

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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KATHRYN D. GOBIEL and ROBERT J. GOBIEL,

UNPUBLISHED  
May 16, 1997

Plaintiffs-Appellants,

v

No. 191304  
Oakland Circuit Court  
LC No. 95-491524 NO

WAL-MART STORES, INC., d/b/a SAM'S CLUB,

Defendant-Appellee.

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Before: Corrigan, C.J., and Young and M.J. Talbot\*, JJ.

MEMORANDUM.

Plaintiff Kathryn Gobiell slipped and fell while shopping at one of defendant Wal-Mart's Sam's Club stores. She appeals by right summary disposition in favor of defendant in this tort action. This case is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiffs' evidence indicates the injury occurred in defendant's store on September 6, 1994. Four months later, plaintiffs' expert examined the location of the fall, and discovered a slippery residue on the floor, which was never chemically analyzed, although a sample was blotted up on filter paper. Neither plaintiff nor her family members present at the time of the injury observed any foreign object or substance on defendant's floor at that time, nor did defendant's employees who assisted. Unauthenticated photographs show a stain in the concrete but fail to establish a dangerous condition or surface defect, or that defendant was on notice, actually or constructively, of any foreign substance or objects on the floor which might have contributed to plaintiff's injury. While circumstantial evidence is sufficient to establish a cause of action, *Libralter Plastics, Inc v Chubb Group Ins Companies*, 199 Mich App 482, 485-486; 502 NW2d 742 (1993), in opposition to defendant's motion for summary disposition plaintiffs produced only speculation and conjecture. *Quinto v Cross & Peters*, 451 Mich 358, 362-363; 547 NW2d 314 (1996).

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\* Circuit judge, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ Maura D. Corrigan  
/s/ Robert P. Young, Jr.  
/s/ Michael J. Talbot