

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs June 2, 2026

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Clerk of the
Appellate Courts

MELANIE PLEASANT v. CITY OF ELIZABETHTON

Appeal from the Circuit Court for Carter County
No. C14967 James E. Lauderback, Judge

No. E2025-01067-COA-R3-CV

This appeal concerns a pedestrian’s negligence lawsuit against a municipality after she tripped and fell on a public sidewalk. The trial court granted judgment on the pleadings to the municipality on the ground that the plaintiff failed to allege that any municipal employee acted within the scope of his or her employment as required by the Governmental Tort Liability Act. Given that more than three years had elapsed since the complaint was filed, the trial court denied the plaintiff’s oral motion to amend her pleadings. The trial court ruled further, in the alternative, that the municipality was entitled to summary judgment because it lacked actual or constructive notice of the alleged sidewalk defect. The plaintiff appeals. We affirm.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed;
Case Remanded**

KRISTI M. DAVIS, J., delivered the opinion of the Court, in which JEFFREY USMAN and VALERIE L. SMITH, JJ., joined.

Jesse J. Campbell, Johnson City, Tennessee, for the appellant, Melanie Pleasant.

Hunter Storm Shepard, Johnson City, Tennessee, for the appellee, City of Elizabethton.

OPINION

BACKGROUND

On August 9, 2021, Melanie Pleasant (“Plaintiff”) filed a negligence lawsuit against the City of Elizabethton (“Defendant”) in the Carter County Circuit Court (the “trial court”). The lawsuit stemmed from a September 8, 2020 incident in which Plaintiff tripped and fell on a raised portion of one of Defendant’s sidewalks while walking her dog.

Plaintiff stated that Defendant was a proper party to the lawsuit pursuant to the Governmental Tort Liability Act (the “GTLA”), “and in particular [Tennessee Code Annotated section] 29-20-205, whereby immunity from suit for all governmental entities are waived for injuries resulting from a tort, as alleged herein.” Plaintiff alleged, among other things, that “[Defendant], through its employees, agents, or both, negligently failed to maintain [Defendant’s] premises in a reasonably safe condition.” Plaintiff alleged further that Defendant “knew, or in the exercise of reasonable care should have known, that the uneven raise[d] sidewalk created an unreasonable risk of harm to those at [sic] on Defendant’s said premises.” Consequently, Plaintiff sought damages for her injuries. On October 4, 2021, Defendant filed an answer asserting in relevant part that the complaint failed to state a claim under the GTLA because it did not allege that a municipal employee acted within the scope of his or her employment. On March 28, 2024, Defendant filed an amended answer in which it reasserted the same defense.

On March 24, 2025, Defendant filed a motion for judgment on the pleadings pursuant to Tennessee Rule of Civil Procedure 12.03 or, alternatively, for summary judgment pursuant to Tennessee Rule of Civil Procedure 56.04. Defendant first sought dismissal of Plaintiff’s complaint for failure to state a claim because, insofar as Plaintiff’s claim fell under section 29-20-205 of the GTLA, she did not allege that the tort was committed by a municipal employee acting within the scope of his or her employment. Alternatively, Defendant stated that it was entitled to summary judgment based on its lack of actual or constructive notice of the alleged sidewalk defect. On May 14, 2025, Plaintiff filed a response asserting that genuine issues of material fact precluded summary judgment. Among the materials Plaintiff submitted in her response to the motion for summary judgment was a Google Street View image dated May 2016 showing a similar elevation change at the location of her trip and fall.

Depositions were taken as part of the discovery process. Plaintiff testified in her deposition that the uneven portion of the sidewalk she tripped on was not “obviously apparent” to her at the time. The defect at issue was a vertical displacement, or lip, between two adjoining concrete sidewalk slabs, with an elevation difference of around one to one-and-a-half inches. Plaintiff testified that she did not know whether Defendant had ever received any notice about this particular defect and was unaware of anyone else having tripped or fallen at the same location. According to Plaintiff, she had previously walked the same route and had never noticed the sidewalk defect before her trip and fall.

Danny Hilbert (“Mr. Hilbert”), Defendant’s Street and Sanitation Manager, also was deposed. Mr. Hilbert explained that Defendant addresses sidewalk defects when they are observed during the course of work or when they are reported by citizens. Mr. Hilbert testified that raised sidewalks are an “area of concern” and would be repaired when identified. However, according to Mr. Hilbert, Defendant never knew about the specific condition here. Furthermore, Mr. Hilbert did not know of any incidents having occurred at the section of sidewalk at issue before Plaintiff’s trip and fall.

On May 29, 2025, the trial court heard Defendant's motions. Plaintiff's counsel acknowledged that the complaint was "imperfectly pled."¹ Nevertheless, counsel argued that, even if the complaint failed to state a claim under section 29-20-205, it could still be construed as asserting a claim under Tennessee Code Annotated section 29-20-203, notwithstanding the complaint's explicit reference to section 29-20-205.² In either event, counsel orally requested leave to amend the complaint to cure any technical deficiencies and allow the claim to go forward. In its oral ruling, the trial court denied Plaintiff's request, stating:

I'm going to start out by denying the oral -- denying the oral motion which the Plaintiff[s] attorney made today to amend their pleadings. We're three and a half years after the initial filing of this lawsuit. The -- this defense of failure to state a claim has been raised now for several years and I think it's a little late at this stage to ask to amend their Complaint. So that oral motion made by Plaintiff[s] counsel this morning is denied.

The trial court then announced its rulings on Defendant's Rule 12.03 and Rule 56.04 motions. The trial court concluded that the complaint was brought under section 29-20-205 yet failed to allege that any municipal employee acted within the scope of his or her employment as required. The trial court ruled further that, to the extent Plaintiff articulated a claim under section 29-20-203, Defendant was entitled to summary judgment because it lacked actual or constructive notice of the alleged sidewalk defect.

On June 20, 2025, the trial court entered its written final order incorporating its oral ruling. The order granted Defendant judgment on the pleadings under Rule 12.03 and, in the alternative, granted summary judgment to Defendant on Plaintiff's section 29-20-203 claim to the extent such a claim was asserted.³ Plaintiff timely appealed to this Court.

ISSUES

Plaintiff raises three issues on appeal, which we reorder and restate slightly as follows:

¹ Counsel stated that he believed he was the third attorney to have worked on Plaintiff's case.

² Section 29-20-205 removes immunity for negligent acts or omissions of governmental employees acting within the scope of their employment. Section 29-20-203 pertains to injuries arising from a dangerous or defective condition on a public street or sidewalk and requires the plaintiff to allege and prove that the governmental entity had actual or constructive notice of the particular condition.

³ In its oral ruling, the trial court also discussed the possible application of the Tennessee Recreational Use Statute, but this did not serve as a basis for its judgment.

1. Whether the trial court erred in granting Defendant judgment on the pleadings as to Plaintiff's section 29-20-205 claim.

2. Whether the trial court erred in denying Plaintiff's oral motion to amend her complaint.

3. Whether the trial court erred in granting summary judgment to Defendant as to Plaintiff's asserted section 29-20-203 claim.

STANDARD OF REVIEW

The trial court resolved this case in part on a motion for judgment on the pleadings. When reviewing that aspect of the trial court's judgment, we apply the following standard:

When reviewing orders granting a Tenn. R. Civ. P. 12.03 motion, we use the same standard of review we use to review orders granting a Tenn. R. Civ. P. 12.02(6) motion to dismiss for failure to state a claim. *Waller v. Bryan*, 16 S.W.3d 770, 773 (Tenn. Ct. App. 1999). Accordingly, we must review the trial court's decision de novo without a presumption of correctness, *Stein v. Davidson Hotel Co.*, 945 S.W.2d 714, 716 (Tenn. 1997), and we must construe the complaint liberally in favor of the non-moving party and take all the factual allegations in the complaint as true. We should uphold granting the motion only when it appears that the plaintiff can prove no set of facts in support of a claim that will entitle him or her to relief.

Young v. Barrow, 130 S.W.3d 59, 63 (Tenn. Ct. App. 2003). With respect to amendments, a trial court has broad discretion. *Runions v. Jackson-Madison Cnty. Gen. Hosp. Dist.*, 549 S.W.3d 77, 84 (Tenn. 2018). As such, a trial court's decision concerning whether to grant or deny a motion to amend the pleading is reviewed for an abuse of discretion. *See Bidwell ex rel. Bidwell v. Strait*, 618 S.W.3d 309, 318 (Tenn. 2021). Our Supreme Court has explained that "[a] court abuses its discretion when it applies an incorrect legal standard or its decision is illogical or unreasonable, is based on a clearly erroneous assessment of the evidence, or utilizes reasoning that results in an injustice to the complaining party." *Id.* (quoting *Runions*, 549 S.W.3d at 84) (other internal citations omitted).

As an alternative ruling, the trial court granted summary judgment to Defendant. A trial court may grant summary judgment only if the "pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits . . . 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." Tenn. R. Civ. P. 56.04. The propriety of a trial court's summary judgment decision presents a question of law, which we review de novo with no presumption of correctness. *Kershaw v. Levy*, 583 S.W.3d 544, 547 (Tenn. 2019).

“The moving party has the ultimate burden of persuading the court that there are no genuine issues of material fact and that the moving party is entitled to judgment as a matter of law.” *Martin v. Norfolk S. Ry. Co.*, 271 S.W.3d 76, 83 (Tenn. 2008). As our Supreme Court has instructed,

when the moving party does not bear the burden of proof at trial, the moving party may satisfy its burden of production either (1) by affirmatively negating an essential element of the nonmoving party’s claim or (2) by demonstrating that the nonmoving party’s evidence *at the summary judgment stage* is insufficient to establish the nonmoving party’s claim or defense.

Rye v. Women’s Care Ctr. of Memphis, 477 S.W.3d 235, 264 (Tenn. 2015). “[I]f the moving party bears the burden of proof on the challenged claim at trial, that party must produce at the summary judgment stage evidence that, if uncontroverted at trial, would entitle it to a directed verdict.” *TWB Architects, Inc. v. Braxton, LLC*, 578 S.W.3d 879, 888 (Tenn. 2019) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 331 (1986)).

DISCUSSION

I. Judgment on the Pleadings as to Plaintiff’s Section 29-20-205 Claim

Under section 29-20-205 of the GTLA, governmental immunity is removed when a government employee acting within the scope of his or her employment negligently causes an injury. *See* Tenn. Code Ann. § 29-20-205.⁴ Plaintiff argues that her complaint sufficiently alleged a claim under section 29-20-205 and that the trial court erred in granting judgment on the pleadings. Pointing to the allegation in her complaint that Defendant acted “through its employees and agents,” Plaintiff contends that no other reasonable conclusion can be drawn than she alleged—in all but specific phrase—that Defendant’s employees acted in the scope of their employment.

Plaintiff relies on *Webb v. Nashville Area Habitat for Humanity, Inc.*, 346 S.W.3d 422, 426–27 (Tenn. 2011), which states that courts are to construe complaints liberally and that dismissal is appropriate only when it appears the plaintiff can prove no set of facts that would entitle her to relief. Plaintiff says requiring “magic words” to state a claim under section 29-20-205 is contrary to Tennessee’s liberal notice pleading framework. In response, Defendant cites multiple Tennessee cases holding that a plaintiff suing under section 29-20-205 must, for the claim to survive, overtly allege that the government employees acted in the scope of their employment. *See, e.g., Gentry v. Cookeville Gen. Hosp.*, 734 S.W.2d 337, 339 (Tenn. Ct. App. 1987); *Lee v. City of Cleveland*, 859 S.W.2d

⁴ Before setting out a list of exceptions, section 29-20-205 provides that “[i]mmunity from suit of all governmental entities is removed for injury proximately caused by a negligent act or omission of any employee within the scope of his employment. . . .”

347, 348 (Tenn. Ct. App. 1993); *Brandon v. Shelby Cnty.*, No. W2017-00780-COA-R3-CV, 2018 WL 5013779, at *4–5 (Tenn. Ct. App. Oct. 16, 2018).

Plaintiff is correct that, at the Rule 12 stage, Tennessee law generally requires courts to construe pleadings liberally and to draw all reasonable inferences in favor of the non-movant. *See Webb*, 346 S.W.3d at 426–27. However, because this case arises under the GTLA, the default rule of governmental immunity applies, and any statutory waiver must be construed narrowly. *See Cunningham v. Williamson Cnty. Hosp. Dist.*, 405 S.W.3d 41, 43 (Tenn. 2013). Strict compliance means that generality will not suffice. One such specific requirement appears in longstanding Tennessee caselaw addressing GTLA claims rooted in employee negligence. In *Gentry v. Cookeville Gen. Hosp.*, this Court held that a GTLA complaint must overtly allege that the tort was committed by a government employee acting within the scope of his or her employment. 734 S.W.2d at 339. As *Gentry* explains:

A complaint against a governmental entity for tort must overtly allege that the tort was committed by an employee or employees of the governmental entity within the scope of his or their employment. A complaint which does not so state does not state a claim for which relief can be granted because the action is not alleged to be within the class of cases excepted by the statute from governmental immunity.

Id.

The holding of *Gentry* has been reiterated in the decades since. *Brandon v. Shelby Cnty.* is particularly on point. In *Brandon*, the plaintiff alleged negligence by a governmental entity under section 29-20-205 but failed to allege that any governmental employee acted within the scope of his or her employment. 2018 WL 5013779, at *1–2. The trial court granted judgment on the pleadings under Rule 12.03, and this Court affirmed. *Id.* at *1–2, 4–5. We explained that, despite Tennessee’s generally liberal notice pleading standards, a GTLA claim brought under section 29-20-205 must expressly allege that the negligent conduct was committed by a government employee acting within the scope of his or her employment. *Id.* at *4. This Court explained:

Although we agree that in construing pleadings, we generally must draw all reasonable inferences in favor of the plaintiff, *see Satterfield v. Breeding Insulation Co.*, 266 S.W.3d 347, 352 n.1 (Tenn. 2008), the unambiguous holding of *Gentry* places a higher burden on a plaintiff in order to remove governmental immunity under the GTLA. As previously discussed, any claim for damages under the GTLA must be brought in strict compliance with the demands of the GTLA. Tenn. Code Ann. § 29-20-201(c). Pursuant to this Court’s well-settled interpretation of the GTLA, in order to remove immunity under the statute, any complaint seeking to hold a governmental

entity liable for the negligence of an employee under the GTLA must contain an express allegation that negligence occurred while a government employee acted within the scope of his or her employment. *See Gentry*, 734 S.W.2d at 339; *see also* Tenn. Sup. Ct. R. 4(G)(2) (“Opinions reported in the official reporter . . . shall be considered controlling authority for all purposes unless and until such opinion is reversed and modified by a court of competent jurisdiction.”). Although Appellant has indeed asserted that a tortious act occurred, the complaint contains no allegation that the negligence leading to Appellant’s injury was committed by Appellees’ employee acting within the scope of his or her employment. Consequently, Appellant’s complaint lacks a fundamental component of a properly pleaded GTLA claim.

Id. (footnote omitted).

Here, Plaintiff does not mention *Brandon*, nor does she meaningfully contend with *Gentry*. Other than stating general principles of liberal notice pleading, Plaintiff does not argue for why an exception to the rule of *Gentry* should be made for her. *Gentry* and its progeny, including *Brandon*, form a settled line of GTLA pleading precedent, and we adhere to such precedent absent a compelling reason to depart from it. *See Boyce v. LPP Mortg. Ltd.*, 435 S.W.3d 758, 767 (Tenn. Ct. App. 2013) (recognizing that we adhere to settled precedent unless a compelling basis exists to depart from it, such as when the precedent is clearly erroneous or constitutionally suspect). Plaintiff has offered us no reason to depart from *Gentry*. Applying the *Gentry* analysis, Plaintiff’s complaint did not overtly allege that negligence was committed by any employee of Defendant acting within the scope of his or her employment. Thus, Plaintiff has failed to satisfy the GTLA’s strict compliance pleading requirement. We affirm the trial court’s grant of judgment on the pleadings to Defendant on Plaintiff’s section 29-20-205 claim.

II. Motion to Amend

Plaintiff next contends that the trial court abused its discretion by denying her oral motion to amend her complaint to correct what she described as a technical pleading deficiency. She argues that Defendant would not be prejudiced by an amendment because Defendant had raised the same GTLA-pleading deficiency from essentially the outset of the case and therefore had been aware of it for nearly four years. Plaintiff also relies on Tennessee Rule of Civil Procedure 15.01, which provides that leave to amend “shall be freely given.” She cites *Hardcastle v. Harris*, 170 S.W.3d 67, 81 (Tenn. Ct. App. 2004), for the principle that amendments may be denied only upon a showing of undue delay, prejudice, bad faith, repeated failure to cure deficiencies, or futility. In Plaintiff’s view, none of these factors is present, and the trial court should have permitted amendment.

Defendant, for its part, asserts that the trial court acted within its discretion because Plaintiff was put on notice of the deficiency in its complaint by Defendant’s answer,

amended answer, and motion for judgment on the pleadings, yet waited over three years to seek amendment orally at the last minute. Defendant argues that this amounted to undue delay and that an amendment would have been unduly prejudicial, relying on *Largin v. Williamson Cnty. Animal Control Ctr.*, No. M2005-01255-COA-R3-CV, 2006 WL 2619973 (Tenn. Ct. App. Sept. 12, 2006). In *Largin*, this Court affirmed the denial of a motion to amend filed the day before the hearing after the plaintiff had been put on notice of the same GTLA pleading deficiency through an answer and motion to dismiss. *Id.* at *2, 4.

We observe that both parties attempt to use in their favor the more than three-year span between the filing of the complaint and Plaintiff's oral motion to amend. Plaintiff argues that because Defendant repeatedly raised the pleading deficiency in its answer in 2021, its amended answer in 2024, and its motion for judgment on the pleadings in March 2025, Defendant was aware of the issue and would not be prejudiced by amendment. Defendant, by contrast, contends that the same timeline shows undue delay by Plaintiff because despite repeated notice of the defect, she only sought leave to amend orally at the hearing on the dispositive motion.

The arguments are not equivalent. Plaintiff was put on notice of the fatal deficiency in her complaint very early in the case yet waited until the day of the hearing more than three years later to request leave to amend. Plaintiff offers no adequate explanation for the lengthy delay. Given the lack of adequate explanation, the trial court had a sufficient basis to find undue delay. Undue prejudice would likewise have resulted from allowing amendment at this late stage of the proceedings. Defendant had litigated under the same GTLA-pleading defense for years, and a last-minute amendment would have forced it to extend its defense of the case without any adequate justification for Plaintiff's delay.

This issue is reviewed for abuse of discretion, a highly deferential standard. The fact that another court might have ruled differently does not justify reversal; a discretionary decision stands unless the narrow criteria for finding an abuse of discretion are satisfied. Nothing in the record suggests that the trial court applied an incorrect legal standard; reached an illogical or unreasonable result; relied on a clearly erroneous assessment of the evidence; or employed reasoning that caused an injustice to Plaintiff. We therefore conclude that the trial court did not abuse its discretion in denying Plaintiff's motion for leave to amend her complaint.

III. Summary Judgment as to Plaintiff's Asserted Section 29-20-203 Claim

Lastly, Plaintiff contends that even if her complaint is fatally defective under section 29-20-205 and cannot be amended, it should nevertheless be read as stating a claim under section 29-20-203, notwithstanding her omission of an explicit citation to that statute. While section 29-20-203 does not appear in Plaintiff's complaint, we are constrained to consider her constructive notice theory as though such a claim had been

asserted.⁵ Section 29-20-203 removes immunity for injuries caused by a defective or dangerous condition of a street or sidewalk, but only when the governmental entity had actual or constructive notice of that specific condition. *See* Tenn. Code Ann. § 29-20-203(b).⁶ The trial court concluded that, even if Plaintiff's complaint were construed to assert a claim under section 29-20-203, summary judgment was appropriate because Plaintiff presented no evidence of Defendant's actual or constructive notice of the defect.

On appeal, Plaintiff does not argue that Defendant had actual knowledge of the sidewalk defect. Instead, she relies on a constructive notice theory based on the alleged duration of the condition and Defendant's failure to discover it. To support that theory, Plaintiff leans heavily on a May 2016 Google Street View photograph that she says shows the same defect years before her fall. She also points to weeds growing between the sidewalk slabs as evidence that the condition had been present for a long time. According to Plaintiff, this defect would have been discovered by Defendant in the exercise of reasonable care if only it had a formal sidewalk inspection protocol in place. In response, Defendant argues that the evidence Plaintiff submitted at the summary judgment stage is inconclusive and does not create a triable issue on constructive notice.

Section 29-20-203(b) of the GTLA requires proof that the governmental entity had actual or constructive notice of the particular defect at issue. *Fowler v. City of Memphis*, 514 S.W.3d 732, 738 (Tenn. Ct. App. 2016). In *Fowler*, this Court explained that constructive notice requires evidence of how long the dangerous condition existed at the site such that the governmental entity should have discovered it in the exercise of reasonable care. *Id.*; *see also Champlin v. Metro. Gov't of Nashville*, No. M2007-02158-COA-R3-CV, 2009 WL 1065937, at *5 (Tenn. Ct. App. Apr. 20, 2009) (recognizing that section 29-20-203 requires notice of the particular defective or dangerous condition alleged to have caused the injury). In *Mitchell v. City of Franklin*, No. M2021-00877-COA-R3-CV, 2022 WL 4841912 (Tenn. Ct. App. Oct. 4, 2022), another sidewalk case, this Court also addressed this point. In *Mitchell*, we concluded that the Google Street View photographs submitted by the plaintiff in that case were too

⁵ This Court has stated that “[w]hen a party relies on a particular section of the Governmental Tort Liability Act as the basis for a lawsuit, the courts are not bound by the party’s designation.” *Zamek v. O’Donnell*, No. W2006-00522-COA-R3-CV, 2007 WL 98481, at *3 (Tenn. Ct. App. Jan. 16, 2007) (citing *Helton v. Knox Cnty.*, 922 S.W.2d 877, 880 (Tenn.1996)). “If the facts of the case and the essence of the complaint make another section of the Act applicable, the court may analyze the case under that other section in addition to, or instead of, the original section relied upon by the parties.” *Id.*

⁶ Section 203 provides, as relevant, that “[i]mmunity from suit of a governmental entity is removed for any injury caused by a defective, unsafe, or dangerous condition of any street, alley, sidewalk or highway, owned and controlled by such governmental entity. . . . This section shall not apply unless constructive and/or actual notice to the governmental entity of such condition be alleged and proved in addition to the procedural notice required by § 29-20-302.” Tenn. Code Ann. § 29-20-203 (a) & (b).

indeterminate to show whether a vertical offset existed or how long it had been present. *Id.* at *8.

Here, Plaintiff's reliance on 2016 Google Street View imagery is likewise insufficient at the summary judgment stage to serve as evidence for Defendant's constructive notice of the sidewalk defect. To withstand Defendant's summary judgment motion on a section 29-20-203 claim, Plaintiff needed to offer some evidence showing how long the defect existed, how it developed over time, and why it should have been apparent to Defendant. Plaintiff never supplied any such context for the image. The photographs submitted by Plaintiff show a line in the pavement but do not demonstrate any obvious change in elevation between the slabs. As in *Mitchell*, it is "difficult to determine how much of a change in elevation was present at that point in time or if that change in elevation" was unsafe. *Id.* The photos of the line in the pavement provided by Plaintiff are by themselves insufficient to create a genuine issue of material fact regarding whether a defect had existed for such a length of time that the governmental entity should have discovered it in the exercise of reasonable care such that a rational trier of fact could find in favor of Plaintiff. Plaintiff also testified at her deposition that she was unaware of any prior incidents at this site, and Defendant's undisputed evidence shows it had never received any reports about it. Additionally, the mere fact that weeds grew between the slabs—incidentally, not a highly unusual occurrence—fails to bolster Plaintiff's theory as it does not show how long the elevation existed or that Defendant should have discovered it.

Plaintiff contends further that Defendant's lack of a formal sidewalk inspection protocol creates a factual dispute for trial. However, Mr. Hilbert did not say that Defendant ignores sidewalk conditions altogether. He explained that defects are addressed when employees discover them during the course of their work or when citizens report them. Furthermore, constructive notice requires proof of the particular defect—including how long it existed and persisted—and whether anyone had ever complained about it. Plaintiff failed to provide such details and instead relies on photographic material of extremely limited context. Mr. Hilbert testified that no complaints had ever been made about this location, nor had any incidents occurred there before Plaintiff's fall. It is also noteworthy that Plaintiff herself never noticed this defect when she had walked the route before, even as she argues Defendant should have discovered it.

In sum, Plaintiff has presented no evidence from which a reasonable finder of fact could conclude that Defendant knew or should have known of the alleged sidewalk defect at issue. Because Plaintiff cannot establish the essential notice element of her asserted section 29-20-203 claim, Defendant was entitled to summary judgment on that claim. The judgment of the trial court is affirmed in its entirety.

CONCLUSION

The judgment of the Circuit Court for Carter County is hereby affirmed, and this case is remanded for further proceedings consistent with this opinion. Costs on appeal are assessed to the appellant, Melanie Pleasant, for which execution may issue if necessary.

KRISTI M. DAVIS, JUDGE