

LOUISIANA COURT OF APPEAL, FIRST CIRCUIT

Beverly Hill v. Kmart Corporation and Kellermeyer Bergensons Services LLC

Beverly Hill v. Kmart Corp. & Kellermeyer Bergensons Servs., LLC, No. 2025 CW 0885 (La. Ct. App. 2026) · No. 2025 CW 0885 · Decided February 11, 2026

SUMMARY

The Louisiana Court of Appeal, First Circuit granted supervisory writs and reversed the trial court’s denial of summary judgment in a slip-and-fall action. The court held that Beverly Hill failed to produce factual support showing the existence of a hazardous condition before her fall or that defendants had actual or constructive notice of it, and dismissed her claims against Kellermeyer Bergensons Services, LLC and Zurich American Insurance Company with prejudice.

CASE DETAILS

|                       |                                                                                                                                                                                    |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Louisiana Court of Appeal, First Circuit                                                                                                                                           |
| WRITING FOR THE COURT | McClendon, C.J.; Theriot, J.; Penzato, J.; Edwards, J.; Balfour, J.                                                                                                                |
| JURISDICTION          | Louisiana Court of Appeal, First Circuit                                                                                                                                           |
| DECIDED               | February 11, 2026                                                                                                                                                                  |
| DOCKET                | 2025 CW 0885                                                                                                                                                                       |
| DISPOSITION           | writ_granted                                                                                                                                                                       |
| PROCEDURAL POSTURE    | Defendants sought supervisory writs from the denial of their motion for summary judgment in a premises-liability action.                                                           |
| STANDARD OF REVIEW    | Summary judgment is appropriate when the plaintiff fails to produce factual support sufficient to establish a genuine issue of material fact on an essential element of the claim. |
| PRECEDENTIAL VALUE    | Unknown                                                                                                                                                                            |
| PARTIES               | Kellermeyer Bergensons Services, LLC, Zurich American Insurance Company v. Beverly Hill                                                                                            |

TOPICS

- premises liability
- summary judgment
- standard of care
- civil procedure
- writ of certiorari

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether Hill produced factual support establishing that a hazardous condition existed before her fall.
2. Whether Hill produced factual support establishing that defendants had actual or constructive notice of the alleged wet floor.
3. Whether defendants were entitled to summary judgment in the premises-liability action.

## HOLDINGS

1. Whether La. R.S. 9:2800.6 or La. Civ. Code art. 2317.1 applies, the plaintiff must prove that the condition presented an unreasonable risk of harm, that the defendant had actual or constructive knowledge of the risk, and that the defendant failed to exercise reasonable care.
2. A plaintiff must make a positive showing that the hazardous condition existed before the fall; the defendant is not required to make a positive showing that the condition did not exist before the fall.
3. A claimant who shows only that a condition existed, without additionally showing that it existed for some period before the accident, has not carried the burden of proving constructive notice.
4. Defendants were entitled to summary judgment because Hill failed to produce factual support raising a genuine issue of material fact as to the required premises-liability elements.

## KEY QUOTATIONS

*“A defendant does not have to make a positive showing of the absence of the existence of the condition prior to the fall.”* (1)

*“Notwithstanding that such would require proving a negative, the [law] simply does not provide for a shifting of the burden.”* (1)

## FACTUAL BACKGROUND

Beverly Hill alleged that she slipped on a wet floor at a Kmart store. She testified that she did not see water on the floor and did not see anyone mopping or performing janitorial services. The assistant store manager testified that she saw no liquid when she arrived to take the incident report and that, although KBS customarily mopped at 6:00 a.m., the floor would not still be wet approximately two hours and forty minutes later at the alleged time of the incident.

## PROCEDURAL HISTORY

The Twenty-Third Judicial District Court for the Parish of Ascension denied the motion for summary judgment filed by Kellermeyer Bergensons Services, LLC and its insurer, Zurich American Insurance Company. The Louisiana Court of Appeal, First Circuit granted supervisory relief, reversed the denial, granted summary judgment, and dismissed Hill's claims against those defendants with prejudice.

## DISPOSITION

writ\_granted

#### CASES CITED

- Woods v. Winn-Dixie Stores, Inc., 2022-0191 (La. App. 1st Cir. 9/16/22), 353 So. 3d 182
- Cyprian v. State Farm Fire & Cas. Co., 2016-0717 (La. App. 1st Cir. 2/17/17), 2017 WL 658246, at \*3
- White v. Wal-Mart Stores, Inc., 97-0393 (La. 9/9/97), 699 So. 2d 1081, 1084
- Racca v. St. Mary Sugar Cooperative, Inc., 2002-1766 (La. App. 1st Cir. 2/23/04), 872 So. 2d 1117, 1126, writ denied, 2004-0698 (La. 5/7/04), 872 So. 2d 1083

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