

STATE OF MICHIGAN  
COURT OF APPEALS

---

PHYLLIS ANDERSON,  
Plaintiff-Appellee,

UNPUBLISHED  
April 26, 2002

v

WAL-MART STORES INC.,  
Defendant-Appellant.

No. 229629  
Shiawassee Circuit Court  
LC No. 99-003003-NO

---

Before: Gage, P.J., and Griffin and Buth\*, JJ.

MEMORANDUM.

A jury found defendant liable to plaintiff for negligence and awarded her damages totaling \$67,300. Defendant appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant first argues that it was entitled to JNOV due to insufficient evidence supporting plaintiff's theory that she tripped over the pallet jack left near the entrance to its store. We disagree. The jury's finding of proximate cause was not based on mere speculation or conjecture. Review of the trial record shows that plaintiff presented substantial circumstantial evidence from which a jury could conclude that it was more likely than not that her injuries would not have occurred but for the negligence of defendant's employees. *Skinner v Square D Co*, 445 Mich 153, 164-165; 516 NW2d 475 (1994). Since sufficient evidence was presented to create an issue for the jury, the trial court did not err by denying defendant's motion for JNOV. *Knight v Gulf & Western*, 196 Mich App 119, 128; 492 NW2d 761 (1992).

Defendant also argues that the jury's award of \$27,500 in economic damages was unsupported by the evidence. Defendant did not raise this argument in its motion for directed verdict or by a timely post-verdict motion before the circuit court and so has waived appellate review of this issue. *Napier v Jacobs*, 429 Mich 222, 229; 414 NW2d 862 (1987).

Affirmed.

/s/ Hilda R. Gage  
/s/ Richard Allen Griffin  
/s/ George S. Buth

---

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