

boundaries

A GUIDE FOR PROPERTY OWNERS AND INSURERS IN A LITIGIOUS SOCIETY

8.4.04

No Civil Rights Violation For Bunched Up Floor Mat

By Todd M. Rowe

In Huber v. Jo-Ann Stores, Inc., unpublished decision of the Michigan Court of Appeals, Plaintiff tripped over a floor mat while entering Defendant's store. Plaintiff using crutches when she fell and alleged that the floor mat was "bunched up" and "sort of folded" over causing her crutches to get caught. Plaintiff filed a complaint alleging Defendant was negligent on a premises liability theory, and later amended her complaint to add a violation of the Persons With Disabilities Civil Rights Act (hereinafter "PWDCRA"). The trial court granted Defendant's motion for summary disposition and dismissed Plaintiff's premises liability and PWDCRA claims. The Court of Appeals affirmed the trial court's decision.

First, Plaintiff asserted the trial court erred in its finding that the mat at the entrance of Defendant's store did not possess any special aspects that created an unreasonable risk of harm and a dangerous condition. Plaintiff argued that, as she "progressed" over the floor mat, it was "curling up" and her crutches became caught in the mat, which caused her to fall. There was another available door without a mat, but Plaintiff mistakenly believed this was an exit door which could not be used to enter Defendant's store. Plaintiff admitted she frequented Defendant's store, but claimed she never saw the mat in that particular condition.

The Court of Appeals affirmed the trial court's finding that the floor mat (and its crumpled condition) was open and obvious as it was observable upon casual inspection. The trial court's finding was supported by Plaintiff's deposition

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A person's specific handicap will likely not entitle them to avoid the open and obvious defense. The Persons With Disabilities Civil Rights Act requires property owners accommodate a disabled individual unless they can demonstrate that such accommodation would impose an undue hardship. There must be an "equal opportunity" for disabled individuals to use and enjoy a place of public accommodation's services and facilities. As seen in this case, property owners may be subject to a cause of action brought under a premises liability theory or an alleged violation of the PWDCRA. The analysis as to whether there is a violation under the PWDCRA is similar to an analysis under a premises liability theory. For example, the Court of Appeals found in this case the fact that an alternative route into the store existed undermined Plaintiff's contention that the mat created an unreasonable risk of harm. Similarly, Plaintiff could not make a prima facie showing that she was denied full and equal enjoyment of Defendant's store under the PWDCRA in light of the fact that an alternative route existed.

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testimony wherein she acknowledged that she noticed the mat was “bunched up.” However, Plaintiff indicated that she had never seen the mat in this condition and believed the mat would not curl any further when she attempted to walk over it. The Court of Appeals opined that a person of ordinary intelligence could reasonably expect that a mat that has become “bunched up” may bunch up further when a person tries to walk over it. Accordingly, the dangerous condition presented by the floor mat was open and obvious because it was readily apparent to a person of ordinary intelligence.

Plaintiff further argued that even if the condition presented by the mat (the “bunching up”) was open and obvious, it still posed an unreasonable risk of harm. The trial court rejected Plaintiff’s argument in this regard and found the mat was avoidable and did not present a uniquely high likelihood of severe harm or death. The Court of Appeals also pointed out that Plaintiff could have used the other door or could have requested assistance to walk over the mat.

Second, Plaintiff contended that Defendant failed to accommodate Plaintiff’s disability and, therefore, violated the PWDCRA. The PWDCRA requires owners of a place of public accommodation to provide an “equal opportunity” for disabled individuals to use and enjoy its services and facilities. A viable cause of action under the PWDCRA is based upon a prima facie showing that a defendant failed to accommodate a plaintiff’s disability. In the instant action, the Court of Appeals found that Plaintiff offered no evidence that she was denied full and equal enjoyment of Defendant’s store due to her disability. Specifically, Plaintiff had an alternative route into the store, or could have sought help over the mat. Plaintiff’s disability was fully accommodated, but she simply did not take advantage of such accommodation. Therefore, Plaintiff failed to make a prima facie showing that Defendant failed to accommodate her disability. Consequently, the trial court’s dismissal of Plaintiff’s case was correct.

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