

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA, CHARLESTON DIVISION

Don Cook v. Circle K Stores, Inc. d/b/a Circle K #3963, et al.

Cook · No. 2:24-cv-05456-RMG · Decided February 6, 2026

SUMMARY

The United States District Court for the District of South Carolina considers Circle K Stores, Inc.'s motion for summary judgment in a premises-liability action arising from the plaintiff's alleged slip and fall on oil in a store parking lot. The court denies summary judgment on the negligence claim because factual disputes exist regarding constructive notice and whether the hazard was open and obvious, but grants summary judgment on the claim for punitive damages.

CASE DETAILS

COURT	United States District Court for the District of South Carolina, Charleston Division
WRITING FOR THE COURT	Richard Mark Gergel
JURISDICTION	United States District Court for the District of South Carolina, Charleston Division
DECIDED	February 6, 2026
DOCKET	2:24-cv-05456-RMG
DISPOSITION	other
PROCEDURAL POSTURE	Defendant Circle K Stores, Inc. moved for summary judgment in Plaintiff Don Cook's premises-negligence action and sought judgment on the request for punitive damages.
STANDARD OF REVIEW	Summary judgment is proper when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court views inferences and ambiguities in favor of the nonmoving party; once the movant meets its burden, the nonmoving party must identify specific facts showing a genuine issue for trial.
PRECEDENTIAL VALUE	Unknown
PARTIES	Don Cook v. Circle K Stores, Inc. d/b/a Circle K #3963, et al.

TOPICS

summary judgment

premises liability

negligence

punitive damages

civil procedure

PRACTICE AREAS

torts

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether genuine disputes of material fact concerning the existence, duration, and obviousness of an oily condition in Circle K's parking lot precluded summary judgment on Cook's negligence claim.
2. Whether Cook presented evidence sufficient for a reasonable jury to award punitive damages.

HOLDINGS

1. Summary judgment was inappropriate because genuine disputes of material fact existed regarding the duration of the alleged oil hazard, which bore on Circle K's constructive notice, and whether the hazard was open and obvious.
2. Circle K was entitled to summary judgment on punitive damages because Cook did not present evidence from which a reasonable jury could find, by clear and convincing evidence, that Circle K acted willfully, wantonly, or in reckless disregard of his rights.

KEY QUOTATIONS

"A merchant is not an insurer of the safety of [its] customers[,] and is not required to maintain the premises in such condition that no accident could happen to a patron using them[,] however, a merchant owes 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."

"To recover damages for injuries caused by a dangerous condition on a storekeeper's premises, the plaintiff must show either (1) that the injury was caused by a specific act of the [defendant] which created the dangerous condition; or (2) that the [defendant] had actual or constructive knowledge of the dangerous condition and failed to remedy it."

"The entire basis of an invitor's liability rests upon his superior knowledge of the danger that causes the invitee's injuries. If that superior knowledge is lacking, as when the danger is obvious, the invitor cannot be held liable."

FACTUAL BACKGROUND

Cook allegedly slipped, fell, and was injured while exiting one of Circle K's stores. He testified that the substance on which he slipped was oil and that oil was "all over the ground" and covered the parking spaces. Cook pursued a constructive-notice theory, while Circle K argued that the evidence did not establish a dangerous condition or actionable notice.

PROCEDURAL HISTORY

Cook allegedly slipped and fell on oil while exiting a Circle K store. Circle K moved for summary judgment, Cook opposed the motion, and the district court granted the motion as to punitive damages but denied it as to the negligence claim.

DISPOSITION

other

CASES CITED

- Celotex Corp. v. Catrett, 477 U.S. 317 (1986)
- U.S. v. Diebold, Inc., 369 U.S. 654 (1962)
- Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp., 475 U.S. 574 (1986)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986)
- Garvin v. Bi-Lo, Inc., 343 S.C. 625, 541 S.E.2d 831 (2001)
- Sims v. Giles, 541 S.E.2d 857 (S.C. Ct. App. 2001)
- H.P. Larimore v. Carolina Power & Light, 340 S.C. 438, 531 S.E.2d 535 (Ct. App. 2000)
- Callander v. Charleston Doughnut Corp., 305 S.C. 123, 406 S.E.2d 361 (1991)
- Daniels v. Food Lion, LLC, No. 5:16-cv-00936-RBH, 2018 WL 5762081 (D.S.C. Nov. 2, 2018)
- Benton v. Bulldog Tours Inc., No. 2:17-CV-01623-DCN, 2019 WL 803973 (D.S.C. Feb. 21, 2019)
- Sea Island Food Grp., LLC v. Yaschik Dev. Co., Inc., 433 S.C. 278, 857 S.E.2d 902 (Ct. App. 2021)
- Mellen v. Lane, 377 S.C. 261, 659 S.E.2d 236 (Ct. App. 2008)

OPINION

IN THE UNITED STATES DISTRICT COURT DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION Don Cook, C/A: 2:24-cv-05456-RMG Plaintiff, v. ORDER AND
OPINION Circle K Stores, Inc. d/b/a/ Circle K #3963, et al., Defendants. Before the Court is
Defendant Circle K Stores, Inc.’s motion for summary judgment (Dkt. No. 26).

For the reasons set forth below, the Court grants the motion as to punitive damages, but otherwise denies it. I. Background Plaintiff allegedly slipped, fell, and injured himself one evening while exiting one of Defendant’s stores. Plaintiff believes the substance he slipped on was oil. He testified there was oil “all over the ground” and “the parking spaces.” (Dkt.

No. 26 at 1-2). Defendant moved for summary judgment, (Dkt. Nos. 26, 29), and Plaintiff filed a response in opposition, (Dkt. No. 27). Defendant’s motion is ripe for disposition. II. Legal Standard To prevail on a motion for summary judgment, the movant must demonstrate that there is no genuine dispute of any material fact and the movant is entitled to judgment as a matter of law.

Fed. R. Civ. P. 56(a). The party seeking summary judgment has the burden of identifying the portions of the “pleadings, depositions, answers to interrogatories, and admissions on file, together

with the affidavits, if any, [which] show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 & n.4 (1986) (citing Rule 56(c)).

The Court will interpret all inferences and ambiguities against the movant and in favor of the non-moving party. *U.S. v. Diebold, Inc.*, 369 U.S. 654, 655 (1962). Where the moving party has met its burden to put forth sufficient evidence to demonstrate there is no genuine dispute of material fact, the non-moving party must come forth with “specific facts showing that there is a genuine issue for trial.” *Matsushita Elec.*

Indus. Co., Ltd. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986) (citing Rule 56(e)). An issue of material fact is genuine if the evidence is such that a reasonable jury could return a verdict in favor of the non-moving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 257 (1986). III. Discussion “A merchant is not an insurer of the safety of [its] customers[,]” and “is not required to maintain the premises in such condition that no accident could happen to a patron using them[,]” *Garvin v. Bi-Lo, Inc.*, 343 S.C.

625, 541 S.E.2d 831, 832, 833 n.1 (2001) (citations omitted); however, a merchant owes “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.” *Sims v. Giles*, 541 S.E.2d 857, 863 (S.C. App. 2001) (citation omitted).

The owner has a duty to warn an invitee only of latent or hidden dangers of which the landowner is on actual or constructive notice. *H.P. Larimore v. Carolina Power & Light*, 340 S.C. 438, 531 S.E.2d 535, 538 (App. 2000) (citing *Callander v. Charleston Doughnut Corp.*, 305 S.C. 123, 406 S.E.2d 361, 362-63 (1991)). “To recover damages for injuries caused by a dangerous condition on a storekeeper's premises, the plaintiff must show either (1) that the injury was caused by a specific act of the [defendant] which created the dangerous condition; or (2) that the [defendant] had actual or constructive knowledge of the dangerous condition and failed to remedy it.” *Garvin*, 541 S.E.2d at 832.

Either theory is predicated on the existence of a dangerous condition; if there is no evidence of a dangerous condition, then the Court must grant summary judgment. *Daniels v. Food Lion, LLC*, No. 5:16-cv-00936-RBH, 2018 WL 5762081, at *6 (D.S.C. Nov. 2, 2018).

Here, Plaintiff’s case rests on a constructive notice theory. (Dkt. No. 27 at 1, 5). “The entire basis of an invitor’s liability rests upon his superior knowledge of the danger that causes the invitee’s injuries. If that superior knowledge is lacking, as when the danger is obvious, the invitor cannot be held liable.” *H.P. Larimore*, 531 S.E.2d at 540. A landowner is not liable for open and obvious dangers unless the landowner “should anticipate the harm despite such knowledge or obviousness” or “has reason to expect that the invitee’s attention may be distracted, so that he will not discover

what is obvious,... or fail to protect himself against it.” Callander, 406 S.E.2d at 362-63 (internal quotation marks omitted) (alteration in original).

Reading all facts in a light most favorable to Plaintiff, the Court denies Defendant’s motion as to Plaintiff’s negligence claim. Plaintiff testified oil was “all over the ground” and covered “all the parking spaces.” (Dkt. No. 26-1 at 3) (emphasis added). Given the substance’s widespread presence, material factual disputes exist as to the length of time the hazard may have been present, which bears on Defendant’s constructive notice.

Further, as to whether the hazard was open and obvious, the Court likewise finds material factual disputes preclude granting summary judgment. See (Dkt. No. 27 at 7) (arguing Defendant’s parking lot was sole means of ingress and egress for customers); see also *Benton v. Bulldog Tours Inc.*, No. 2:17-CV-01623-DCN, 2019 WL 803973, at *2 (D.S.C. Feb. 21, 2019) (noting that even if a danger is open and obvious, a property owner can still be liable for physical harm caused to invitees if the “possessor should anticipate the harm despite such [] obviousness”).

The Court, however, grants Defendant’s motion as to Plaintiff’s request for punitive damages. See *Sea Island Food Grp., LLC v. Yaschik Dev. Co., Inc.*, 433 S.C. 278, 289, 857 S.E.2d 902, 907–08 (Ct. App. 2021) (“In order to recover punitive damages, the plaintiff must present clear and convincing evidence that the defendant's conduct was willful, wanton, or in reckless disregard of the plaintiff's rights.”); *Mellen v. Lane*, 377 S.C.

261, 290, 659 S.E.2d 236, 251 (Ct. App. 2008) (noting standard is “the highest burden of proof known to the civil law”). Plaintiff has not met his burden of showing evidence from which a reasonable jury could award punitive damages. See (Dkt. No. 27 at 8) (arguing Defendant was reckless only because it did not conduct a walk through the day of the accident).

IV. Conclusion For the forgoing reasons, the Court GRANTS IN PART AND DENIES IN PART Defendant’s motion for summary judgment (Dkt. No. 26). The motion is granted as to punitive damages but is otherwise denied. AND IT IS SO ORDERED. s/ Richard Mark Gergel United States District Judge February 6, 2026 Charleston, South Carolina