

United States Court of Appeals
For the Eighth Circuit

No. 16-3852

Cheryl Kelly

Plaintiff - Appellant

v.

Four B. Corporation, doing business as Price Chopper; Modern Maintenance, Inc.

Defendants - Appellees

Appeal from United States District Court
for the Western District of Missouri - Kansas City

Submitted: July 13, 2017

Filed: July 17, 2017

[Unpublished]

Before BENTON, BOWMAN, and SHEPHERD, Circuit Judges.

PER CURIAM.

Cheryl Kelly appeals from an order of the District Court granting summary judgment for the defendants in her removed personal-injury action arising out of a slip-and-fall incident at a grocery store. After de novo review of the record, we conclude that the evidence shows a genuine issue of material fact that precluded summary judgment. See Pippin v. Hill-Rom Co., 615 F.3d 886, 889 (8th Cir. 2010)

(standard of review). The evidence, which included video surveillance footage of the incident, would permit a finder of fact to conclude that one or both defendants were negligent under Missouri law. See id. (recognizing the elements of a Missouri negligence claim as a duty of care, a breach of that duty, and a proximately-caused resulting injury); Smith v. Callaway Bank, 359 S.W.3d 545, 547 (Mo. Ct. App. 2012) (“Whether a defendant’s conduct falls short of the standard of care is generally a question of fact for the jury.”).

Accordingly, we reverse the judgment and remand for further proceedings consistent with this opinion.
