

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

SHELIA REED

NO. 2018 CW 0038

VERSUS

DOLGENCORP, LLC, DOLLAR GENERAL
CORPORATION, DNG ALEXANDRIA,
LOUISIANA PARTNERSHIP, EMPLOYEES OF
DOLLAR GENERAL CORPORATION

JUL 16 2018

In Re: Dolgencorp, LLC, et al., applying for supervisory writs, 21st Judicial District Court, Parish of Livingston, No. 152463.

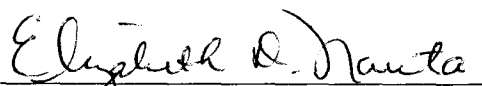
BEFORE: PETTIGREW, HIGGINBOTHAM, CRAIN, HOLDRIDGE AND PENZATO, JJ.

WRIT GRANTED. Under our *de novo* review, we find that there are no material facts genuinely in dispute, and that applicant, DG Louisiana, LLC (incorrectly named as "Dolgencorp, LLC d/b/a Dollar General") is entitled to judgment as a matter of law. La. Code Civ. P. art. 966(A)(3). Plaintiff, who testified by deposition, could not identify the presence of any substance on the floor, the cause of the fall, or that the defendant created or had actual or constructive knowledge of any condition that caused her to fall. Thus, applicant established that plaintiff would be unable to carry her burden of proof at trial for one or more elements of her claim under La. R.S. 9:2800.6. See **White v. Wal-Mart Stores, Inc.**, 97-0393 (La. 9/9/97), 699 So.2d 1081, 1084; **Ross v. Schwegmann Giant Super Markets, Inc.**, 98-1036 (La. App. 1st Cir. 5/14/99), 734 So.2d 910, 913, writ denied, 99-1741 (La. 10/1/99), 748 So.2d 444. Thereafter, it was incumbent on plaintiff to produce factual support sufficient to establish that genuine issues of fact remain or that applicant was not entitled to judgment as a matter of law. La. Code Civ. P. art. 966(D)(1). The failure of plaintiff to produce evidence of a material factual dispute mandates the granting of the motion. La. Code Civ. P. art 967(B); **Holt v. Torino**, 2012-1579 (La. App. 1st Cir. 4/26/13), 117 So.3d 182, 184, writ denied, 2013-1161 (La. 8/30/13), 120 So.3d 267. Accordingly, the trial court's judgment dated January 22, 2018 denying DG Louisiana, LLC's Motion for Summary Judgment is reversed, and DG Louisiana, LLC's Motion for Summary Judgment seeking to dismiss plaintiff's claims against it is granted. Accordingly, all claims asserted by plaintiff against DG Louisiana, LLC (incorrectly named as "Dolgencorp, LLC d/b/a Dollar General") are hereby dismissed, with prejudice, and each party is to bear its own costs.

AHP
WJC
GH

Pettigrew and Higginbotham, JJ., dissent and would deny the writ.

COURT OF APPEAL, FIRST CIRCUIT


DEPUTY CLERK OF COURT
FOR THE COURT