IN THE COURT OF APPEALS
OF THE CHOCTAW NATION OF OKLAHOMA

PAMELA ROBERTS,	§	
Plaintiff/Appellant,	§	
v.	§	Appeals Case No.AC-23-1
THE CHOCTAW NATION d/b/a	§	Case No. CJ-20-12
THE CHOCTAW CASINO,	§	
Defendant/Appellee.	§	Author: Judge Knight

OPINION

This is an appeal from an order of the District Court of the Choctaw Nation of Oklahoma granting summary judgment in favor of the Choctaw Nation d/b/a The Choctaw Casino (the "Casino"). This is a premises liability case. Pamela Roberts, Plaintiff/Appellant ("Roberts") sued the Casino after she suffered serious injuries due to a slip and fall at the Casino. The Casino moved for summary judgment alleging that the undisputed facts did not establish a prima facie case of negligence. The trial court granted the Casino's motion for summary judgment holding that Roberts had failed to present any direct evidence of the Casino's negligence. Roberts appealed.

Summary Judgment and Appellate Review

This Court adopted a de novo standard of review for a grant of summary judgment in *Jorge Cuenca v. Choctaw Nation of Oklahoma,* Choctaw Nation Court of Appeals 2023-8. The Choctaw Tribal Code of Civil Procedure allows summary judgment when the "pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Choctaw Tribal Code § Section 686. See also Choctaw Nation District Court Rule 13 (a party may move for summary judgment on the grounds that the evidentiary material shows there is "no substantial controversy as to any material fact"). In this case, we will make an independent review of the legal sufficiency of the evidentiary materials used in support of and against the Motion for Summary Judgment.

Discussion

Actionable negligence is not defined in the Choctaw Tribal Code; however, we will follow Oklahoma courts, which have held that actionable negligence occurs when a party establishes three elements: proof of a duty, breach of that duty, and "injury proximately caused by the defendant's failure to exercise a duty of care." *Bird v. Pruett's Food*, 536 P.3d 578, 581 (Okla. 2023).

Choctaw courts will follow the well-established rule in premises liability law that a "business owner owes a duty to exercise reasonable ordinary care to keep its premises in a reasonably safe condition for use of its invitees and a duty to warn of dangerous conditions upon premises that

are either known or should reasonably be known by the owner." *Hodge v. Morris*, 945 P.2d 1047, 1049 (Okla. Ct. App. 1997). In this case, the Plaintiff/Appellant, as a guest of the Casino, established the first element of her claim. The undisputed evidence showed:

1. Roberts fell while walking at the Casino.
2. No substance was found on the floor.
3. The video surveillance footage of the fall did not reveal a substance on the floor.
4. There were no witnesses to the fall.
5. No substance was found on Roberts' shoes.
6. Roberts claimed she slipped on a substance on the floor.

In reviewing the sufficiency of the summary judgment evidence, this Court will draw all inferences in favor of the Plaintiff/Appellant as the non-moving party, however, an inference does not mean this Court will speculate as to what occurred. Automatic liability does not apply just because a fall occurred. *Gillham v. Lake Country Raceway*, 24 P.3d 858, 860 (Okla. 2001).

In a negligence case, the issue of causation is generally one of fact left for a jury to decide. *Jackson v. Jones*, 907 P.2d 1067 (Okla. 1995). The issue becomes a question of law "only when there is no evidence from which a jury could reasonably find a casual nexus between the act and the injury." *Id.* at 1073. In this case, other than her own belief that there was a substance on the floor, Roberts has presented no evidence of the cause of her fall. Her belief alone does not create a factual dispute because without more, it is based upon mere speculation and speculation cannot create a fact dispute for purposes of summary judgment. *Myers v. Missouri Pacific R. Co.*, 52 P.3d 1014, 1024) (Okla. 2002) ("Speculation . . . does not establish a material fact dispute.") *citing Loper v. Austin*, 1979 596 P.2d 544, 546 (Okla. 1979) ("The mere contention that disputed facts exist or might exist is not enough to defeat summary judgment.").

The trial court's decision is affirmed. We hold in a slip and fall case; to survive summary judgment, a party must show some direct evidence of breach and causation. To hold otherwise would make the owner of any premises automatically liable for every fall.

Per Curium.

CERTIFICATE OF DELIVERY

I hereby certify that on the 21st day of February 2025, a true and correct copy of the OPINION was emailed to:

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Sandy Stroud, Appellate Court Clerk