

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANACECIL M. KLUTTZ, JR., *et al.*

CIVIL ACTION

VERSUS

NO. 22-3427

CRACKER BARREL OLD COUNTRY
STORE, INC.

SECTION M (2)

ORDER & REASONS

Before the Court is a motion for summary judgment¹ filed by defendant Cracker Barrel Old Country Store, Inc. (“Cracker Barrel”), arguing that plaintiffs Cecil M. Kluttz, Jr., and Gayle Kluttz, who allege Mr. Kluttz was injured in a trip-and-fall incident in the parking lot of a Cracker Barrel restaurant, cannot establish that: (1) a negligent act of Cracker Barrel, *viz.*, constructing its sidewalk to lead directly to a flower bed, caused Mr. Kluttz’s injuries;² (2) Cracker Barrel had actual knowledge of the alleged dangerous condition and failed to warn plaintiffs, arguing that the sidewalk is not unreasonably dangerous since “landscaping is entirely normal and a feature which customers would normally expect to encounter on a restaurant’s premises”;³ or (3) the alleged dangerous condition existed for a sufficient amount of time to impute constructive knowledge to Cracker Barrel, arguing that there is no evidence of “any past history of customers tripping and falling in this area of landscaping” and reiterating that the sidewalk does not constitute an unreasonably dangerous condition.⁴ Plaintiffs respond in opposition, pointing to summary-judgment evidence they say establishes that Cracker Barrel created the alleged unreasonably dangerous condition at issue (*viz.*, “the deviation in the plans and specs that created a hazardous

¹ R. Doc. 22.

² R. Doc. 22-1 at 3-5.

³ *Id.* at 4-5.


⁴ *Id.* at 5-6.

pathway leading patrons directly into a garden”) and failed to remedy it, and that the condition was not “open and obvious.”⁵ Having considered the parties’ memoranda and the evidence presented, the Court finds that there are disputed issues of material fact regarding whether Cracker Barrel created an unreasonably dangerous condition (including whether the particular hazard was open and obvious) that preclude summary judgment in Cracker Barrel’s favor.

Accordingly, for the foregoing reasons,

IT IS ORDERED that Cracker Barrel’s motion for summary judgment (R. Doc. 22) is DENIED.

New Orleans, Louisiana, this 23rd day of April, 2024.


BARRY W. ASHE
UNITED STATES DISTRICT JUDGE

⁵ R. Doc. 23.