

**CHENIERE THOMAS**

\*

**NO. 2012-CA-1202**

**VERSUS**

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**COURT OF APPEAL**

**CAESARS ENTERTAINMENT  
OPERATING CO., INC.,  
FORMERLY KNOWN AS  
HARRAH'S OPERATING CO.,  
INC. D//B/A/ HARRAH'S NEW  
ORLEANS CASINO**

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**FOURTH CIRCUIT**

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**STATE OF LOUISIANA**

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**LOVE, J., CONCURS AND ASSIGNS REASONS**

I respectfully concur. I write separately to emphasize that credibility determinations are improper when ruling on a motion for summary judgment. *Indep. Fire Ins. Co. v. Sunbeam Corp.*, 99-2181, 99-2257, p. 16 (La. 2/29/00), 755 So. 2d 226, 236.

The appellee's brief states that the trial court judge's oral reasons make "it clear that the Judge didn't accept the plaintiff's speculation that somehow a minor carpet unraveling was a defect that created an unreasonable risk of harm to the plaintiff." The plaintiff stated, in her deposition:

As I was walking, I slid to the right. When I landed on the ground, I looked to see what could I have fallen on, and I looked at the floor plate. The floor plate was off the ground. The carpet was raveled. The floor plate could have been --

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The carpet could have prevented me from holding my foot in place because of the ravel. It could have prevented me from doing that, making me lose my balance.

Without making a credibility determination regarding the validity of the plaintiff's, a genuine issue of material fact exists as to the defendant's alleged reasonable care.