

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 20-13621

Non-Argument Calendar

HOSSENI TABARESTANI,

Plaintiff-Appellant,

versus

WALMART, INC.,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 0:18-cv-62963-LSS

Before JORDAN, NEWSOM, and BLACK, Circuit Judges.

PER CURIAM:

Hossein Tabarestani brought a negligence action against Walmart, Inc. based on injuries Tabarestani sustained from a slip and fall on the premises of a Sam's Club located in Bluffton, South Carolina. After a three-day jury trial, the jury returned a verdict in favor of Walmart. Subsequently, Tabarestani filed post-trial motions for a new trial and relief from judgment. The magistrate judge¹ denied both motions in a thorough Omnibus Order on Post-Trial Motions.²

Tabarestani asserts the district court erred in five ways: (1) in ruling there was no fraud, misrepresentation, or misconduct by Walmart; (2) by not admitting Walmart's internal policies and procedures and Walmart's answers to Tabarestani's interrogatories; (3) in not compelling Walmart Manager Christopher Graft's attendance at trial at Walmart's expense; (4) in excluding OSHA regulations as evidence of negligence; and (5) in substantially adopting Walmart's proposed jury instructions and in substantially adopting Walmart's submitted verdict form.

¹ On January 3, 2019, the parties consented to conduct all further proceedings in front of a United States Magistrate Judge.

² The Omnibus Order also denied Tabarestani's motion to conduct interviews with jurors and granted Walmart's motion to tax costs. These rulings are not at issue on appeal.

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After review, we conclude Tabarestani's arguments are meritless and affirm for the reasons stated in the magistrate judge's thorough and well-reasoned Omnibus Order of August 29, 2020. We note as to his fraud claim, Tabarestani contends that a Walmart security video that *he* introduced into evidence at trial was fraudulent and does not show him, but rather some other unidentified person, falling in the snow at the Sam's Club loading dock on January 7, 2018. As the magistrate judge reasoned, the jury was charged with finding the facts based on their assessment of the evidence, including the credibility of witnesses. Tabarestani claimed at trial that he was not shown in the video, but the jury rejected that argument. As the district court stated, Tabarestani has shown "no clear and convincing evidence of fraud or fraud on the court."

AFFIRMED.