IN THE COMMON PLEAS COURT OF OTTAWA COUNTY, OHIO

Gloria Longo	)	Case No. 16CV348
Plaintiffs,	)	Judge Bruce Winters
v.	)	
1812 at the Island House, LLC	)	DECISION AND JUDGMENT ENTRY
Defendant.	)	

This cause comes before this Court upon a Motion for Summary Judgment filed by Defendant. Plaintiff filed a Memorandum in Opposition and Defendant filed a Reply.

Facts

On September 20, 2014, Plaintiff, Gloria Longo ("Longo") and her husband were looking for a new restaurant, Cielo Grande. Longo and her husband entered Defendant's business to inquire. Defendant ("1812") operated two restaurants at that location: Rosie's Bar and Grill and 1812 at the Island House. Longo was advised that Cielo Grande was not open for business on that day so Longo and her husband decided to eat at Defendant's restaurant. Longo turned around to go through a hallway to the restaurant and tripped on a loose rug. She fell and was injured. She observed a bunched up rug after her fall.

Motion for Summary Judgment
Standard of Review

Civ.R. 56(C) provides that before summary judgment may be granted, the court must determine that (1) no genuine issue as to any material fact remains to be litigated; (2) the moving party is entitled to judgment as a matter of law; (3) it appears from the evidence that reasonable minds can come to but one conclusion, and viewing such evidence most strongly in favor of the party against whom the motion for summary judgment is made, that conclusion is adverse to that party. Osborne v. Lyles (1992), 63 Ohio St. 3d 326.

In reviewing a motion for summary judgment, the court must construe the evidence and all reasonable inferences drawn therefrom in a light most favorable to the party opposing the motion. Morris v. Ohio Cas. Ins. Co. (1988), 35 Ohio St. 3d 45; Harless v. Willis Day Warehousing (1978), 54 Ohio St. 2d 64.

The burden of establishing that no genuine issues to any material fact remain to be litigated is on the party moving for summary judgment. Turner v. Turner (1993), 67 Ohio St. 3d 337; Fyffe v. Jeno's Inc. (1991), 59 Ohio St. 3d 115, 120.

Once a party moves for summary judgment and has supported his or her motion by sufficient and acceptable evidence, the party opposing the motion has a reciprocal burden to respond by affidavit or as provided in Civ.R. 56(C), setting forth specific facts explaining that a genuine issue of material fact exists for trial. Jackson v. Alert Fire & Safety Equip., Inc. (1991), 58 Ohio St. 3d 48,52; Mitseff v. Wheeler (1988), 38 Ohio St. 3d 112, 115.

In cases of premises liability, Ohio follows the three common-law classifications of invitee, licensee, and trespasser. Gladon v. Greater Cleveland Regional Transit Auth. (1996), 75 Ohio St.3d 312. The status of the entrant as an invitee, licensee or trespasser determines the duty owed by the property owner to the entrant. Id.

An "invitee" means a business visitor, that is, one rightfully on the premises for purposes in which the occupant of the premises has a beneficial interest. Scheibel v. Lipton (1951), 156 Ohio St. 308. An "invitee" is also anyone expressly or impliedly invited to come on the premises. Englehardt v. Philipps (1939), 136 Ohio St. 73. The general rule is that if one comes upon the premises with the owner's consent, for some purpose in which the owner may be interested, he is deemed to have been expressly or impliedly invited. Hager v. Cleveland Trust Co. (1928), 29 Ohio App. 32.

The duty of the owner to the invitee is to exercise ordinary or reasonable care for the safety of the invitee, i.e., to have the premises in a reasonably safe condition, and to give warning of latent or hidden dangers of which the owner knows or should reasonably know. Jackson v. King's Island (1979), 58 Ohio St.2d 357. Under the open-and-obvious doctrine, an owner or occupier of property owes no duty to warn invitees of hazardous conditions that are open and obvious. Simmers v. Bentley Constr. Co., 64 Ohio St.3d 642.

A floor mat whose corner was curled up was an open and obvious hazard where the lobby was well lit and nothing obstructed the invitee's view. Smock v. Bob Evans Farms, Inc., 2003 Ohio 832; however, the danger was not open and obvious where the room was poorly lit, the mat was the same color as the floor, and the invitee had not

previously traversed the area where she had tripped over the mat. Miller v. Beer Barrel Saloon (May 24, 1991), Sixth App. No. 90-OT-050, unreported.

In the present case, Longo entered 1812 over the rug without incident and testified that nothing obstructed her view of the rug and there was no foreign substance on the floor or rug that would cause the fall. Longo admitted to talking to 1812's manager while walking and not looking at the rug prior to her fall. Finally, the area was well lit. The danger was open and obvious. Thus, there is no issue of material fact yet to be litigated and Defendant is entitled to judgment as a matter of law.

It is therefore ORDERED, ADJUDGED and DECREED that Defendant's Motion for Summary Judgment is GRANTED.

The Clerk of Courts shall send copies of this Decision to all parties of record and their counsel by regular U.S. Mail.

Judge