

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF ARKANSAS  
HOT SPRINGS DIVISION

BANK OF THE OZARKS, as Special  
Administrator of the Estate of  
MABEL LILLIAN COWLE

PLAINTIFF

v. Civil No. 09-6040

THE KROGER COMPANY d/b/a  
KROGER FOOD STORES and  
CRAIN ENTERPRISES, INC. d/b/a  
MID-SOUTH AUTOMATIC DOOR

DEFENDANTS

ORDER

On the 23<sup>rd</sup> day of March, 2010, this matter came on for trial to a duly selected jury consisting of eight members, the Honorable Robert T. Dawson presiding. The trial continued until March 25, 2010, when the case was submitted to the jury on interrogatories and a unanimous verdict was reached as to each interrogatory as follows:

INTERROGATORY NO. 1:

DO YOU FIND FROM A PREPONDERANCE OF THE EVIDENCE THAT THERE WAS NEGLIGENCE ON THE PART OF KROGER WHICH WAS A PROXIMATE CAUSE OF ANY DAMAGES SUSTAINED BY PLAINTIFF?

\_\_\_\_\_ YES

  X   NO

INTERROGATORY NO. 2:

DO YOU FIND FROM A PREPONDERANCE OF THE EVIDENCE THAT THERE WAS NEGLIGENCE ON THE PART OF MID-SOUTH WHICH WAS A PROXIMATE CAUSE OF ANY DAMAGES SUSTAINED BY PLAINTIFF?

\_\_\_\_\_ YES

  X   NO

Based upon the answers to Interrogatory Nos. 1 and 2, the jury was instructed to disregard the remaining interrogatories.

IT IS ORDERED AND ADJUDGED in accordance with the answer to the above interrogatories and jury verdict, that Plaintiff take nothing on its complaint filed herein and the matter is DISMISSED WITH PREJUDICE. All parties are to bear their respective costs and attorney's fees. Plaintiff's Motion to Declare Portions of Act 649 of 2003 Unconstitutional (doc. 63) is DENIED AS MOOT.

Dated this 26th day of March 2010.

/s/Robert T. Dawson  
Honorable Robert T. Dawson  
United States District Judge