

{¶ 7} Considering the third objection first, plaintiff asserts that the magistrate failed to consider changes that have occurred in the law of premises liability in the 62 years since the *Johnson* case was decided by the Supreme Court of Ohio. The basic elements of proof in a slip-and-fall case, as set forth by the Supreme Court of Ohio in *Johnson*, supra, have not changed. Indeed, on page three of the decision, the magistrate cites *Evans v. Armstrong* (Sept. 23, 1999), Franklin App. No. 99AP-17, in setting out the elements of proof in a slip-and-fall case. In *Evans*, the *Johnson* case was cited with approval. Therefore, the court finds that the magistrate applied the relevant law as it exists in Ohio when deciding this case, and plaintiff's third objection is OVERRULED.

{¶ 8} In her second objection, plaintiff asserts that the magistrate ignored well-settled law, and "diminishes the nature and gravity of plaintiff's testimony by finding that the plaintiff was in error by looking at other students and not looking directly at the ground." Upon review, the court finds that plaintiff's interpretation of the magistrate's decision is in error. Accordingly, plaintiff's second objection is OVERRULED.

{¶ 9} In plaintiff's first objection, plaintiff challenges several of the magistrate's findings of fact and conclusions of law.

{¶ 10} First, plaintiff argues that the magistrate misconstrued plaintiff's testimony in finding that plaintiff assumed she tripped over a floor mat and in concluding that plaintiff did not sufficiently prove by a preponderance of the evidence that the mat caused her fall. Upon review of the evidence, the court finds that the magistrate's findings and conclusions are supported by the greater weight of the evidence and by the law. Moreover, the

magistrate also concluded, in the alternative, that "[e]ven if plaintiff had proven that the floor mat caused her fall, she failed to establish the second and third elements of the *Johnson* test ***."

{¶ 11} Secondly, plaintiff asserts that the magistrate erred when he found that the glare from the sun "prevented her from looking down as she walked into the building." Upon review, the magistrate's finding is consistent with the testimony adduced at trial.

{¶ 12} Finally, plaintiff contends that the magistrate erred by affording undue weight to the testimony of defendant's custodial/maintenance staff and by discounting the testimony of plaintiff's expert witness. Upon review, the court finds that the magistrate considered the testimony of all three witnesses in concluding that the cleaning and maintenance schedules followed by defendant's employees, while not strictly in accordance with those recommended by plaintiff's expert, were nonetheless reasonable.

{¶ 13} For the foregoing reasons, plaintiff's first objection is OVERRULED.

{¶ 14} Upon review of the record, the magistrate's decision, and plaintiff's objections, the court finds that the magistrate both correctly analyzed the issues and applied the law to the facts. Therefore, the objections are OVERRULED and the court adopts the magistrate's decision and recommendation as its own, including the findings of fact and conclusions of law contained therein. Judgment is rendered in favor of defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

J. CRAIG WRIGHT
Judge

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