is whether, at the location of the fall, the conditions existing at that point were in fact those existing throughout the community." *Lehman v. Hug*, 614 S.W.2d 732,

733 (Mo. App. W.D. 1981). Despite the presence of ice or snow produced by natural precipitation, "a possessor or owner of land may be liable for injuries occurring on an abutting sidewalk due to ice or snow where the possessor or owner . . . artificially creates, through negligence or affirmative action, a condition that makes passage unsafe." *Cooper v. Capital Inv., LLC*, 204 S.W.3d 331, 335 (Mo. App. E.D. 2006) (citation omitted).

As discussed in § I above, Woosley presented evidence in his summary judgment briefing which would support a finding that he fell not because of the generally icy conditions, but because of the artificial condition of the gravel-surfaced parking area. Woosley's evidence indicated that the place where he fell was rendered dangerous because the Hotel had failed to clear snow from an earlier storm; had pushed snow from other parts of the parking lot into the gravel area; and had allowed vehicles to create an uneven, rutted surface as they used the gravel parking area. This evidence, if believed, would establish a localized, artificial condition to which the Massachusetts Rule is inapplicable.

Prior cases have recognized that the Massachusetts Rule is inapplicable to snow or ice which has been rendered dangerous by vehicle or pedestrian traffic over an untreated (or only partially treated) surface. Most prominently, in *Walsh v. City of St. Louis*, 142 S.W.2d 465 (Mo. 1940), the Missouri Supreme Court upheld a jury verdict against a municipality where the plaintiff fell on a sidewalk which was characterized by "rough and heavy ice" "formed by the partial thawing in the daytime of the snow which remained there and then its freezing again at

night"; the Court noted that "[b]eing walked over probably caused its roughness." *Id.* at 466. Although the Supreme Court recognized the Massachusetts Rule, it held that the Rule was inapplicable given the evidence of a localized condition created by artificial circumstances:

> It is true on the morning plaintiff was injured there was a general condition of ice. But it is important to observe that the evidence all shows that on this morning this general condition was one of slick and slippery ice, while at the place where plaintiff fell the ice was described as rough and heavy. The unsafe condition of the sidewalk did not arise from the general condition of slippery ice but from the presence in that one spot of rough and heavy ice which had accumulated and remained there over the previous three or four weeks – a special, isolated condition.

Id. at 466-67.

Similarly, in *Carden v. Lester E. Cox Med. Ctr.*, 519 S.W.2d 338 (Mo. App. 1975), the plaintiff fell on snow and ice on a medical center's parking lot, and a jury awarded the plaintiff damages for her injuries. *Id.* at 340. On appeal, the Court held that the Massachusetts Rule did not require the grant of a directed verdict to the defendant, because

> the record is replete with evidence that the "rough, ridged, hummocked ice" [where the plaintiff fell] was caused by automobiles driving, slipping and spinning upon the snow on the lot. It cannot be contended under the facts before us that such condition submitted to the jury was a general condition of snow and ice.

Id. at 342.

Finally, the Eastern District affirmed a jury verdict for a pedestrian-plaintiff in *Turcol v. Shoney's Enterprises, Inc.*, 640 S.W.2d 503 (Mo. App. E.D. 1982), where the evidence at trial indicated that the plaintiff fell in a parking lot

that "was covered with areas of deep, rutted and slippery packed snow and ice caused by automobiles using the parking lot." *Id.* at 508. The Court held that the Massachusetts Rule did not require the grant of a directed verdict to the landowner, given the evidence that the parking lot was in a localized, artificial condition:

> Appellant, by its own admission, had the parking lot plowed and salted on the day prior to the occurrence in question. The parking lot had ruts, etc. caused by autos running over the packed snow. [Appellant's assistant manager] testified to its slippery condition. What might have once been a general condition was changed into an isolated condition, or at least a jury could so find.

Id.; *see also Cooper*, 204 S.W.3d at 335-36 (reversing the grant of summary judgment to a landowner where the evidence would support a finding that the landowner, "through either affirmative action or negligence, artificially created a condition that made the sidewalk unsafe by allowing the canopy attached to the Property to drain water onto the sidewalk, where it froze, thereby creating an unnatural accumulation of ice").

Like the walking surfaces in *Walsh*, *Carden*, and *Turcol*, the evidence in the summary judgment record creates a genuine issue of fact as to whether the gravelled area where Woosley fell was in an isolated, artificial condition created by the Hotel's actions and inaction. Moreover, as discussed in § I, the Hotel's summary judgment motion did not directly address the condition of the specific area where Woosley fell. The Hotel failed to establish, as a matter of undisputed fact, that Woosley's fall was caused by a natural accumulation of precipitation

common to the entire community. The circuit court's grant of summary judgment cannot be sustained by invocation of the Massachusetts Rule.

Conclusion

The judgment of the circuit court is reversed, and the case is remanded for further proceedings consistent with this opinion.



Alok Ahuja, Judge

All concur.