

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-30533
Summary Calendar

CLETORIA K. REID,

Plaintiff-Appellee,
Cross-Appellant,

versus

WAL-MART STORES, INC., dba
Wal-Mart Discount City,

Defendant-Appellant,
Cross-Appellant.

Appeal from the United States District Court
for the Eastern District of Louisiana
(CA 93 1460 E 1)

June 21, 1995

Before JONES, BARKSDALE and BENAVIDES, Circuit Judges.

By EDITH H. JONES, Circuit Judge:*

Cletoria Reid filed suit against Wal-Mart Stores, Inc. alleging premises liability related to a slip and fall incident. The jury found Wal-Mart liable and awarded damages amounting to \$20,000 for medical expenses and \$10,000 for pain and suffering. Wal-Mart's motions for judgment as a matter of law and for a new

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

trial were denied by the trial court as was Reid's motion for a new trial as to damages. Both parties appeal. We find no reversible error and affirm.

Wal-Mart alleged that the verdict should be reversed because Reid had failed to provide sufficient evidence of constructive knowledge of the slippery spot. Wal-Mart relies heavily on Welch v. Winn Dixie Louisiana, Inc., 645 So.2d 647 (La.App. 1 Cir 1994), rev'd ___ So.2d ___ (1995). While the appeal in this case was pending, the Supreme Court of Louisiana reversed the appellate court's decision in Welch and reinstated the trial court's judgment for the plaintiff. Welch, ___ So.2d at ___. Based on the Supreme Court's opinion in Welch, it appears that the district court committed no reversible error in denying Wal-Mart's motions to set aside the jury verdict for the plaintiff.

Further, the district court did not err in denying Reid's motion for a new trial as to damages because sufficient evidence exists to support the jury's award of \$20,000 to Cletoria Reid for medical expenses. Although Wal-Mart stipulated to the accuracy of the medical bills totaling \$65,940.98, the jury was free to find from the record that not all of those medical expenses were reasonably incurred as a result of the injuries caused by Wal-Mart. The plaintiff bore the burden of proof on that point and did not produce evidence that all of the treated injuries were caused by Wal-Mart. Reviewing the record, it appears that there was a material dispute about whether Reid's infections (which required extensive treatment) were acquired independently of her injuries

from the fall at Wal-Mart. Reid makes no arguments explaining why she failed to object to the submission to the jury of Interrogatory 2(B) asking what amount Reid should be compensated for medical expenses. If Reid understood this to be a stipulated issue, that instruction would have been unnecessary. If Reid believed Wal-Mart had failed to present evidence denying that the medical expenses were other than \$65,940.98, she should have moved for a directed verdict on this issue. The record reflects no such motion. R. IV-225-226. The district court did not err in submitting the disputed issue to the jury. Having heard the evidence firsthand, the trial court was in a superior position to evaluate the necessity for a new trial on a disputed issue that was submitted to the jury. As we find no abuse of discretion by the district judge, we have no reason to disturb his decision to deny the motion for a new trial.

Accordingly, the decisions of the court below denying the motions for a new trial and for judgment as a matter of law and entering judgment on the jury verdict for Reid in the amount of \$30,000 is **AFFIRMED**.