

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FIFTH
DISTRICT

Charissa Frazier v. Panera, LLC

Frazier v. Panera · No. 5D22-1496 · Decided June 30, 2023

SUMMARY

The Florida Fifth District Court of Appeal reversed a summary final judgment for Panera, LLC in a premises-liability action arising from a customer's trip over an unweighted sign base on a sidewalk. The court held that genuine issues of material fact existed regarding whether the base was open and obvious and whether Panera should have anticipated the danger. The court also emphasized that an obvious condition may discharge a duty to warn but does not eliminate the independent duty to maintain reasonably safe premises.

CASE DETAILS

COURT	District Court of Appeal of the State of Florida, Fifth District
WRITING FOR THE COURT	Harris, J.; Wallis, J.; Jay, J.
JURISDICTION	Florida
DECIDED	June 30, 2023
DOCKET	5D22-1496
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order granting Panera, LLC's motion for summary judgment in a premises-liability action.
STANDARD OF REVIEW	Summary judgment is reviewed de novo; reversal is required when genuine issues of material fact remain.
PRECEDENTIAL VALUE	Published intermediate appellate opinion; precedential under applicable Florida law.
PARTIES	Charissa Frazier v. Panera, LLC

TOPICS

- premises liability
- summary judgment
- duty of care
- comparative fault
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether genuine issues of material fact existed as to whether the weighted sign base was an open and obvious condition.
2. Whether, even if the base was open and obvious, Panera retained an independent duty to maintain its premises in a reasonably safe condition.
3. Whether summary judgment was proper on Frazier's premises-liability claims.

HOLDINGS

1. The evidence presented a genuine issue of material fact as to whether the weighted sign base, without an attached sign and located in the direct path of customers, was an open and obvious condition.
2. Even if the weighted base was open and obvious, that condition would discharge only Panera's duty to warn; it would not eliminate Panera's separate and independent duty to maintain the premises in a reasonably safe condition.

KEY QUOTATIONS

“A landowner or occupier owes an invitee two independent duties: (1) to give warning of concealed perils which are known or should be known to the owner, but which are not known to the invitee, and (2) to maintain the premises in a reasonably safe condition.” (at 2)

“[A] landowner’s duty to warn is separate and distinct from the duty to maintain the premises in a reasonably safe condition.” (at 2)

“Even if the base was considered an open and obvious condition under the circumstances, it is a separate and independent issue of negligence whether Panera created a hazardous condition and generally failed to maintain a safe premises under the circumstances.” (at 4-5)

“Because we conclude that issues of material fact exist, we reverse the summary final judgment and remand this cause for further proceedings.” (at 5)

FACTUAL BACKGROUND

On July 29, 2017, Charissa Frazier parked at Panera's property intending to dine at the restaurant. As she walked from the parking lot onto the sidewalk, she tripped over a weighted sign base that had no sign attached to it. The base was in the direct path customers used to enter the restaurant, and Panera employees were in the process of removing it. Frazier alleged that the base was hidden from her view and that Panera should have anticipated that invitees would encounter and trip over it.

PROCEDURAL HISTORY

Frazier sued Panera after tripping and falling on a weighted sign base on Panera's sidewalk. The Circuit Court for Hernando County granted Panera's motion for summary judgment, concluding that the base was open and

obvious, that no concealed peril triggered a duty to warn, and that Frazier's failure to look down caused the accident. Frazier appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded for further proceedings consistent with the opinion.

CASES CITED

- Marion v. City of Boca Raton, 47 So. 3d 334, 338 (Fla. 4th DCA 2010)
- Burton v. MDC PGA Plaza Corp., 78 So. 3d 732, 734 (Fla. 4th DCA 2012)
- Moultrie v. Consolidated Stores International Corp., d/b/a Big Lots Store # 505, 764 So. 2d 637 (Fla. 1st DCA 2000)
- Pratus v. Marzucco's Constr. & Coatings, Inc., 310 So. 3d 146, 148-49 (Fla. 2d DCA 2021)
- Marriott Int'l, Inc. v. Perez-Melendez, 855 So. 2d 624 (Fla. 5th DCA 2003)
- De Cruz-Haymer v. Festival Food Mkt., Inc., 117 So. 3d 885, 888 (Fla. 4th DCA 2013)

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