STATE OF MICHIGAN

COURT OF APPEALS

RONALD CARNOSKES, Plaintiff-Appellant,	UNPUBLISHED December 4, 2003
v	No. 241380 Macomb Circuit Court
SPEEDWAY SUPERAMERICA, LLC, Defendant-Appellee.	LC No. 01-001052-NO

Before: Murray, P.J. and Gage and Kelly, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order granting defendant's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Shortly after 6:00 p.m. on November 9, 2000, a rainy day, plaintiff entered a store owned by defendant. The store had a floor mat in front of the door and a floor runner in front of the counter. Bare tile was located between the door mat and the floor runner. Plaintiff exited and re-entered the store a number of times in the space of a few minutes. As he was exiting the store for the last time he slipped on water on the floor and injured his right knee.

Plaintiff filed suit alleging that he was on defendant's premises as a business invitee, and that defendant negligently failed to maintain the premises in a reasonably safe condition and to warn of the unsafe condition. Defendant moved for summary disposition pursuant to MCR 2.116(C)(10), arguing that no evidence showed that it created the hazardous condition, i.e., the water on the floor, or that the water was present for a sufficient period of time for it to be discovered. Defendant also argued that the condition was open and obvious, and that no special aspects of the condition caused it to remain unreasonably dangerous. The trial court granted defendant's motion for summary disposition, finding that no evidence showed either that defendant caused the water to be on the floor in the store, or that the condition existed for a sufficient length of time for defendant to be aware of it. The trial court rejected as irrelevant plaintiff's assertion that the door mat should have been placed directly in front of the door and not several inches away from it, noting that plaintiff did not fall in that area. The trial court did not address defendant's argument that the water on the floor was open and obvious.

We review a trial court's decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

To establish a prima facie case of negligence, a plaintiff must prove: (1) that the defendant owed a duty to the plaintiff; (2) that the defendant breached the duty; (3) that the defendant's breach of duty proximately caused the plaintiff's injuries; and (4) that the plaintiff suffered damages. *Case v Consumers Power Co*, 463 Mich 1, 6; 615 NW2d 17 (2000). A prima facie case of negligence may be based on legitimate inferences, provided that sufficient evidence is produced to take the inferences "out of the realm of conjecture." *Ritter v Meijer, Inc*, 128 Mich App 783, 786; 341 NW2d 220 (1983).

A storekeeper must provide reasonably safe aisles for customers. In a premises liability action, the plaintiff must show either that the defendant caused the unsafe condition, or knew or should have known of the unsafe condition. Such knowledge may be inferred from evidence that the condition existed for a sufficient length of time for the storekeeper to have discovered it. *Berryman v K-Mart Corp*, 193 Mich App 88, 92; 483 NW2d 642 (1992).

Plaintiff argues that the trial court erred by granting defendant's motion for summary disposition. We disagree. Plaintiff was required to show either that defendant created the dangerous condition, or that defendant knew or should have known of the condition. *Berryman, supra*. No evidence supported plaintiff's assertion that defendant created the condition on the floor by placing the floor mats in a configuration that it knew would cause water to accumulate on the floor in the area between the mats. Furthermore, no evidence showed that defendant knew or should have known of the existence of the condition. The undisputed evidence showed that plaintiff walked over the spot on which he slipped eight times in seven minutes. Other customers walked over that spot as well during that period. This evidence does not support an inference that defendant knew or should have known that water had accumulated on the floor. Plaintiff's assertion that defendant knew or should have known of the condition is based on impermissible inference. *Ritter, supra*. Plaintiff presented no evidence to create an issue of fact as to defendant's knowledge, *Berryman, supra*, and the trial court properly granted defendant's motion for summary disposition.

Affirmed.

/s/ Christopher M. Murray
/s/ Hilda R. Gage
/s/ Kirsten Frank Kelly