***Peralta v. Vons Companies* (2018) 24 Cal. App. 5th 1030**
Motion for summary judgment is proper when there is no evidence that there was a foreign substance on the floor at time customer fell or evidence the store was on constructive notice.

FACTS/PROCEDURE

On February 2, 2014, Rose Peralta entered a Vons grocery store to purchase bread. She was informed the bread was not ready. She went to go grab some pastries and as she returned to the area where she was told to pick up her bread, Rose's left foot slid, and she fell to the ground. Rose did not see anything on the floor prior to or after the fall but stated in her deposition testimony that she felt as though her foot slid on "some sort of oil or grease."

An Assistant store manager, Peggy Pellet (Pellet), was summoned to the bakery section after Rose fell. Pellet observed that Rose wore three-to-four-inch stiletto heels. Pellet said Rose could not identify anything that had caused her to slip. In response to Vons interrogatories, Rose stated that none of her clothing was soiled, stained, or otherwise damaged as a result of the fall.

Vons filed a motion for summary judgment (MSJ), alleging Vons had no notice or knowledge of any dangerous condition on its floor, denying any caution between any act or inaction by Vons and Rose's alleged injuries. Vons supported the MSJ with a declaration by Pellet, stating that Vons conducts "sweeps" at least once per hour. Pellet stated she printed the sweeps for the day of Rose's fall and found that the last inspection was recorded less than eight minutes before Rose fell.

In opposition to the MSJ, Rose provided a declaration by Brad Avrit (Avrit), a licensed civil engineer with substantial experience investigating slip and fall accidents. Avrit stated that the manner in which Rose fell was consistent with a foreign substance. The trial court granted Vons's MSJ, finding that Vons sufficiently demonstrated that it neither knew or should have known about the allegedly dangerous condition and that Rose failed to produce any evidence that the floor was wet with any substance.

DISCUSSION

The Court of Appeal for the Second District affirmed. To establish owner liability, a plaintiff must meet its burden of proof by showing "evidence which affords a reasonable basis for the conclusion that it is more likely than not that the conduct of the defendant was a cause in fact of the result. A mere possibility of such causation is not enough; and when the matter remains one of pure speculation…, is becomes the duty of the court to direct a verdict for defendant." (*Ortega v. Kmart Corp*. (2001) 26 Cal.4th 1200, 1205.)

Here, Rose stated she did not see anything prior to or after falling. Additionally, her clothes did not have any stains or other damage as a result of the fall. Rose's counsel attempted to establish a slippery surface with Avrit's declaration. The court found that a mere possibility that there was a slippery substance on its own does not establish causation or create enough of a triable issue.