

**IN THE COMMON PLEAS COURT OF JEFFERSON COUNTY, OHIO**  
**COMMON PLEAS COURT**

**THERESA KLACZAK**

2017 JUN 29 P 1:20

**ORDER ON DEFENDANT'S**  
**MOTION FOR SUMMARY**  
**JUDGMENT**

Plaintiff  
JOHN P. CORRIGAN  
CLERK OF COURTS  
JEFFERSON COUNTY, OH

-vs-

**WHITE FRONT CAFÉ, LLC.**

Case No: 16-CV-63

Defendant

**JUDGE JOSEPH J. BRUZZESE, JR.**

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On May 15, 2015 Plaintiff was a customer at the White Front Café, a bar in Toronto, Ohio. While there Plaintiff claims that she tripped over a mat and fell causing substantial injuries.

Defendant denies any condition causing an unreasonable risk (rolled up rug) and denies Notice. Defendant also asserts Defense of a "Step in the Dark".

**STEP IN THE DARK**

Plaintiff arrived at the bar sometime after 9:00 p.m. when it would already be dark in May. She was there in a darkened bar for several minutes before she fell. This case does not involve a step from light into dark but rather dark into dark. Defendant's Motion for Summary Judgment is overruled as to the Step in the Dark defense.

**ROLLED UP MAT**

Evidence that the mat was rolled up or in any condition other than flat is slight. Plaintiff claims "my foot went right underneath that thick mat". There appears to be no other evidence relating to the condition of the mat. As thin as this may be it is sufficient to withstand a Motion for Summary Judgment on that issue.

**NOTICE**

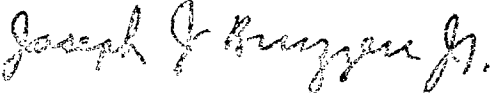
Plaintiff makes great effort to demonstrate that Amy Baker, an employee of Defendant, moved several mats in preparation for the day's business. Plaintiff seems to assume, without any evidence on the point, that Amy Baker must have left the mat in a condition other than flat. The problem is that there is no evidence of that, none.

Amy Baker testified that she removes the mats each day when she sweeps and then replaces them. That is the only evidence that mats were moved. There is no evidence from her or anyone that she left a mat in any condition other than flat. While it is possible that a patron may have scooted back a chair and put a kink in the mat, there is no evidence that this actually occurred and no evidence that the White Front or any of its employees knew or should have known if indeed that ever happened in the first place. Plaintiff's claim fails for lack of any evidence of Notice.

**ORDER**

Defendant's Motion for Summary Judgment is sustained by reason of the fact that Plaintiff has not and apparently cannot produce any evidence that Defendant or any of its employees had notice of a wrinkled mat; if there in fact was a wrinkled mat. There is no evidence of any actual or constructive Notice.

Case dismissed, costs to Plaintiff.



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JUDGE JOSEPH J. BRUZZESE, JR.

Copies to:  
Attorney Richard A. Abrams  
Attorney Robert S. Yallech