IN THE COURT OF APPEALS OF IOWA

No. 6-312 / 05-0985
Filed May 24, 2006

JULIE A. MATHER,
Plaintiff-Appellant,

vs.

BENTON COUNTY COMMUNITY SCHOOL DISTRICT,
Defendant-Appellee.

Appeal from the Iowa District Court for Benton County, Kristin L. Hibbs, Judge.

The plaintiff appeals from the district court's ruling regarding the inclusion of certain jury instructions on her premises liability claim. **AFFIRMED.**

David A. Havercamp of Havercamp Law Office, P.L.C., Cedar Rapids, for appellant.

Terry J. Abernathy and Stephanie L. Hinz of Pickens, Barnes & Abernathy, Cedar Rapids, for appellee.

Considered by Vogel, P.J., and Zimmer and Vaitheswaran, JJ.

VOGEL, P.J.

Julie Mather slipped and fell on an interior walkway on the grounds of the Benton County Community High School. Following a jury trial against the school district, the jury entered a verdict finding the school district not at fault for Mather's fall. Mather now appeals, arguing that the district court erred by excluding two jury instructions that Mather proposed, while allowing a jury instruction on Mather's comparative fault offered by the school district. We review alleged errors in jury instructions for correction of errors at law. *Wells v. Enterprise Rent-a-Car Midwest*, 690 N.W.2d 33, 36 (Iowa 2004). "Error in giving or refusing to give a particular jury instruction does not merit reversal unless it results in prejudice to the party." *Id.*

Mather asserts that the district court should have included Uniform Jury Instruction 740.1 (Owner Liability For Sidewalks-Natural Accumulation of Snow And Ice) and 740.2 (Owner Liability For Sidewalks-Unnatural Accumulation of Snow And Ice). We agree with the defendant's contention that these instructions draw their authority from Iowa Code section 364.12(2)(b) (2001), which applies solely to public sidewalks abutting a street or roadway, not those private walkways totally contained within private property. *See Hoskinson v. City of Iowa City*, 621 N.W.2d 425, 428-429 (Iowa 2001) (citing *Stabley v. Huron-Clinton Metro. Park Auth.*, 579 N.W.2d 374, (Mich. App. Ct. 1998)). Therefore, the case was properly submitted as an ordinary negligence claim, and the district court did not err in refusing to instruct on these matters.

Mather lastly argues that the comparative fault instruction on her failure to keep a proper lookout should not have been given, as there was not sufficient

evidence to support this instruction. Even assuming Mather's position is correct, she overlooks the fact that the jury never reached the issue of her comparative fault because it found the school district not at fault in the first special verdict question. The jury did not proceed to answer the following questions, including the one pertaining to comparative fault; thus there was no prejudice resulting from the inclusion of this instruction. We affirm the district court.

AFFIRMED.