

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 22 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

GUADALUPE LYN,

No. 18-17017

Plaintiff-Appellant,

D.C. No. 2:17-cv-00614-GMN-NJK

v.

MEMORANDUM*

OUTBACK STEAKHOUSE OF FLORIDA,
LLC,

Defendant-Appellee.

Appeal from the United States District Court
for the District of Nevada
Gloria M. Navarro, District Judge, Presiding

Submitted April 17, 2019**

Before: McKEOWN, BYBEE, and OWENS, Circuit Judges.

Guadalupe Lyn appeals from the district court's summary judgment in her diversity action alleging a negligence claim under Nevada law. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Braunling v.*

Countrywide Home Loans Inc., 220 F.3d 1154, 1156 (9th Cir. 2000). We affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

The district court properly granted summary judgment because Lyn failed to raise a genuine dispute of material fact as to whether defendant caused the foreign substance to be on the floor, or whether defendant had actual or constructive notice of a hazardous condition and failed to remedy it. *See Sprague v. Lucky Stores, Inc.*, 849 P.2d 320, 322-23 (Nev. 1993) (setting forth requirements for premises liability under a negligence theory); *see also Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249-50 (1986) (“If the [nonmoving party’s] evidence is merely colorable, or is not significantly probative, summary judgment may be granted.” (internal citations omitted)).

AFFIRMED.