

**IN THE SUPREME COURT OF MISSISSIPPI
NO. 97-CA-00770-SCT**

WAL-MART STORES, INC.

v.

THELMA A. HOWELL

DATE OF JUDGMENT:	03/11/97
TRIAL JUDGE:	HON. MARCUS D. GORDON
COURT FROM WHICH APPEALED:	NESHOBA COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	EDLEY H. JONES, III
ATTORNEY FOR APPELLEE:	JAMES M. MARS, II
NATURE OF THE CASE:	CIVIL - PERSONAL INJURY
DISPOSITION:	AFFIRMED 10/08/98
MOTION FOR REHEARING FILED:	
MANDATE ISSUED:	4/12/99

BEFORE PRATHER, C.J., BANKS AND WALLER, JJ.

WALLER, JUSTICE, FOR THE COURT:

MEMORANDUM OPINION

¶1. Thelma Howell sued Wal-Mart Stores, Inc., for injuries she sustained while shopping at the Wal-Mart Superstore in Philadelphia, Mississippi. A jury returned a verdict in favor of Howell in the amount of \$25,000.00. Wal-Mart appealed and alleges the following assignments of error:

I. WAL-MART WAS ENTITLED TO A JUDGMENT AS A MATTER OF LAW.

II. HOWELL FAILED TO SATISFY HER BURDEN OF PROOF AS TO DAMAGES.

III. THE JURY VERDICT WAS THE PRODUCT OF BIAS, PREJUDICE, AND IMPROPER PASSION.

¶2. A jury question was presented where Brent Garrett, a customer in Wal-Mart at the time Howell slipped, testified as to seeing a liquid on the floor and thereafter searching briefly for a Wal-Mart employee prior to Howell's slipping on the light-colored liquid detergent that was on the floor. There was testimony that Wal-Mart had 180 employees on the floor at the time of the fall, and a store policy that required each employee to check aisles for safety hazards at least five times over a shift. However, there was no testimony that any Wal-Mart employee had conducted a safety sweep of the aisle where Howell fell. It was further

acknowledged by a manager that the location where Howell fell was more likely to have a spill than other departments of the store. Although this may be viewed as a somewhat close case, all conflicts in the evidence will be resolved in the plaintiff's favor on appeal where there has been a favorable jury verdict. *Southwest Mississippi Reg'l Med. Ctr. v. Lawrence*, 684 So.2d 1257, 1269 (Miss.1996).

¶3. With respect to damages, Howell with no history of prior knee problems, incurred \$5,089 in medical bills from treatment that included arthroscopic knee surgery. We cannot say on the basis of the record that the jury verdict of \$25,000 was the result of prejudice, bias, fraud or is manifestly against the weight of the evidence. *Sessums v. Northtown Limousines, Inc.* 664 So.2d 164, 170 (Miss.1995).

¶4. **AFFIRMED.**

PRATHER, C.J., SULLIVAN AND PITTMAN, P.JJ., BANKS, ROBERTS, SMITH AND MILLS, JJ., CONCUR. McRAE, J., CONCURS IN RESULT ONLY.