

COURT OF APPEALS FOR THE SECOND APPELLATE DISTRICT OF TEXAS
AT FORT WORTH

Penny Morgan v. Buc-ee's, Inc. and Buc-ee's, Ltd.

No. 02-25-00333-CV · No. No. 02-25-00333-CV · Decided May 28, 2026

SUMMARY

The Texas Court of Appeals for the Second Appellate District affirmed summary judgment for Buc-ee's in Penny Morgan's premises-liability action arising from a slip-and-fall. The court held that a bright yellow wet-floor cone placed in visible proximity to the wet area adequately warned Morgan of the condition as a matter of law and declined to address the no-evidence summary-judgment ground.

CASE DETAILS

COURT	Court of Appeals for the Second Appellate District of Texas at Fort Worth
WRITING FOR THE COURT	Mike Wallach; Sudderth, C.J.; Kerr, J.; Wallach, J.
JURISDICTION	Court of Appeals for the Second Appellate District of Texas at Fort Worth
DECIDED	May 28, 2026
DOCKET	No. 02-25-00333-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Penny Morgan appealed the trial court's traditional and no-evidence summary judgment in favor of Buc-ee's in a premises-liability slip-and-fall action.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The evidence is viewed in the light most favorable to the nonmovant, favorable evidence is credited if reasonable jurors could, contrary evidence is disregarded unless reasonable jurors could not, every reasonable inference is indulged in the nonmovant's favor, and doubts are resolved for the nonmovant. When an order does not specify the grounds for summary judgment, the judgment is affirmed if any preserved theory presented to the trial court is meritorious.
PRECEDENTIAL VALUE	Published memorandum opinion
PARTIES	Penny Morgan v. Buc-ee's, Inc., Buc-ee's, Ltd.

TOPICS

premises liability

summary judgment

standard of care

standard of review

appellate procedure

PRACTICE AREAS

premises liability

summary judgment

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether Buc-ee's was entitled to traditional summary judgment on Morgan's premises-liability claim because the wet-floor warning was adequate as a matter of law.
2. Whether the court needed to address the no-evidence summary-judgment ground after affirming on the traditional ground.

HOLDINGS

1. A bright yellow wet-floor cone placed in visible proximity to the wet spot was adequate, under the totality of the circumstances, to alert a reasonable person to the wet and slippery condition. The adequate warning negated the reasonable-care element of Morgan's premises-liability claim and entitled Buc-ee's to traditional summary judgment.
2. Because the traditional summary judgment was dispositive and supported affirmance, the court did not need to address Morgan's challenge to the no-evidence ground.

KEY QUOTATIONS

"Applying the Henkel standard, we hold that the warning Buc-ee's provided in this case—a bright yellow wet-floor cone placed in visible proximity to the wet spot on the floor—"was adequate in light of the totality of the circumstances to alert a reasonable person in [Morgan's] position" of the risky condition—a wet, slippery spot on the floor." (at 12)

FACTUAL BACKGROUND

In 2021, Penny Morgan slipped on a wet floor inside a Buc-ee's store and broke her femur. A bright yellow wet-floor warning cone had been placed near the location of her fall more than thirty minutes before the incident. Surveillance evidence showed that other customers traversed the area safely and that Morgan herself walked past the cone multiple times shortly before she fell, although she testified that she did not see it before the fall.

PROCEDURAL HISTORY

Morgan sued Buc-ee's in the 431st District Court of Denton County, asserting negligence and premises-liability claims arising from her fall in a Buc-ee's store. Buc-ee's filed a combined no-evidence and traditional motion for summary judgment. The trial court granted the motion and rendered a take-nothing judgment. The court of appeals reviewed the traditional summary-judgment ground first, held that the warning was adequate as a matter of law, and affirmed without addressing the no-evidence ground.

DISPOSITION

affirmed

CASES CITED

- B.C. v. Steak N Shake Operations, 598 S.W.3d 256 (Tex. 2020)
- Reynolds v. Murphy, 188 S.W.3d 252 (Tex. App.—Fort Worth 2006, pet. denied)
- Travelers Insurance v. Joachim, 315 S.W.3d 860 (Tex. 2010)
- Mann Frankfort Stein & Lipp Advisors, Inc. v. Fielding, 289 S.W.3d 844 (Tex. 2009)
- 20801, Inc. v. Parker, 249 S.W.3d 392 (Tex. 2008)
- Phan Son Van v. Peña, 990 S.W.2d 751 (Tex. 1999)
- Frost National Bank v. Fernandez, 315 S.W.3d 494 (Tex. 2010)
- Provident Life & Accident Insurance Co. v. Knott, 128 S.W.3d 211 (Tex. 2003)
- Star-Telegram, Inc. v. Doe, 915 S.W.2d 471 (Tex. 1995)
- Brookshire v. Longhorn Chevrolet Co., 788 S.W.2d 209 (Tex. App.—Fort Worth 1990, no writ)
- Catholic Diocese of El Paso v. Porter, 622 S.W.3d 824 (Tex. 2021)
- United Scaffolding, Inc. v. Levine, 537 S.W.3d 463 (Tex. 2017)
- United Supermarkets, LLC v. McIntire, 646 S.W.3d 800 (Tex. 2022)
- Henkel v. Norman, 441 S.W.3d 249 (Tex. 2014)
- Reyes v. Brookshire Grocery Co., 578 S.W.3d 588 (Tex. App.—Tyler 2019, no pet.)
- Austin v. Kroger Texas, L.P., 465 S.W.3d 193 (Tex. 2015)
- TXI Operations, L.P. v. Perry, 278 S.W.3d 763 (Tex. 2009)
- Carey v. Hi-Lo Auto Supply, LP, No. 02-15-00345-CV, 2016 WL 3198872 (Tex. App.—Fort Worth June 9, 2016, no pet.) (mem. op.)
- Golden Corral Corp. v. Trigg, 443 S.W.3d 515 (Tex. App.—Beaumont 2014, no pet.)
- Jefferson County v. Akins, 487 S.W.3d 216 (Tex. App.—Beaumont 2016, pet. denied)
- General Motors Corp. v. Saenz, 873 S.W.2d 353 (Tex. 1993)

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