

**JOSEPH BROWN**

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**NO. 2018-CA-0913**

**VERSUS**

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**COURT OF APPEAL**

**JAZZ CASINO COMPANY,  
LLC**

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**FOURTH CIRCUIT**

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**STATE OF LOUISIANA**

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**BELSOME, J., DISSENTS WITH REASONS**

I respectfully dissent from the majority opinion. In particular, I find that there are genuine issues of material fact as to the constructive notice issue. Accordingly, I would reverse and remand the matter for trial on the merits.

While we are limited to the evidence admitted by the Defendant in support of its motion for summary judgment, excerpts submitted from the Plaintiff's deposition reveal that the condition existed for a period of time sufficient to defeat summary judgment. Specifically, the Plaintiff testified that upon entering the men's restroom, he observed "debris, wetness, [and] soap" on the floor. While he did not see what he slipped on, his pants were wet after the fall. When asked if he knew how long the substance was there, the Plaintiff responded that the janitor, who was standing outside of the restroom as he entered and exited, indicated that he had been called to come clean up that area.<sup>1</sup>

Given the Plaintiff's testimony that a call was placed concerning the condition, there is a genuine issue of material fact as to whether the Defendant had constructive notice of the condition. For these reasons, I would reverse and remand for trial on the merits.

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<sup>1</sup> Although the Plaintiff offered additional evidence, we cannot consider evidence attached to a brief deemed untimely by the trial court.