

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM MARLBORO COUNTY  
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

**RECEIVED**

**Aug 17 2020**

**SC Court of Appeals**

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Case No. 2017-CP-34-00367

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Sharon Thompson,

Appellant,

v.

Sprint Food Store #728,

Respondent.

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**RECORD ON APPEAL**

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STATE OF SOUTH CAROLINA )

COUNTY OF MARLBORO )

Sharon THOMPSON, )

Plaintiff, )

vs. )

SPRINT Food Store #728, )

Defendant. )

IN THE COURT OF COMMON PLEAS

**ORDER  
GRANTING SUMMARY JUDGMENT**

Civil Action No.: **2017-CP-34-00367**

This matter comes before the Court pursuant to Defendant Sprint Food Store, Inc.'s Motion for Summary Judgment, which was filed on June 14, 2018. A hearing on Defendant's motion was held on September 25, 2018. Present at the hearing were Marshall Weaver, Esquire, on behalf of Plaintiff, and Kelsey J. Brudvig, Esquire, on behalf of Defendant. After consideration of the motion, written memoranda of law, store video surveillance, other materials submitted to the Court, and oral argument, the Court makes the following findings of fact and conclusions of law.

**RELEVANT FACTUAL and PROCEDURAL BACKGROUND**

This is a premises liability action sounding in negligence. Plaintiff avers that on or about July 28, 2016, while entering the Sprint Food Store in Bennettsville, South Carolina, she slipped and fell in water tracked on floor due to cleaning of the parking lot[.]” Plaintiff contends that as a result of her fall, she sustained injuries to her leg and back.

The subject incident was captured on store video surveillance. The secured video surveillance begins at 20:35:00. Plaintiff is observed entering the store the first time at 20:35:20. Plaintiff exists the store at 20:36:22. Prior to Plaintiff entering the store on the first occasion and when she re-enters the store, several individuals are observed traversing the area without issue.

COMMON PLEAS - CASE#2017/CP3400367

Plaintiff re-enters the store at 20:39:39. Upon re-entering the store Plaintiff slips and falls. A wet floor sign is observed in the video, positioned in front of the doors.

Plaintiff testified that she went to Sprint Food to get gas. Plaintiff entered the store initially to pay for gas ahead of pumping her gas. Plaintiff did not have any issues navigating or traversing the entryway the first time she entered and exited the store. Plaintiff then exited the store, pumped her gas, and was re-entering the store to purchase a water. During the re-entry into the store, Plaintiff slipped and fell. Plaintiff could not affirmatively state that she fell in any liquid substance.

Plaintiff confirmed that at the time of the subject incident, the exterior parking lot was being pressure-washed. When asked if she noted the sidewalk or parking lot being wet at the time she entered the store, Plaintiff testified: "Okay. It was wet on – I thought maybe it had rained because, like, sometimes it rains in some spots. I thought maybe it had rained at that time." Plaintiff confirmed that at the time of the incident, the ground outside was wet and she observed that the ground was wet.

Plaintiff testified that it is reasonable to expect that water can be tracked in from outside to inside as individuals walk into a store.

In reviewing the surveillance video, Plaintiff confirmed that several customers are observed entering and exiting the store without any issues. Plaintiff also confirmed that a wet floor sign was present in the general area of the entryway, though she does not recall seeing the sign at the time of the incident. Based on the video surveillance, Plaintiff could not dispute that a wet floor sign was present.

Plaintiff further denied having any evidence or knowledge that Sprint Foods placed water or other substance on the floor or that Sprint Foods knew of water on the floor.

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### STANDARD OF REVIEW

A court will grant a moving party's motion for summary judgment when there exists no genuine issue of material fact, and that party is entitled to judgment as a matter of law. Rule 56(c), SCRPC. In determining whether any triable issues of fact exist, the court must view both the evidence and all reasonable inferences able to be drawn from the evidence in the light most favorable to the non-moving party. Simmons v. Tuomey Regional Medical Center, 341 S.C. 32, 533 S.E.2d 312 (2000). Nonetheless, a court, "cannot ignore facts unfavorable to [the non-moving] party and [it] must determine whether a verdict for the party opposing the motion would be reasonably possible under the facts." Bloom v. Ravoira, 339 S.C. 417, 423, 529 S.E.2d 710, 713 (2000). Accordingly, the court must search the proof to ascertain whether it discloses a real issue, rather than a formal, perfunctory or shadowy one. Saluda Motor Lines v. Crouch, 300 S.C. 43, 46, 386 S.E. 2d 290, 292 (Ct. App. 1989).

The plain language of Rule 56(c), SCRPC, mandates the entry of summary judgment against a party who fails to make a showing sufficient to establish the existence of an element essential to the party's case and on which that party will bear the burden of proof at trial. Bray v. Marathon Corp., 347 S.C. 189, 553 S.E.2d 477 (Ct. App. 2001).<sup>1</sup> With respect to an issue on

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<sup>1</sup> In Bass v. Gopal, Inc., 384 S.C. 238, 247 n.6, 680 S.E.2d 917, 921 n.6 (Ct. App. 2009), the Court of Appeals addressed the recent change in summary judgment standard. In granting the summary judgment motion, the South Carolina Court of Appeals noted:

[I]n Hancock v. Mid-South Mgmt., Inc., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009), our Supreme Court stated that in cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment. However, in footnote 3 of the opinion, the Court was careful to point out that its pronouncement concerning a mere scintilla of evidence was not necessary for its determination of the outcome in the Hancock case. In any event, we must assume any evidence, even a scintilla, that is useful to withstand a summary judgment motion must meet the prerequisite of being probative.

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which the non-moving party has the burden of proof, the moving party may point out to the trial court that there is an absence of evidence to support the non-moving party's case. Hedgepath v. AT&T, 348 S.C. 340, 559 S.E.2d 327 (Ct. App. 2001). The non-moving party must then "do more than simply show that there is some metaphysical doubt as to the material facts[.]" but "must come forward with specific facts showing that there is a genuine issue for trial." Id. "[W]hen plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted." Moore v. Barony House Restaurant, LLC, 382 S.C. 35, 40, 674 S.E.2d 500, 503 (Ct. App. 2009).

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

##### **I. Plaintiff Failed to Adduce Any Evidence Sprint Food Created the Alleged Dangerous Condition or Had Notice of the Alleged Dangerous Condition**

It is well-settled in South Carolina that a merchant is not the insurer of the safety of its customers. Milligan v. Winn-Dixie Raleigh, Inc., 273 S.C. 118, 254 S.E.2d 798 (1979). Rather, a merchant who invites the public to his premises owes them a duty to exercise due care to keep the premises in a reasonably safe condition. Garvin v. Bi-Lo, Inc., 343 S.C. 625, 541 S.E.2d 831 (2001). A merchant is responsible for the consequences of conditions arising from his own negligence, "provided he has actual or constructive notice of an unsafe condition and a reasonable opportunity to correct it." Mullen v. Winn-Dixie Stores, Inc., 252 F.2d 232, 233 (4<sup>th</sup> Cir. 1958) (applying South Carolina law).

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The Hancock Court also cited McDowell v. Stilley Plywood Co., 210 S.C. 173, 179, 41 S.E.2d 872, 874-75 (1947), for the proposition "that although there was a scintilla of testimony that could be used to support the claimants' position, when the entire testimony of the witnesses was viewed as a whole, it was obvious the testimony in support of claimants' position rested on speculation and thus had no probative value." Id.

In South Carolina, a plaintiff must establish the following elements to plead a successful negligence claim:

- (1) defendants owed plaintiff a duty of care;
- (2) defendants breached this duty of care by a negligent act or omission; and
- (3) plaintiff suffered damages proximately resulting from that breach.

Dorrell v. S.C. Dep't of Trans., 361 S.C. 312, 318, 605 S.E.2d 12, 15 (2004) (citation omitted). In addition, to establish liability under a premises liability theory, plaintiffs must meet the test set forth in Wintersteen v. Food Lion, 344 S.C. 32, 542 S.E.2d 728 (2001):

In South Carolina, to recover damages for injuries caused by a dangerous condition or defective condition on a landowner's premises, the plaintiff must show either: (1) the injury was caused by a specific act of the landowner that created the dangerous condition; or (2) the landowner had actual or constructive knowledge of the dangerous condition and failed to remedy it. Anderson v. Racetrac Petroleum, Inc., 296 S.C. 204, 371 S.E.2d 530 (1988); Pennington v. Zayre Corp., 252 S.C. 176, 165 S.E.2d 695 (1969); Hunter v. Dixie Home Stores, 232 S.C. 139, 101 S.E.2d 262 (1957).

Id. at 35, 542 S.E.2d at 729.

Accordingly, "[a] plaintiff seeking to recover for injuries sustained in a fall caused by a foreign substance on a storekeeper's floor must prove that the storekeeper had actual or constructive notice that the foreign substance was on the floor." Gosnell v. U.S. Postal Service, 2007 WL 10344997 (D.S.C. 2007) (citing Calvert v. House Beautiful Paint & Decorating Center, 313 S.C. 494, 496, 443, S.E.2d 398, 399 (1994)). Further, Courts have refused to impute an ordinary person's knowledge as to moisture on the floor to the defendant. Gosnell, 2007 WL 10344997, \*4 ("This Court declines to adopt a general awareness standard for proving constructive notice.").

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Plaintiff has failed to articulate any evidence creating a question of fact that Sprint Food created any alleged dangerous condition. Plaintiff has further failed to articulate any evidence that Sprint Food knew of any water or other substance on the floor. Specifically, Plaintiff testified:

Q: Do you have any evidence or knowledge that Sprint Foods placed water or some other substance on the floor as you walked in the door?

A: **No.**

Q: Do you have any evidence or personal knowledge that Sprint Foods knew that there was water on the floor or any substance on the floor?

A: **If they knew? .... I don't think they knew it was wet down there.**

Q: Okay And, in fact, we observed on the video multiple customers coming and going from the front door, correct?

A: **Correct.**

Q: And no one that we observed on the video had trouble navigating that area

A: **Correct.**

Q: -- where you fell, correct?

A: **Correct.**

Q: And you had entered the store on a prior occasion, before you fell, and you didn't have any issues navigating, correct?

A: **Correct.**

The Court finds that there is no competent evidence that Sprint Food created any alleged dangerous condition or had notice of the same. There is no evidence how long any alleged dangerous condition existed prior to Plaintiff's fall. Notably, Plaintiff entered the store initially without any issues and re-entered the store nearly three (3) minutes later, when the subject incident occurred. During those three minutes, several individuals are observed entering and exiting the store without issue. See Wintersteen, 344 S.C. 32, 542 S.E.2d 728.

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Plaintiff is unable to satisfy the Wintersteen analysis with any evidence Sprint Food created the alleged dangerous condition or had notice of the same. Further, Plaintiff has failed to articulate any additional duty owed to her that Sprint Food allegedly breached. Accordingly, Plaintiff's claims fail as a matter of law.

## **II. Alternatively, Any Alleged Dangerous Condition Was Open and Obvious to Plaintiff**

South Carolina law requires that a store owner use ordinary care to warn of latent or hidden dangers of which it has knowledge or of which it should have had knowledge. Larimore v. Carolina Power & Light, 340 S.C. 438, 531 S.E.2d 535 (Ct. App. 2000). However, a premises owner or occupier owes no duty to use reasonable care to take precautions against or to warn guests of open and obvious dangers, even where the premises owner has notice of the alleged hazard. Hackworth v. United States, 366 F. Supp. 2d 326 (D.S.C. 2005). Instead, guests have a duty to discover and avoid an open and obvious danger on the premises. Neil v. Byrum, 288 S.C. 472, 343 S.E.2d 615 (1986). This is because “[t]he entire basis of an invitor’s liability rests upon his superior knowledge of the danger that causes the invitee’s injuries.” Larimore, 340 S.C. at 438 (Ct. App. 2000). “If that superior knowledge is lacking, as when the danger is obvious, the invitor cannot be held liable.” Id.; Sides v. Greenville Hosp. Sys., 362 S.C. 250, 607 S.E.2d 362 (Ct. App. 2004).

Accumulated rainwater is a danger that is open and obvious as a matter of law. The South Carolina Court of Appeals has noted:

Everyone knows that, when people are entering any building when it is raining, they will carry some moisture on their feet, which will render the floor near the door on the inside damp to some extent, and everyone knows that a damp floor is likely to be a little more slippery than a dry floor...

Young v. Meeting Street Piggly Wiggly, 288 S.C. 508, 510, 343 S.E.2d 636, 637-638 (Ct. App. 1986) (citing S.S. Kresge Co. v. Fader, 116 Ohio St. 718, 158 N.E. 174 (1927)). “Since it is

impossible to keep commercial premises entirely free of tracked-in-rain during bad weather, a merchant's liability may not be based solely on the presence of moisture." Young, 288 S.C. at 510, 343 S.E.2d at 637-38 (Ct. App. 1986).

Courts have held that where the condition is open and obvious, a premises operator need not warn. See Hess v. United States, 666 F. Supp. 666, 673 (D. Del. 1987) (cited favorably by Hackworth v. United States, and finding that although no wet floor signs or warnings were posted at the time of the accident, "the floor's slippery condition was obvious and easily discoverable" by the plaintiff).

Further, South Carolina does not impose a duty to warn under these conditions. See Lucas v. Sysco Columbia, LLC, 2014 WL 4976509 (D.S.C. October 3, 2014). In Lucas, the plaintiff entered a business, slipped, and fell in a puddle in the lobby. Plaintiff testified at length about the terrible weather conditions, and alleged that Sysco owed a duty to place warning signs or floor mats the entry of the business. However, the Court held:

While the Court believes it is sound practice to place mats on the floor of an establishment during inclement water to avoid accidents such as this, South Carolina does not impose such a duty. Therefore, the Court finds that Sysco did not have a duty to warn under the conditions present here.

Id. at \*5.

The Court finds the logic articulated in the above-cited cases regarding accumulated rainwater is analogous to the purported dangerous condition alleged in this case. Accordingly, the Court analysis the facts of this case against the law articulated in the accumulated rainwater cases.

Plaintiff contends that she slipped and fell due to the tracking in of water from outside as a result of the pressure washing being performed on the parking lot. While Plaintiff ostensibly could not recall in her deposition that pressure washing was being performed at the time of the incident, Plaintiff's Complaint and discovery responses articulate that the water had been tracked into the

store and on the floor “due to cleaning of the parking lot.” Specifically, Plaintiff’s interrogatory response provides:

23. State in your own words how the incident alleged in the Complaint occurred including, but not limited to, the events leading up to the alleged incident.

**ANSWER: The Plaintiff states that upon arrival at the Sprint Food Store #728, they were pressure washing the outside of the building. She entered the store and turned left to get a bottle of water. At that point she slipped and fell due to water on the floor tracked in by other customers from the wet parking lot.**

In the present matter, Plaintiff alleges there was no mat or warning signs present in the entry way. However, South Carolina law does not impose an actual duty upon premises operators to put down floor mats or provide warning signs. See Lucas, at \*5. Contrary to Plaintiff’s argument, there is no duty to place any floor mats or warning signs at all.

Further, it is undisputed that the ground was wet outside at the time of the incident due to the pressure washing of the parking lot.

Q: Did you notice at all whether the sidewalk or the parking lot asphalt was wet before you entered the store, on either occasion; on your first occasion coming in, or the time you fell?

A: **Okay. It was wet on – I thought maybe it had rained because, like, sometime it rains in some spots. I thought maybe it had rained at the time.**

Q: You did notice that it was wet before you came into the store?

A: **I was – it was wet – like I said, I thought it probably had rained at that time.**

Plaintiff further confirmed that it was reasonable that customers can track in excess water from the outside, and that the tracked in water can be left on the interior floor.

The accumulation of water, to the extent the same existed, was open and obvious as a matter of law. Young, 288 S.C. at 510, 343 S.E.2d at 637-638. Indeed, Plaintiff admitted to the same when she acknowledged that she knew the ground was wet outside and that it is reasonable

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to believe that water can be tracked in from the outside to the inside. Further, despite such contention that there were no mats or wet floor signs present, South Carolina does not impose a duty to place the same. Lucas, at \*5.

Because the alleged dangerous condition was open and obvious as a matter of law, the Court finds Sprint Food is entitled to summary judgment.

### **III. Alternatively, Plaintiff Was Warned of Any Alleged Dangerous Condition**

To the extent Sprint Food knew of the alleged dangerous condition, i.e. accumulated water, and to the extent the condition was not open and obvious to Plaintiff, Plaintiff's claim fails because Plaintiff was warned of the alleged dangerous condition.

"The owner of property owes to an invitee or business visitor the duty of exercising reasonable or ordinary care for his safety, and is liable for injuries resulting from the breach of such duty. The landowner has a duty to warn an invitee only of latent or hiding dangers of which the landowner has knowledge or should have knowledge." Sims v. Giles, 343 S.C. 708, 541 S.E.2d 857 (Ct. App. 2001).

The Court initially finds that Sprint Food neither created any alleged dangerous condition nor had notice of the same; alternatively, the Court finds that any alleged dangerous condition was open and obvious as a matter of law. The Court now addresses Defendant's third alternative argument entitling it to summary judgment. In response, the Court finds that there is no evidence Sprint Food breached any duty because a wet floor sign was present. As observed in the video surveillance, a wet floor sign was propped up in front of the doorway. Further, Plaintiff confirmed during her deposition that she did observe a wet floor sign present in the video surveillance. While she denied the existence of the same at the time of the incident, there is no evidence that Plaintiff was distracted in any way nor that she was not looking where she was walking. Indeed, upon her first entry into the store, Plaintiff walked past the wet floor sign.

Based on the aforementioned, because Plaintiff was warned, as an alternative ground, the Court finds Sprint Food is entitled to summary judgment.

CONCLUSION

The Court finds Plaintiff has failed to create a question of fact that Sprint Food knew or should have known of the alleged dangerous condition and there is no evidence Sprint Food created any such condition. Alternatively, the Court finds, as a matter of law, Sprint Food owed no duty to warn of the purported accumulated water. Alternatively, to the extent Sprint Food owed a duty to warn, the Court finds as a matter of law that Sprint Food did not breach any duty as wet floor signs are observed, providing warning to Plaintiff. Based on these alternative grounds, Sprint Foods is entitled to summary judgment.

The Defendant **MOTION** for summary **JUDGMENT** should be and **IS** therefore **GRANTED**.

**AND IT IS SO ORDERED.**

\_\_\_\_\_  
JUDGE J. DERHAM COLE  
PRESIDING JUDGE, FOURTH JUDICIAL CIRCUIT

Spartanburg, South Carolina  
May 7, 2019

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STATE OF SOUTH CAROLINA )  
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 COUNTY OF MARLBORO )  
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 SHARON THOMPSON, )  
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 PLAINTIFF, )  
 )  
 VS. )  
 )  
 SPRINT FOOD STORES #728 )  
 )  
 DEFENDANT. )

IN THE COURT OF COMMON PLEAS  
 FOURTH JUDICIAL CIRCUIT  
 CASE NO.: 2017-CP-3400367

**COMPLAINT  
 JURY TRIAL DEMANDED**

The Plaintiff, by and through his undersigned counsel, complaining of the Defendants herein would respectfully show unto this Honorable Court the following:

**JURISDICTION AND VENUE**

1. That Plaintiff is a citizen and resident of Marlboro County, State of South Carolina.
2. That Defendant, Sprint Food Stores #728, on information and belief, is a corporation organized and existing under the laws of the State of South Carolina and maintains registered agents and servants in Marlboro County, South Carolina at 410 SC-38, Bennettsville, South Carolina.
3. That on or about July 28, 2016, the Plaintiff was shopping at Defendant's place of business located at 410 SC-38, Bennettsville, South Carolina when Plaintiff slipped and fell in water tracked on floor due to cleaning of the parking lot, resulting in Plaintiff's injuries.
4. That at all times relevant to the Complaint, Sprint Food Stores #728 was and continues to be responsible for the acts and/or omissions of their employees, independent contractors, agents and/or servants.

*Anita M. Williams*

CLERK OF COURT  
 MARLBORO COUNTY

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 CLERK OF COURT  
 MARLBORO COUNTY, S.C.

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5. That Defendant, Sprint Food Stores #728, owns property and transacts significant business in the County of Marlboro, State of South Carolina, and jurisdiction and venue are proper.

**FACTS**

6. That the Plaintiff reaffirms and reiterates all allegations above as if fully repeated and are incorporated herein verbatim.
7. That on or about July 28, 2016, while shopping at Sprint Food Stores #728 the Plaintiff, Sharon Thompson was an invitee in Sprint Food Store #728 located at 410 SC-38, Bennettsville, South Carolina, when Plaintiff slipped and fell in water tracked on floor by due to cleaning of the parking lot, resulting in Plaintiff's injuries.
8. As a result of the incident, Plaintiff has suffered great physical harm and injury all of which has caused him to incur a great sum of medical expenses and pain and suffering.

**PREMISES LIABILITY**

9. That the Plaintiff reaffirms and reiterates all allegations above as fully repeated and are incorporated herein verbatim.
10. The Plaintiff was an invitee on the Defendant, Sprint Food Stores #728's, premises. The Defendant, Sprint Food Stores #728, owed the Plaintiff the duty to discover and warn of dangerous conditions on the premises and thereafter make them safe, which the Defendant, Sprint Food Stores #728, failed to do.
11. The Defendant knew or should have known that a dangerous condition existed.
12. Upon information and belief, the Defendant was further negligent, careless, wanton and willful in the time and place above-mentioned, and acted with a reckless disregard for the rights of the Plaintiff, in the following particulars:

*Anita M. Williams*

CLERK OF COURT  
MARLBORO COUNTY

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ANITA M. WILLIAMS  
CLERK OF COURT  
MARLBORO COUNTY, S.C.

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- a. in failing to keep the floors/aisles safe for customers;
- b. in failing to adequately discover and correct any dangerous conditions which existed;
- c. in failing to adequately warn customers that a dangerous condition existed;
- d. in failing to properly train or supervise their employees so as to prevent dangerous conditions from existing;
- e. in failing to properly staff the store;
- f. in failing to maintain a proper look-out for said hazards;
- g. in failing to correct a known hazard on the premises;
- h. in failing to warn Plaintiff of such dangers by signs; personnel, or barricades; and
- i. in such other and further particulars as the evidence at trial might show.

13. All or any one of the particulars enumerated above were the direct and proximate cause(s) of the injuries and damages suffered by the Plaintiff.

**NEGLIGENCE**

14. The Plaintiff reaffirms and reiterates all allegations above as if fully repeated and incorporated herein verbatim.

15. The Defendant, Sprint Food Stores #728, had a duty to discover and warn of dangerous conditions on the premises and thereafter make them safe, which the Defendant, Sprint, failed to do.

16. The Defendant, Sprint Food Stores, did breach that duty by failing to discover and warn of the aforementioned dangerous conditions on the premises and thereafter make them safe, causing Plaintiff to suffer from severe left knee and lower back injuries resulting from her injuries.

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*Anita M. Williams*

CLERK OF COURT  
MARLBORO COUNTY

ANITA M. WILLIAMS  
CLERK OF COURT  
MARLBORO COUNTY, S.C.

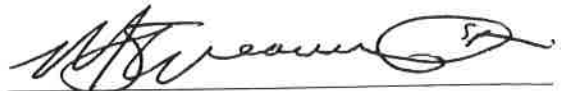
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17. The Defendant, Sprint Food Stores #728, by failing to discover and warn of the aforementioned dangerous conditions on the premises and thereafter make them safe is the direct and proximate cause of all injuries sustained by the Plaintiff.
18. As a result of Defendant's negligence, the Plaintiff has suffered physical harm and injury, all of which have caused and will continue to cause the Plaintiff much physical pain, mental anguish and suffering, have and will continue to cause the Plaintiff to spend money and incur costs for medical services related to her injuries; and have and will continue to cause the Plaintiff to lose wages and earnings.

WHEREFORE, Plaintiff request judgment against the Defendant, for actual damages with punitive damages in an appropriate amount, for the cost of this action, and for such other and further relief as the Court may deem just and proper.

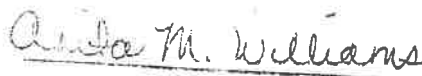
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November 30, 2017  
Florence, South Carolina

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MARLBORO COUNTY, S.C.

STATE OF SOUTH CAROLINA )  
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COUNTY OF MARLBORO )  
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Sharon Thompson, )  
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Plaintiff, )  
 )  
vs. )  
 )  
Sprint Food Stores #728, )  
 )  
Defendant. )

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IN THE COURT OF COMMON PLEAS

FOURTH JUDICIAL CIRCUIT

Civil Action No.: 2017-CP-34-00367

**ANSWER  
OF SPRINT FOOD STORES, INC.**

**(Jury Trial Demanded)**

TO: MARSHALL WEAVER, ESQUIRE, COUNSEL FOR PLAINTIFF:

Defendant Sprint Food Stores, Inc. (“Defendant”), misidentified in the Complaint as Sprint Food Stores #728, reserving the right to file a motion under Rule 12 of the South Carolina Rules of Civil Procedure or any other dispositive motion, responds to the Complaint of Plaintiff Sharon Thompson (“Plaintiff”), by denying each and every allegation not herein specifically admitted, by demanding strict proof thereof, and further responds as follows:

**FOR A FIRST DEFENSE AND BY WAY OF ANSWER**

1. Each and every allegation not hereinafter admitted is hereby denied and strict proof thereof demanded.
2. Defendant lacks sufficient knowledge and information upon which to form a belief as to the truth of the allegations of Paragraph 1 regarding Plaintiff’s county of residence; therefore, Defendant denies the same and demands strict proof thereof. Defendant admits, upon information and belief, Plaintiff is a citizen of South Carolina.
3. In response to the allegations of Paragraph 2, Defendant avers that Sprint Food Stores, Inc., the proper party in interest, is a corporation organized and existing pursuant to the laws of the State of Georgia and transacts business in South Carolina. Defendant denies

any remaining allegations of Paragraph 2 that assert or could be construed as asserting allegations of negligence or other wrongdoing on the part of Defendant and demands strict proof thereof.

4. Defendant denies the allegations of Paragraph 3 and demands strict proof thereof. Specifically, Defendant denies any allegations of Paragraph 3 that assert or could be construed as asserting allegations of negligence or other wrongdoing on the part of Defendant and demands strict proof thereof.
5. The allegations of Paragraph 4 constitute conclusions of law to which no response is required. Alternatively, Defendant denies any allegations of Paragraph 4 that assert or could be construed as asserting allegations of negligence or other wrongdoing on the part of Defendant and demands strict proof thereof.
6. Defendant admits only so much of the allegations of Paragraph 5 that assert venue and jurisdiction are proper. Defendant denies any remaining allegations of Paragraph 5 that assert or could be construed as asserting allegations of negligence or other wrongdoing on the part of Defendant and demands strict proof thereof.
7. In responding to the allegations of Paragraph 6, Defendant reasserts the above-numbered paragraphs and incorporates the same by reference.
8. The allegations of Paragraph 7 constitute conclusions of law to which no response is required. Alternatively, Defendant specifically denies any allegations of Paragraph 7 that assert or could be construed as asserting allegations of negligence or other wrongdoing on the part of Defendant and demands strict proof thereof.
9. Defendant denies the allegations of Paragraph 8 and demands strict proof thereof.

10. In responding to the allegations of Paragraph 9, Defendant reasserts the above-numbered paragraphs and incorporates the same by reference.
11. The allegations of Paragraph 10 constitute conclusions of law to which no response is required. Alternatively, Defendant specifically denies any allegations of Paragraph 10 that assert or could be construed as asserting allegations of negligence or other wrongdoing on the part of Defendant and demands strict proof thereof.
12. Defendant denies the allegations of Paragraph 11 and demands strict proof thereof.
13. Defendant denies the allegations of Paragraph 12—including all subparts—and demands strict proof thereof.
14. Defendant denies the allegations of Paragraph 13 and demands strict proof thereof.
15. In responding to the allegations of Paragraph 14, Defendant reasserts the above-numbered paragraphs and incorporates the same by reference.
16. Defendant denies the allegations of Paragraph 15 and demands strict proof thereof.
17. Defendant denies the allegations of Paragraph 16 and demands strict proof thereof.
18. Defendant denies the allegations of Paragraph 17 and demands strict proof thereof.
19. Defendant denies Plaintiff is entitled to the relief sought in her “Wherefore” Clause and demands strict proof thereof. Defendant further denies any allegations of Plaintiff’s “Wherefore” Clause that assert or could be construed as asserting allegations of negligence or other wrongdoing on the part of Defendant and demands strict proof thereof.

**FOR A SECOND DEFENSE**

20. The Complaint fails to set forth sufficient facts to constitute a cause of action and, therefore, should be dismissed pursuant to Rule 12(b)(6), SCRCP.

**FOR A THIRD DEFENSE**

21. Any injuries or damages sustained by Plaintiff were due to and caused and occasioned by Plaintiff's own action or conduct, or negligence, gross negligence, recklessness, willfulness and wantonness which was the direct and proximate cause of Plaintiff's alleged injuries or damages, if any, and without which the same would not have occurred. Therefore, due to Plaintiff's sole negligence, gross negligence, recklessness, willfulness and wantonness, Plaintiff's claims are barred.

**FOR A FOURTH DEFENSE**

22. Even if Defendant was negligent in any respect, which is expressly denied, and such conduct operated as a proximate cause of Plaintiff's injuries, if any, which is expressly denied, Defendant avers that Plaintiff's negligent, grossly negligent, reckless, willful, and wanton conduct contributed more than fifty percent (50%) to the cause of the accident, and therefore, Plaintiff's claims are barred.

**FOR A FIFTH DEFENSE**

23. Even if Defendant was negligent in any respect, which is expressly denied, and even if such conduct on the part of Defendant operated as a greater than fifty percent (50%) cause of Plaintiff's injuries, if any, which is also denied, Defendant is entitled to a determination as to the percentage which Plaintiff's negligent, grossly negligent, reckless, willful, and wanton conduct contributed to Plaintiff's accident and resulting injuries, if any, and to a reduction of any amount awarded to the Plaintiff by an amount equal to the percentage of Plaintiff's own negligence.

**FOR A SIXTH DEFENSE**

24. Any injuries sustained by the Plaintiff may be due to and caused by the sole negligence of third persons over whom Defendant had no control, and therefore, Defendant should not be liable to the Plaintiff in any sum whatsoever.

**FOR A SEVENTH DEFENSE**

25. Any injuries sustained by the Plaintiff may be due to and caused by the intervening and superseding acts of negligence, carelessness, recklessness, and gross negligence on the part of third persons as a proximate cause of injuries as alleged, if any, and therefore, Defendant should not be liable to the Plaintiff in any sum whatsoever.

**FOR AN EIGHTH DEFENSE**

26. Plaintiff's claims may be barred by the doctrine of open and obvious condition.

**FOR A NINTH DEFENSE**

27. Plaintiff's recovery should be barred because Plaintiff cannot show Defendant either (1) created a defective condition; or (2) had knowledge of the defective condition and failed to remedy it.

**FOR A TENTH DEFENSE**

28. Assuming, arguendo, the existence of a defective condition, the injuries or losses as Plaintiff allegedly sustained, if any, were caused by Plaintiff's assumption of a known risk or expected condition; accordingly, Defendant pleads Plaintiff's assumption of a known risk or expected condition as a complete defense to this action.

**FOR AN ELEVENTH DEFENSE**

29. Under South Carolina law, in premises liability matters, a patron is under a duty to see objects or conditions in plain view that are at a location where they are customarily expected to be. In the instant case, Plaintiff failed to observe this duty; accordingly, Plaintiff's claims are barred pursuant to the "plain view" doctrine.

**FOR A TWELFTH DEFENSE**

30. A patron is charged with exercising ordinary care for personal safety and using ordinary care to avoid the effect of the owner/occupier's negligence after that negligence becomes apparent to the patron or in the exercise of ordinary care the invitee should have learned of it. In the exercise of ordinary care, the patron must use all senses to discover and avoid hurtful things. Assuming, arguendo, a negligent condition existed in the instant case – which is strictly denied – Plaintiff nevertheless failed to exercise ordinary care to discover and avoid hurtful things in the instant case. Plaintiff's failure to exercise this ordinary care bars her from recovery in the instant case.

**FOR A THIRTEENTH DEFENSE**

31. Plaintiff's claims may be barred by the doctrines of waiver, estoppel, and/or laches.

**FOR A FOURTEENTH DEFENSE**

32. Plaintiff's claims may be barred or otherwise reduced due to Plaintiff's failure to mitigate damages as required by law.

**FOR A FIFTEENTH DEFENSE**

33. Plaintiff has failed to join a necessary party pursuant to Rule 19, SCRPC. Accordingly, Plaintiff's Complaint must be dismissed pursuant to Rule 12(b)(7), SCRPC.

**FOR A SIXTEENTH DEFENSE**

34. Any recovery by Plaintiff must be reduced or offset by amounts Plaintiff has received or will receive from others for the same injuries claimed in this lawsuit.

**FOR A SEVENTEENTH DEFENSE**

35. To the extent applicable in the instant case, Defendant asserts that some or all of the claims against Defendant may be barred by applicable statutes of limitation or repose.

**FOR AN EIGHTEENTH DEFENSE**

36. Plaintiff's claims may be barred by the doctrine of unavoidable accident.

**FOR A NINETEENTH DEFENSE**

37. Plaintiff either knew or should have known of any alleged deficiencies in the subject property and accepted the same with such knowledge. As a result, Plaintiff's recovery should be barred.

**FOR A TWENTIETH DEFENSE**

38. Punitive damages, as currently awarded in South Carolina, are violative of the United States Constitution and South Carolina Constitution, as well as the holding of State Farm Mutual Automobile Insurance Company v. Campbell, 538 U.S. 408, 123 S.Ct. 1513, 155 L.Ed.2d 585 (2003), and the cases upon which it is based.

**FOR A TWENTY-FIRST DEFENSE**

39. Pursuant to Cooper Industries, Inc. v. Leatherman Tool Group, Inc., 522 U.S. 424, 121 S.Ct. 1678 (2001), if punitive damages are recoverable, which is denied, the amount of punitive damages "[are] not really a fact tried by the jury" therefore, Plaintiff's request for punitive damages "to be determined by the jury" violates the United States Constitution.

**FOR A TWENTY-SECOND DEFENSE**

40. The United States Constitution's Due Process Clause "forbids a State to use a punitive damages award to punish a defendant for injury that it inflicts upon nonparties or those whom they directly [do not] represent," Phillip Morris USA v. Williams, 549 U.S. 346, 353 (2007), and, therefore, to the extent that Plaintiff seeks an award of punitive damages for potential or speculative harm to non-parties to the present action, such prayer for relief is unconstitutional and must be struck from the pleadings and is otherwise inadmissible at trial.

**FOR A TWENTY-THIRD DEFENSE**

41. Notwithstanding Defendant's prior defenses incorporating Cooper Industries, Inc. v. Leatherman Tool Group, Inc., 522 U.S. 424 (2001) and State Farm Mutual Automobile Insurance Company v. Campbell, 538 U.S. 408 (2003), and the cases upon which they are based, in the event the trial court permits the jury to return a punitive damages award in the instant case, such damages are to be limited to an amount that is no greater than the jury's award of actual damages, as explicated within Exxon Shipping Company v. Baker, 554 U.S. 471 (2008).

**FOR A TWENTY-FOURTH DEFENSE**

42. Defendant pleads any and all applicable protections afforded to it under the South Carolina Fairness and Civil Justice Act of 2011, codified at S.C. Code § 15-32-510 to 15-32-540, as a defense to Plaintiff's claims or requests for an award of punitive damages.

FOR A TWENTY-FIFTH DEFENSE

43. Defendant specifically reserves any additional and/or affirmative defenses as may be available to it or revealed to it during the course of the investigation and/or discovery in this case.

WHEREFORE, having fully answered Plaintiff's Complaint, Defendant respectfully requests that:

- a. Plaintiff takes nothing by this action;
- b. A judgment of dismissal be entered in favor of Defendant;
- c. Defendant be awarded the cost of the suit incurred; and
- d. Defendant be awarded such other and further relief as the Court deems proper.

[SIGNATURE PAGE TO FOLLOW]

Respectfully submitted,

COLLINS & LACY, P.C.

By:



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ATTORNEYS FOR DEFENDANT  
SPRINT FOOD STORES, INC.

**ANSWER OF DEFENDANT SPRINT  
FOOD STORES, INC.**

**Jury Trial Requested**

Columbia, South Carolina  
January 17, 2018

**CERTIFICATE OF SERVICE**

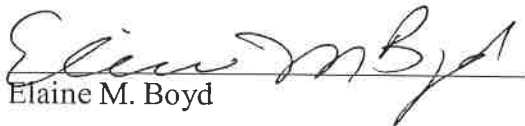
(C.A. No. 2017-CP-34-00367)

The undersigned employee of Collins & Lacy, P.C., hereby certifies that (s)he has served the following named individual(s) with a copy of the pleading(s) indicated below via electronic mail and/or by mailing a copy of same to them in the United States mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

**COUNSEL SERVED:**

Marshall S. Weaver, Esquire  
Weaver Law Firm, LLC  
Post Office Box 3888  
Florence, SC 29502  
*Counsel for Plaintiff*

**PLEADING:**            *Answer of Sprint Food Stores, Inc.*

  
Elaine M. Boyd

Columbia, South Carolina  
January 17, 2018

State of South Carolina	)	Court of Common Pleas
	)	Fourth Judicial Circuit
County of Marlboro	)	Case No. 2017-CP-34-00367
	)	
Sharon Thompson,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
Sprint Food Stores, Inc. #728,	)	
	)	
Defendant.	)	
	)	

September 25, 2018  
Bennettsville, South Carolina

B E F O R E:

The Honorable J. Derham Cole, Judge

A P P E A R A N C E S:

Marshall S. Weaver, Esquire  
Attorney for the Plaintiff

Kelsey Brudvig, Esquire  
Attorney for the Defendant

Krystal J. Smith  
Circuit Court Reporter

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I N D E X

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Court Reporter Certification.....	30

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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(No Exhibits Presented)

COURT REPORTER LEGEND

dashes --	intentional or purposeful interruption
	or change in thought
ellipses . . .	trailing off
[ph]	phonetically written
[sic]	written as said

1 September 25, 2018

2 (WHEREUPON, the proceedings began at 11:26 a.m.)

3 THE COURT: All right. We're here in the matter of  
4 Sharon Thompson, who is the plaintiff, versus Sprint Food  
5 Stores #728, who is the defendant. This is the defendant's  
6 motion for summary judgment?

7 MS. BRUDVIG: It is, Your Honor.

8 THE COURT: All right.

9 MS. BRUDVIG: May it please the Court. Kelsey Brudvig  
10 of Collins & Lacy here on behalf of Sprint Food Stores, Inc.  
11 This is a premises liability matter, and we appreciate Your  
12 Honor accommodating us this morning.

13 This is an incident that occurred at Bennettsville's  
14 Sprint Food Store back in July of 2016. Plaintiff alleges  
15 that she came into the store, slipped and fell right inside  
16 the entryway, and had some injuries I believe to her leg and  
17 hip.

18 The key issue before the Court is whether the condition  
19 that was on the floor, if there was such a condition, was  
20 open and obvious. And as a brief way of background, I've  
21 alluded to a lot of facts within our memorandum, but I think  
22 there are just some key pertinent facts. The facts have been  
23 developed by way of video surveillance, which I have  
24 presented to Your Honor -- that is Exhibit A to our  
25 memorandum -- plaintiff's discovery responses, as well as

1 plaintiff's deposition.

2           The video surveillance is probably the best evidence in  
3 this case. It catches about five minutes before the incident  
4 and records the incident as well.

5           Plaintiff doesn't just enter the store once and she  
6 slips and falls. Plaintiff enters the store, is in the  
7 store, makes a purchase, and leaves the store. Plaintiff  
8 then returns three minutes later and it was at that time she  
9 slipped and fell.

10           In that three-minute time, as well as the three to five  
11 minutes before she initially enters the store, you see  
12 numerous customers entering and leaving the store without  
13 issue. The area is being traversed normally. There are no  
14 slip and falls. There's no -- nobody slips, trips. You  
15 can't -- there's nothing going on. People are entering and  
16 leaving the store.

17           What is occurring at this same time that people are  
18 coming in and out of the store is pressure washing of the  
19 parking lot, and this is being performed by a third party.  
20 We have a third party. It's Allen Moore. He is an  
21 independent guy who does this -- that does this on the side.  
22 He's performed these services at this Sprint Food Store for  
23 many, many years.

24           He is pressure washing the parking lot. The parking lot  
25 is clearly wet. And as people are coming in, some rainwater

1 is starting to possibly accumulate. We don't exactly know  
2 and the reason we don't know is the plaintiff in her  
3 deposition testified she doesn't really know what she slipped  
4 on and her clothes weren't wet at all, but she has pled that  
5 she slipped and fell in some tracked-in water on the floor  
6 from the pressure washing. Her discovery responses say the  
7 same thing. So given those facts in the light most favorable  
8 to plaintiff, we will -- those lean towards she may have  
9 fallen in some tracked-in water.

10 Plaintiff, during her deposition, admits she came to the  
11 store on one prior occasion without any issue. She admits  
12 the video, which we reviewed during her deposition, showed  
13 numerous customers coming in and traversing the area without  
14 issue. She admits that she knew the ground was wet outside.  
15 In fact, she thought it had rained.

16 Plaintiff's counsel has alluded to the fact that  
17 plaintiff didn't see the pressure washing, and there's a  
18 couple issues with that. The first is in her complaint she  
19 says there was pressure washing going on in the parking lot,  
20 which is what caused water. In her discovery responses, she  
21 says the same thing.

22 So while at her deposition she says I didn't know if it  
23 was a company, I didn't see any uniforms, it's really not the  
24 issue of whether it was a company, someone who had a uniform  
25 on showing they were pressure washing the parking lot. It's

1 clear someone was pressure washing the parking lot and there  
2 was water on the outside that was potentially being tracked  
3 in. She admitted that it's reasonable for people to track in  
4 water from the outside and that that water would start  
5 accumulating on the inside, and she admitted it's reasonable  
6 that a wet floor is probably more slick than a dry floor.

7 Again, while she's not entirely sure what she slipped  
8 on, I think if you go back to the complaint and go back to  
9 her discovery responses that, in the light most favorable to  
10 plaintiff, she contends she slipped in some water.

11 If you review the video surveillance, which we have  
12 provided to the Court, you see her come in. Three minutes --  
13 you see her come in and leave with no issues. She comes in  
14 three minutes later. That's when she slips and falls. There  
15 are at least ten customers who come and go without any issue.  
16 There's no notice that there's anything wrong with the  
17 entryway or the floor at the time.

18 Another key piece to that video surveillance is on the  
19 far right of the screen there is a wet floor sign and it's  
20 really not evident in the video that is secured that that wet  
21 floor sign was present, but it is evident that it was present  
22 in front of the doorway. It's just not captured on that  
23 video surveillance.

24 The way you know that video -- that wet floor sign is  
25 present is, after the fall, our employee takes the wet floor

1 sign and moves it over a little bit, but the wet floor sign  
2 was present. The plaintiff walked right by the wet floor  
3 sign when she came into the store the first time. While she  
4 contends she never saw it, the video we believe to be the  
5 best evidence that the wet floor sign was there.

6 Our motion is based off of three grounds. The first is  
7 that Sprint Foods did not create any alleged dangerous  
8 condition and did not know, either actual or constructively  
9 have knowledge of the dangerous condition. The -- to the  
10 extent that a dangerous condition existed, it is open and  
11 obvious as a matter of law.

12 To the extent that it may be open and obvious or not  
13 even open and obvious, Sprint Food -- or I apologize. We  
14 don't necessarily know that it was Sprint Foods that put up  
15 the wet floor sign, but plaintiff was warned by the placing  
16 of the wet floor sign.

17 Case law regarding premises liability cases is clear  
18 that, under Wintersteen, the defendant has to either create  
19 the dangerous condition or has to have knowledge or notice of  
20 the same, either actually or constructively.

21 Plaintiff's counsel in their memo in opposition has said  
22 that Sprint Foods knew the pressure washing was going on  
23 outside. They hired this third party to perform pressure  
24 washing. They -- they created the dangerous condition.

25 This is not an inherently dangerous activity case. This

1 is a premises liability slip-and-fall case. Whether pressure  
2 washing is occurring or not, that's not the dangerous  
3 condition. The dangerous condition that is alleged by  
4 plaintiff is the tracking in of rainwater and, by plaintiff's  
5 contention, the failure to warn of that tracked-in water.

6 So the condition was not created by Sprint Foods and  
7 Sprint Foods did not know of the condition to the -- to the  
8 -- to the extent that a dangerous condition actually existed.  
9 Again, she testified she didn't know what she slipped in.  
10 Her clothes weren't wet at the time.

11 So without knowledge, without notice, without creating  
12 the actual dangerous condition, and given the light most  
13 favorable to the plaintiff, the plaintiff cannot satisfy the  
14 Wintersteen analysis and the analysis can stop there. That  
15 -- that is sufficient grounds for summary judgment.

16 With regard to constructive knowledge, I think what's  
17 key is the timing and that the -- again, plaintiff comes in,  
18 has no problems navigating the area. She leaves. Customers  
19 routinely are opening the door, entering and exiting, no  
20 issue.

21 Between the first time she comes in and when she fell is  
22 approximately three minutes. There's not sufficient time for  
23 Sprint Foods to be put on notice of any issue with the area,  
24 particularly where people are navigating and not having any  
25 issues. There's no evidence of reporting wetness or moisture

1 on the ground. There's no evidence that -- of any other slip  
2 and falls prior to this incident. So without that notice,  
3 without actually creating the dangerous condition, the  
4 plaintiff cannot satisfy Wintersteen.

5 To the extent that a dangerous condition existed and to  
6 the extent Sprint Foods knew of such condition, such  
7 condition was open and obvious. And this -- this is kind of  
8 where -- this is whether rainwater accumulation cases would  
9 apply to a situation like this.

10 As Your Honor is well aware, South Carolina has  
11 recognized that accumulated rainwater is an open and obvious  
12 condition. The invitee is put on equal notice of -- of  
13 accumulated rainwater being tracked in. It is reasonable  
14 that when it's raining outside people will track in rainwater  
15 either on their shoes, through an umbrella, and South  
16 Carolina recognizes that, because it's open and obvious, the  
17 defendant cannot be liable.

18 In this case, you have -- you have facts that it was --  
19 there was pressure washing being performed outside. By  
20 plaintiff's admission in her complaint and discovery  
21 responses, she knew there was pressure washing being  
22 performed outside and, in fact, during her deposition she  
23 testifies that the ground was wet outside. She knew the  
24 ground was wet outside and she knew it was reasonable for  
25 people to track in rainwater -- excuse me. To track in the

1 water and that that water can slowly start to accumulate  
2 inside the entryway.

3 With those facts, it is only clear that the rainwater  
4 line of cases applies to this case -- applies to this instant  
5 case. What's -- Hapworth [ph] v. United States, which is a  
6 federal district court case interpreting South Carolina --  
7 applying and interpreting South Carolina law, they cite Hess  
8 v. United States, which is a District of Delaware case. And  
9 in that case, the Court said even though no mats or wet floor  
10 signs were present, the floor's slippery condition was  
11 obvious and easily discoverable by plaintiff.

12 The plaintiff tries to mitigate the open and obvious  
13 issue by saying, well, there's no wet floor signs, there were  
14 no mats present. Well, under Lucas v. Sysco Columbia -- if I  
15 may approach, Your Honor? I've highlighted a portion of this  
16 case, and I have provided opposing counsel with this case law  
17 as well.

18 Plaintiff's -- plaintiff has raised the issue that no  
19 mats were present in the area. Under Lucas on page 5, it  
20 explicitly states South Carolina does not have a duty to  
21 supply mats in these rainwater-type slip and falls.

22 So the facts of this case are akin to the facts that are  
23 being analyzed in the rainwater cases. That's Legette v.  
24 Piggly Wiggly, Hapworth v. United States, Gosnell v. United  
25 Postal Service, and Lucas. These facts are in line with all

1 of the facts presented in those cases and in those cases it  
2 was open and obvious as a matter of law.

3 The final argument, Your Honor, in whether -- whether  
4 the condition was open and obvious, whether it wasn't open  
5 and obvious, under premises liability law, a store premises  
6 operator has a duty to either remedy a dangerous condition or  
7 to warn of any dangerous conditions. Again, the best  
8 evidence in -- in this record, the most competent evidence,  
9 is the video surveillance.

10 My partner once argued -- we had another motion for  
11 summary judgment and it was a premises liability case that  
12 was captured on video surveillance, and one of my favorite  
13 lines, whether it should be or not, the eye in the sky  
14 doesn't lie, and I think that video is explicitly clear that  
15 the wet floor sign was present in front of the doorway.

16 A wet floor sign was observed being moved a little bit  
17 close -- a little bit over after the incident, but it is  
18 present. The plaintiff was warned when she came into the  
19 store the first time. She walked right by that wet floor  
20 sign, as observed in the video. She left right by that wet  
21 floor sign and then she came in, slipped and fell, even  
22 though she was warned.

23 Based off of those three grounds, either of those  
24 grounds are sufficient for summary judgment. I did want to  
25 point Your Honor to some of the pertinent testimony, and this

1 is cited in the memorandum, but I think it's pertinent to put  
2 on the record some of her testimony that further supports our  
3 analysis.

4 She was specifically -- the plaintiff was specifically  
5 asked if Sprint Foods created the dangerous condition, placed  
6 the water on the floor or other liquid substance. She  
7 responded no.

8 Any evidence of personal knowledge that Sprint Foods  
9 knew there was water on the floor or any substance on the  
10 floor? If they knew? Oh, I don't think they knew it was wet  
11 down there.

12 And we go on and ask her you observed all these other  
13 customers in the video walking this same area without issue;  
14 correct? She confirmed all of that testimony.

15 Again, Your Honor, we cite to the interrogatories in  
16 which she responds that it was -- that they were performing  
17 pressure washing on the exterior. She knew the ground was  
18 wet. She knew that it was reasonable to track in excess  
19 water from outside. And again, while she contended in her  
20 deposition she didn't exactly know what caused her to fall  
21 and that her clothes weren't wet, I think the facts in the  
22 light most favorable to the plaintiff, we can say she may  
23 have fallen on accumulated -- accumulated water from the  
24 exterior.

25 For these reasons and the reasons articulated in our

1 brief, we respectfully request that the Court grant summary  
2 judgment. Thank you.

3 THE COURT: All right. Mr. Weaver?

4 MR. WEAVER: Yes, Your Honor. May it please the Court.

5 Your Honor, first, we do not concede that -- that the  
6 danger itself was open and obvious. Your Honor, my client  
7 states -- in her deposition at page 35, line 5, until page  
8 35, line 24, she states not from where I was walking in. In  
9 my area that I was going to, there was no machinery right  
10 there, saying nobody was pressure cleaning right where I was  
11 entering the store. Therefore, my client clearly states at  
12 the time of her deposition that she did not see any pressure  
13 cleaning as she walked into the store on either occasion.

14 Your Honor, addressing the issue of open and obvious,  
15 the owner of property owes to the invitee or business visitor  
16 the duty of exercising reasonable or ordinary care for his  
17 safety and is liable for injuries resulting from a breach of  
18 such duty. The adequate safeguards include exercising due  
19 care to warn of or eliminate foreseeable unreasonable risks.  
20 That is in Landry v. Hilton Head Plantation Property Owners  
21 Association, 317 S.C. 200 at 203, 1994.

22 Your Honor, here, Sprint gas station hired a third party  
23 to come in, pressure wash the parking lot at right around  
24 8:40 -- 8:45 in the evening, which will -- which the video  
25 will show, if the Court choose to view the video, that this

1 was a very high-traffic area gas station. It wasn't a slow,  
2 rinky-dink gas station.

3 As opposing counsel has indicated, 10 to 11 people enter  
4 and exit that door during the brief three-minute period of  
5 time that my client went and pumped gas. Now, the reason  
6 that's important, Your Honor, is because by having that  
7 pressure washing done at that period of time, a high-traffic  
8 time, that created the reasonable foreseeable risk to all  
9 invitees.

10 Now, according to what opposing counsel is saying is  
11 that if something is open and obvious, then basically the --  
12 the storekeeper does not owe the invitee any further duty,  
13 but I contend that that's not correct, Your Honor.

14 Furthermore, Your Honor, I would say -- I would quote  
15 Callander v. Charleston Doughnut Corporation, Your Honor.

16 Even though a landowner generally does not owe a duty to  
17 warn others of open and obvious conditions on the property,  
18 the Supreme Court of South Carolina has held that a landowner  
19 may nevertheless still be liable for injuries suffered from  
20 an open and obvious defect if the landowner -- if the  
21 landowner should have anticipated the harm.

22 In this particular case, Your Honor, the landowner  
23 should have anticipated -- anticipated this harm. There were  
24 no mats put out. The -- the video does not even show the wet  
25 floor sign in front of the door. The lady brings it over

1 after my client has already fell, which is well too late for  
2 her to observe it and react to it then. And also, there was  
3 no mopping of the area given the fact they had someone who  
4 was pressure cleaning the parking lot at that time.

5 Your Honor, in Legette v. Piggly Wiggly, the Court  
6 determined that there are certain factors, and I do have a  
7 copy of this case, Your Honor, if I may. May I approach,  
8 Your Honor?

9 THE COURT: Okay.

10 MR. WEAVER: Your Honor, I want to -- right beside this  
11 case, I want to come back to that -- to Callander v.  
12 Charleston Doughnut Corporation as well.

13 However, in this particular case, Your Honor, yes, a  
14 young lady walked into Piggly Wiggly, which was over in  
15 Marion. When she walked in, it was drizzling rain outside.  
16 She walks in. She goes shopping. And when she goes -- or  
17 while she's in shopping, it starts to rain heavier. When she  
18 leaves to exit the store, there has been some water  
19 accumulation by the door and at that time she fell.

20 Now, the Court granted summary judgment for Piggly  
21 Wiggly, stating that -- that the condition was open and  
22 obvious, and the summary judgment was affirmed. However,  
23 what is important to note out of this case is the reason that  
24 the Court granted the summary judgment and the reason the  
25 summary judgment was affirmed.

1           The Court notes several factors to be considered in  
2 determining if an owner took reasonable steps in a slip-and-  
3 fall case resulting from an open and obvious condition, such  
4 as the rain. Those steps are the use of mats, the periodic  
5 mopping of an area, and the placement of at least one warning  
6 sign, and that is in the case that I recently passed up to  
7 the Court.

8           Furthermore, Your Honor, in this case, as I indicated  
9 earlier, this storekeeper did absolutely nothing to -- to  
10 remedy the condition that he knew existed, the condition that  
11 he created by hiring a third party to actually come and do  
12 the pressure washing. It is my contention that by hiring  
13 them, he created this risk and that because of that and  
14 because he's a storekeeper, he has a responsibility to take  
15 action to prevent all foreseeable risk. Knowing that you  
16 have someone who was pressure washing outside the store would  
17 at least mandate a mat being at that door so people can wipe  
18 their feet when they enter and exit the store.

19           Now -- now, opposing counsel states that my client  
20 entered the store and exited the store. In Callander v.  
21 Charleston Doughnut Corporation, once again, an owner may be  
22 required to warn an invitee or take other reasonable steps to  
23 protect him if the possessor has reason to expect that the  
24 invitee's attention may be distracted so that he will not  
25 discover what is obvious or fail to protect himself against

1 it. Therefore, when reviewing the notice that is given to an  
2 individual and the responsibility of a landowner to its  
3 invitees, you must look at if an individual has been  
4 distracted.

5 In Callander v. Charleston Doughnut Corporation, this  
6 was a case where a young man -- I'm sorry. A young lady went  
7 into the doughnut shop and she was talking to someone, went  
8 to sit down on a stool, but the stool had a round top that  
9 was -- had been removed off the stool. So there was just no  
10 top on this stool. She fell on -- she fell through that  
11 stool and thereby injured herself.

12 The Court issued a directed verdict based on the fact  
13 that the -- that the danger was open and obvious. The  
14 appeals court reversed it and remanded the case -- reversed  
15 it and remanded the case because -- because even in open and  
16 obvious dangerous situations, the storekeeper still has to  
17 take reasonable foresee -- has to take reasonable steps to  
18 prevent foreseeable risks, and they ruled that in that case  
19 that that was a foreseeable risk.

20 Now, that's important because of the distraction portion  
21 of that case in which they ruled that distraction plays a key  
22 part in evaluating the invitee -- I mean the storekeeper's  
23 duty to the invitee. In this case, my client went into the  
24 store. She prepaid for her gas. She walked back out of the  
25 store. She went -- so she walked -- she walked back out of

1 the store, back across -- opened the door, back across the  
2 parking lot, went and pumped her gas in her vehicle.

3 Following that, she says, oh, I want to get something to  
4 drink while I'm here, and that's when she walks back across  
5 that parking lot and she goes in the door. She makes exactly  
6 two steps inside the door, two small steps, not wide steps,  
7 before her left foot slips out from underneath her and she  
8 falls.

9 Now, in Callander v. Charleston Doughnut Corporation, a  
10 conversation was enough to warrant a distraction. I -- I  
11 contend to this Court that the fact that she took all those  
12 steps, that she went out and she pumped gas, that that first  
13 entrance into that store cannot be viewed as a part of the  
14 second entrance, that they must be viewed separately and  
15 apart.

16 That when she took that time to go out and pump that gas  
17 that that store -- the store's duty to warn her when she  
18 entered that store was renewed because, typically,  
19 individuals have short attention spans and the Court has made  
20 it clear in this ruling regarding distractions -- in this --  
21 in this ruling regarding distractions that distract -- that  
22 distractions do have to be accounted for.

23 Your Honor, I do want to address the -- the wet floor  
24 sign. My client stated numerous times that this -- I mean --  
25 I'm sorry. Opposing counsel stated numerous times that this

1 wet floor sign was somewhere close to the entrance.

2 Your Honor, I've walked in numerous stores that have  
3 that wet floor sign. As soon as you open that door, pow,  
4 it's right there in front of you. This wet floor sign -- and  
5 it's on the video. It was not even in the video that showed  
6 my client fall anywhere.

7 The video would also show that there were not any mats  
8 that were placed in that -- in that vicinity either, and the  
9 video would also show that at least during the duration of  
10 that video and no evidence has been presented to me that  
11 anyone did anything to pick up any water or to remove any  
12 water or any moisture from that floor during that time.

13 Furthermore, opposing counsel states that at least 10 to  
14 11 individuals entered and exited that store from the time  
15 that my client initially went in and paid for her gas until  
16 the time that she came back and she fell. And she says that  
17 the fact that those individuals didn't fall somehow -- I  
18 don't know -- alleviates or somehow proves that my client  
19 should not have fell.

20 I'm not sure exactly what the argument is there, but,  
21 Your Honor, if that was the case, that would mean every slip-  
22 and-fall case would have to have numerous falls at that  
23 location, not just one person, because that typically is the  
24 case. At least as far as from what I have seen in my  
25 practice, it's typically there's just one person that falls

1 and it's not a matter of 10 or 15 or 20 people that walk  
2 through the same area. It's a matter of whether or not the  
3 storekeeper breached their duty to that invitee and, of  
4 course, in this case, I contend that they did.

5       Furthermore, Your Honor, the fact that 10 or 11 people  
6 walked into that store coming from that parking lot -- and  
7 they didn't walk -- it wasn't 10 of them that walked in.  
8 There were 10 or 11 times that that actual entrance was  
9 walked across.

10       So the fact that that many individuals -- some of those  
11 individuals came from outside from that wet -- from the wet  
12 parking lot, that is evidence that the condition of that  
13 floor -- in the time that she went to go pump that gas to the  
14 time that she came back, the actual condition of that floor  
15 was different given the fact that that many people had  
16 traversed it. And so -- and so I believe that that's  
17 actually argument for my client and that -- and that also  
18 proves that the storekeeper still had that duty to warn his  
19 invitee upon entering that store because the condition of the  
20 floor is subject to change given the amount of customers that  
21 enter and exit the building.

22       Your Honor, also, opposing counsel states that there has  
23 been no evidence to show that they had knowledge of the --  
24 actual or constructive knowledge of the dangerous condition.  
25 This is a copy of the store incident report. This is a copy

1 of the store incident report, Your Honor, and in this store  
2 incident report on the -- on the evening that my client fell,  
3 the employee wrote parking lot was being pressure washed.

4 THE COURT: Excuse me just a minute.

5 (To bailiff) Just told them outside until we get  
6 through. It should be just a few minutes.

7 MR. WEAVER: They wrote parking lot was being pressure  
8 washed when the lady walked in and fell.

9 Furthermore, opposing counsel states that we don't --  
10 that my client didn't know what she fell on. The employee  
11 wrote she slipped as she walked in. As she walked in, the  
12 wet floor signs were up by the front door, visible when  
13 walking in.

14 So she said -- so she said that she slipped. She said  
15 that the wet floor signs were up that were visible, but as I  
16 -- as I informed the Court, if you would view the video, you  
17 will see the wet floor signs were not visible. But she says  
18 they were visible, but they were not visible, at least not to  
19 anyone entering that door.

20 And so she -- she acknowledges that -- that it was being  
21 pressure washed. She acknowledges that they had actual and  
22 constructive knowledge that the -- that the pressure washing  
23 was taking place, and she acknowledges that my client slipped  
24 and fell on a wet floor.

25 And now, there is one thing. She says that the wet

1 floor signs were up by the front door. Okay.

2 Your Honor, opposing counsel in her first argument  
3 alleged that they did not have actual or constructive  
4 knowledge that the floor was wet, but then in the third  
5 argument they say that my client was warned. If you never  
6 had actual or constructive knowledge, you can't have it both  
7 ways.

8 You can't say that we didn't -- that you never had  
9 actual or constructive knowledge, but then say you gave  
10 adequate warning. If you gave adequate warning, if you are  
11 alleging that you gave adequate warning, that proves that you  
12 had knowledge, actual or constructive knowledge of what was  
13 going on. And as I also stated, the fact that you actually  
14 hired these individuals to be there proves that you had  
15 actual knowledge as well.

16 Yes, Your Honor, I believe that in reviewing these facts  
17 in light most favorable to the nonmoving party, which is my  
18 client, there are clearly genuine issues of material fact in  
19 this case. Whether or not the placement of the sign is  
20 adequate for my client to even have notice when she walks in,  
21 we clearly have a disagreement there because -- because the  
22 sign isn't even visible in the video.

23 The amount of time that it took her to pump the gas,  
24 whether or not that distracted time -- as pursuant to the  
25 previous case that I -- that I read where distraction must be

1 taken into account. Whether or not the amount -- the amount  
2 of time it took for her to actually go out there and pump  
3 that gas and come back in should be taken into account as far  
4 as the liability of the store owner.

5 And also, Your Honor, definitely the fact that the  
6 elements in Legette v. Piggly Wiggly were not met, that there  
7 were -- well, not the elements, but the factors that we use  
8 in that case were not met. That the -- that there were no  
9 floor mats down. That there were no -- there was no mopping  
10 being done. That the wet -- the only wet floor sign they had  
11 was inadequately placed, which equates to no sign.

12 I would just ask that this Court deny defendant's motion  
13 for summary judgment. Thank you, Your Honor.

14 THE COURT: All right.

15 MS. BRUDVIG: Briefly in reply, Your Honor, to address  
16 the argument of knowledge and the wet floor sign, these are  
17 alternative arguments. The first argument is under  
18 Wintersteen, actual knowledge, constructive knowledge, or  
19 creating the dangerous condition.

20 The dangerous condition here, Your Honor, is not the  
21 pressure washing. The dangerous condition is akin to the  
22 rainwater analysis, which is the tracking in of excess water.  
23 The plaintiff came from the exterior, came inside the first  
24 time, purchased something, made a gas purchase, walked by a  
25 wet floor sign, exited this store, and returned three minutes

1 later.

2 MR. WEAVER: Three minutes and 15 seconds.

3 MS. BRUDVIG: Three minutes and 15 seconds, Your Honor.

4 So the knowledge -- trying to reconcile the knowledge  
5 argument and the creation of the dangerous condition argument  
6 with the wet floor sign, you don't have to reconcile those.  
7 They are completely separate arguments. They are alternative  
8 arguments in this case.

9 And so you can rule under Wintersteen the plaintiff  
10 doesn't satisfy the Wintersteen analysis to the extent that a  
11 dangerous condition existed and to the extent we had  
12 knowledge of it. Then you go to the open and obvious and you  
13 go to the wet floor sign analysis, and summary judgment is  
14 warranted on those grounds.

15 In addressing the reasonable foreseeable risk -- and  
16 plaintiff's counsel had mentioned the 10 or 11 times this  
17 area was traversed between the time plaintiff first entered  
18 the store and the second time she was inside the store. He  
19 -- he argues that those facts help him.

20 We argue those facts help us. There is no constructive  
21 knowledge given to Sprint Foods when those 10 or 11 people  
22 are coming in and out of the store of any condition being on  
23 the floor. You will see in the video, Your Honor, these  
24 people walk. There's no slipping. There's no sliding.  
25 There's no balance checks. They are walking and traversing

1 the area without issue. The plaintiff, in fact, traverses  
2 the area without issue and it was the second time she came  
3 in, which arguably, Your Honor, she carried in excess water  
4 on the bottom of her shoe and slipped and fell in her own  
5 water.

6 So the 10 or 11 people coming in, the lack of any prior  
7 slip and falls, the lack of evidence of creation of the  
8 dangerous condition, again, the pressure washing is not the  
9 dangerous condition. It is the tracking in of the excess  
10 water. To the extent excess water was on the floor, we don't  
11 concede that, but to the extent it was on the floor, that is  
12 the dangerous condition. So under Wintersteen, the analysis  
13 doesn't matter.

14 In addressing the -- the factors that were considered in  
15 Legette v. Piggly Wiggly, that is a 2006 case. They are  
16 talking about Young v. Piggly Wiggly, which was a 1986 case.

17 I have handed up to Your Honor Lucas v. Sysco, which is  
18 a 2014 case. And Lucas v. Sysco says there's no duty to  
19 supply mats during rain -- rain events. You don't have to  
20 supply the mats. Because there's no duty to supply the mats,  
21 you can't say we breached a duty because they didn't supply  
22 mats. We didn't have mats there. That was obvious on the  
23 video, but we didn't have a duty to supply those mats.

24 With regard to the wet floor sign, again, Your Honor, we  
25 contend on the video it was clear there is a wet floor sign

1 present.

2 And with regard to the mopping and whether we should  
3 have had moppers around, again, there was no notice to us  
4 that the area was wet in which we should have mopped. And  
5 the case law that has talked about mopping, it has found that  
6 an hour or two between mopping is reasonable.

7 We're talking about a three-minute difference between  
8 when she entered the store and when she exited the store. I  
9 think that there would be a heightened standard to tell us  
10 that we needed to be mopping during that three-minute period  
11 when, again, there was no evidence of accumulation of water  
12 because other people were traversing the area.

13 We rely on our prior arguments and the arguments within  
14 our memo about the wet floor signs. The wet floor signs were  
15 present.

16 But again, regardless, under the rainwater analysis line  
17 of cases, the condition was open and obvious. We had the wet  
18 floor sign. We didn't need or were under no duty to supply  
19 mats. There was no -- no discussion that we should have been  
20 mopping that area. So under Legette, I don't think that  
21 those factors would apply favorably to plaintiff because  
22 those factors just don't exist that existed in Legette.

23 For those reasons, we respectfully request that Your  
24 Honor grant Sprint Food's motion for summary judgment.

25 THE COURT: All right. I'll review the memos and the

1 case law cited --

2 MR. WEAVER: Your Honor?

3 MR. WEAVER: -- and the surveillance video.

4 MR. WEAVER: Your Honor, could I respond?

5 THE COURT: Sure.

6 MR. WEAVER: Very, very briefly, Your Honor, I just  
7 think this is just important to state that this is not a rain  
8 case. As previously stated in Landry, the adequate  
9 safeguards include exercising due care to warn of or  
10 eliminate foreseeable unreasonable risk.

11 This was a third party that they hired to be there to  
12 pressure wash this parking lot. They had all week or all  
13 month or ever how long it was before he got there to make  
14 sure that they put the proper safeguards down, and they  
15 didn't even -- they didn't even bother to bring a mat out  
16 there to put down for people to wipe their feet.

17 And next, Your Honor, there is -- no one else fell is  
18 not a defense. The fact that no one else fell in that area  
19 does not alleviate the storekeeper's responsibility or duty  
20 to the invitee, Your Honor.

21 And nothing else. Thank you.

22 MS. BRUDVIG: I say the fact that people didn't fall is  
23 evidence that there was either no dangerous condition or they  
24 didn't have notice of the dangerous condition. Thank you,  
25 Your Honor.

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THE COURT: All right. I'll review everything that I already listed and then I'll issue an order shortly.

MS. BRUDVIG: Thank you, Your Honor.

THE COURT: All right. Thank you.

MR. WEAVER: Thank you, Your Honor.

MS. BRUDVIG: Thank you for accommodating us.

THE COURT: Sure. Glad to.

(WHEREUPON, the proceedings ended at 12:06 p.m.)

--- END REQUESTED TRANSCRIPT ---

1 State of South Carolina )  
2 ) Certificate  
3 County of Florence )  
4

5 I, the undersigned, Krystal J. Smith, Notary Public and  
6 Official Court Reporter for the Twelfth Judicial Circuit of  
7 the State of South Carolina, do hereby certify that the  
8 foregoing pages, numbered 1 through 29, constitute a true,  
9 accurate, and complete Transcript of Record of all the  
10 proceedings had and evidence introduced in the hearing of the  
11 above captioned case, relative to appeal, in the Court of  
12 Common Pleas for Marlboro County, South Carolina, on the 25<sup>th</sup>  
13 day of September, 2018.

14 I do further certify that I am neither of kin, counsel,  
15 nor interest to any party hereto.

16  
17 

18 Court Reporter

19  
20 Florence, South Carolina

21 September 2, 2019

**NOTE:** PURSUANT TO RULE 607(h)(1)(B), SCACR, "A COURT REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT." ALL REQUESTS FOR COPIES OF THE ATTACHED TRANSCRIPT FROM OPPOSING PARTY OR NON-PARTIES MUST BE SENT TO:  
KRYSTAL J. SMITH, COURT REPORTER  
12<sup>TH</sup> CIRCUIT AT LARGE  
P.O. BOX 13563  
FLORENCE SC 29504

Sharon Thompson vs.  
Sprint Food Stores, Inc., et al

Sharon Thompson  
May 29, 2018

27

1 A. Okay.

2 Q. When you entered the store the first  
3 time, did you observe anything going on in the  
4 parking lot --

5 A. No, that was --

6 Q. -- any activity?

7 A. That was a busy night. That was just a  
8 busy night, just a lot of people, so I didn't  
9 observe nothing that was going on.

10 Q. Do you recall seeing an individual or a  
11 company doing some pressure washing of the parking  
12 lot?

13 A. I didn't see anything about a company.  
14 Nothing like that, just normal people.

15 Q. Okay. Did you see anybody cleaning the  
16 parking lot?

17 A. No. I haven't noticed people cleaning  
18 because the -- where I was walking in -- there was  
19 nobody there, where I was walking at.

20 Q. So you didn't see anybody in the  
21 parking lot doing any type of cleaning with water  
22 or a hose or anything when you were entering the  
23 store?

24 A. No.

25 Q. So you enter the store. You pay for

A W R

A. WILLIAM ROBERTS, JR., & ASSOCIATES (800) 743-DEPO  
scheduledepo.com

Page 27

Sharon Thompson vs.  
Sprint Food Stores, Inc., et al

Sharon Thompson  
May 29, 2018

1 Carolina 38. Plaintiff slipped and fell in a water <sup>35</sup>  
2 trail on the floor due to cleaning of the parking  
3 lot, resulting in the plaintiff's injuries.

4 Oh, okay.

5 Q. Does that refresh your memory at all  
6 about anything that may have been going on in the  
7 parking lot?

8 A. Okay. That's the reason it was wet,  
9 the cleaning of the parking lot. I didn't see -- I  
10 didn't see a company -- I didn't see company  
11 uniforms or nothing like that, that -- to notice if  
12 cleaning was going on.

13 Q. I guess my question for you, regardless  
14 if it was a company or an individual doing it  
15 separately by themselves --

16 A. Right.

17 Q. -- did you notice any pressure washing  
18 going on in the --

19 A. I didn't see --

20 Q. -- front of the store?

21 A. Not from where I was walking in. My  
22 area that I was going to, there was no machinery  
23 right there saying -- nobody was pressure cleaning  
24 right there where I was entering the store.

25 Q. Did you notice at all whether the

A W R

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# Store Incident Report

Property Damage, General Liability, Robbery, Shoplifting, Customer Accident/Injury

In the event of an incident the Store Manager must immediately notify the District Manager or to the VP-Retail Operations so that the proper procedure can be followed. Please complete the information listed below. Be sure all questions are answered to the best of your ability. Provide photos and secure video of the incident and attach additional information including statements from employees or witnesses as appropriate. Submit this form to the Augusta office and Wrens office via fax or email as soon as possible.

Date 07/28/16

Store# 728

Date of incident 07/28/16

Time of incident 8:45 ( ) AM (X) PM

Police Notified: ( ) Yes (X) No Police Case #: \_\_\_\_\_ County: \_\_\_\_\_

Type of Incident: ( ) Altercation customers or employee ( ) Water in Fuel  
( ) Property Damage ( ) Robbery/Burglary ( ) Gas Drive-off (receipt attached)  
(X) Customer Injury ( ) Shoplifting

### Individual Involved in Incident:

Name: Sharon Thompson ( ) Employee (X) Customer

Address: 1000 Hamlet Hwy Medical Treatment Offered (X) Yes ( ) No  
Medical Treatment (X) Accepted ( ) Denied

City: Bennettsville State SC Zip 29512

Phone #: 843 256-3411 / 843 4361 4128 (SCN's #) Email: \_\_\_\_\_

Insurance Company \_\_\_\_\_ Policy # \_\_\_\_\_ Phone # \_\_\_\_\_

### Witnesses:

Name: Senya Cuckler Address: 305 Nelson Street

Phone #: 843-439-0879 City/State/Zip: Clio, SC 29535

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Phone #: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_

Provide a detailed explanation of the incident. Include exact location in the store or on the property, condition of the area, warning signs posted, time of day, and other specific factual data. If water in gas or car wash claim, indicate if other claims were made. If problems with fuel, attach tank gauge reading and stick tanks for water. If additional space is needed attach separate sheet.

Parking lot was being pressured washed when the lady walked in and fell. She slipped as she was walking in. Wet floor signs were up by the front door, visible when walking in

### Robbery Suspect Description:

Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Gender: \_\_\_\_\_ Race: \_\_\_\_\_ Hair Color/Length: \_\_\_\_\_ Eye Color: \_\_\_\_\_  
Facial Hair: \_\_\_\_\_ Glasses: ( ) Yes ( ) No Other distinguishing marks: \_\_\_\_\_  
Vehicle Make: \_\_\_\_\_ Model: \_\_\_\_\_ Year: \_\_\_\_\_ Color: \_\_\_\_\_  
License Plate: \_\_\_\_\_ State: \_\_\_\_\_ # of people in vehicle: \_\_\_\_\_

Signature of Preparer: Jasha Sierra Title Cashier

Thompson, Sharon

DEF\_0006

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM MARLBORO COUNTY  
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

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Case No. 2017-CP-34-00367

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Sharon Thompson,

Appellant,

v.

Sprint Food Store #728,

Respondent.

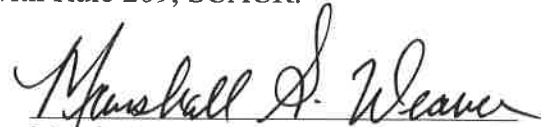
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**CERTIFICATE OF COUNSEL**

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The undersigned certifies that this Initial Brief complies with Rule 209, SCACR.

August 14, 2020

  
Marshall S. Weaver

**RECEIVED**  
**Aug 17 2020**  
**SC Court of Appeals**