

**SECOND DIVISION  
DOYLE, P. J.,  
DAVIS and WHITAKER, JJ.**

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**September 2, 2026**

## In the Court of Appeals of Georgia

A26A1104. ADAMS v. LEE et al.

DAVIS, Judge.

This is the second appearance of this negligence action involving a slip and fall before this Court. See *Adams v. Lee*, 372 Ga. App. 783 (906 SE2d 796) (2024). In this appeal, Martha Adams seeks review of the trial court's order granting a directed verdict to Jason and Jessica Lee. On appeal, Adams argues (1) the trial court erred by concluding there was no evidence that the Lees could have reasonably foreseen rain occurring at the property on the day of Adams' fall; (2) the trial court erred by concluding that without any knowledge that it would rain on the day of Adams' fall, the Lees did not have superior knowledge of the danger that caused the fall; (3) the trial court erred in finding that the Lees had no actual knowledge of the hazard that

caused Adams' fall; and (4) the trial court erred in finding that the Lees had no constructive knowledge of the hazard that caused Adams' fall. We discern no error and therefore affirm the grant of a directed verdict.

“[T]his Court reviews the grant of a motion for directed verdict de novo, and we must construe the evidence in favor of the nonmovant.” *Reeves v. Allstate Ins. Co.*, 371 Ga. App. 474, 474 (901 SE2d 223) (2024). So viewed, the record shows the following.

On August 20, 2015, Adams was an invitee in the Lees' home, caring for their two-year-old son while the Lees were at work.<sup>1</sup> Prior to August 20, 2015, the Lees had experienced water leaking into their home from their roof. Sometimes when it rained the roof would leak and cause puddles, but not always in the same place and not every time it rained. Depending on how much it rained, sometimes the Lees would use pots to collect the water. The Lees, who were renters, contacted the owners, and the property management company “numerous” times to complain about the leaking roof, but it was never repaired. When the Lees left for work the morning of August 20, 2015, it was sunny, and there was no water on the dining room floor. Sometime that

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<sup>1</sup> This Court previously determined as a matter of law that Adams was an invitee. *Adams*, 372 Ga. App. at 785-86.

afternoon, it rained, and Adams, who was still in the home caring for the Lees' child, slipped on a puddle of water that had pooled in the Lees' dining room and injured her leg.

Adams filed the instant complaint seeking relief from the Lees alleging they were negligent in failing to warn Adams of the hazardous condition.<sup>2</sup> The case proceeded to a jury trial, and after Adams rested her case, the Lees moved for a directed verdict arguing Adams had failed to meet her burden that the Lees had actual or constructive knowledge of the hazard that caused Adams' injury such that they were required to warn her. The trial court granted the Lees' motion. This appeal followed.<sup>3</sup>

1. We turn first to Adams' arguments that the trial court erred in granting the Lees' motion for directed verdict because the trial court incorrectly found the Lees

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<sup>2</sup> The initial complaint also named Joe Oza and Baljit Sethi, the owners of the property, as defendants. Adams reached a resolution with Oza and Sethi, and the trial court dismissed them from the case.

<sup>3</sup> Although Adams filed her opening brief one day late, we exercise our discretion to excuse the late filing. See Court of Appeals Rule 23(a) (noting that failure to file a timely brief “*may* result in the dismissal of the appeal) (emphasis supplied); see also OCGA § 5-6-30 (providing that the rules governing appellate practice “shall be liberally construed so as to bring about a decision on the merits of every case”).

had no actual or constructive knowledge of the hazard that caused Adams' injury.<sup>4</sup> We discern no error.

A motion for a directed verdict may be made at the close of the evidence offered by an opponent[.] ... If there is no conflict in the evidence as to any material issue and the evidence introduced, with all reasonable deductions therefrom, shall demand a particular verdict, such verdict shall be directed.

OCGA § 9-11-50(a). "An owner or occupier of land is liable when he fails to warn his invitees of dangers or defects of which he knew or should have known had he exercised ordinary care." *Atkins v. Tri-Cities Steel*, 166 Ga. App. 349, 350 (304 SE2d 409) (1983) (quotation modified).

To recover for a slip or trip and fall, the plaintiff must prove: (1) that the defendant had knowledge of the presence of the foreign substance; and (2) that the plaintiff must also show that he was without knowledge of its presence and that the [invitee] must exercise ordinary care for his own safety[.]

*Moore v. Teague*, 255 Ga. App. 220, 222 (564 SE2d 817) (2002). "In assessing the relative knowledge of the parties, the question is whether they were accurately informed about the *specific* hazard or danger in question." *Drossman v. Wal-Mart*

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<sup>4</sup> We address Adams' enumerations of error in a different order than they were presented in her brief.

*Stores East, LP*, 374 Ga. App. 285, 286(2) (912 SE2d 156) (2025) (quotation marks omitted).

*(a) Actual Knowledge*

Adams argues the Lees had actual knowledge of the hazard because they had actual knowledge of the recurring hazard of rainwater pooling on the dining room floor when it rained. In support of this argument, Adams argues that *Youngblood v. All American Quality Foods, Inc.*, 338 Ga App. 817 (792 SE2d 417) (2016) “hinted that constructive knowledge would be imputed upon a tortfeasor, if there was evidence of a recurring hazard that created an unusually dangerous condition.” We disagree.

Georgia law is clear that a defendant’s knowledge of generally prevailing hazardous conditions is not sufficient to establish actual knowledge of the specific hazard which caused the slip and fall. In *Drossman*, the plaintiff argued, as Adams argues here, that actual knowledge of a pool of water that caused her to fall could have been established through evidence of a “pervasive hazard.” 374 Ga. App. at 286(2)(a). Drossman pointed to evidence that freezers at the Walmart store were known to leak and spill pads used to absorb water had been placed in areas of the store other than where she fell. *Id.* But this Court held that the evidence cited by Drossman did not

create a triable issue as to Walmart's actual knowledge of the specific pool of water that caused her fall. *Id.* at 287(2)(a). See *St. Joseph's Hosp. of Atlanta v. Hall*, 344 Ga. App. 1, 3(1)(a) (806 SE2d 669) (2017) (defendant's knowledge of generally prevailing hazardous ice storm was not sufficient to show that it had knowledge of the specific patch of ice that caused the plaintiff's fall). See also *Suddarth v. Loundsbrough*, 369 Ga. App. 158, 161(1) (892 SE2d 582) (2023) (defendant's general knowledge that leaves fell onto his property and that he cleaned his yard weekly did not equate to knowledge of the specific accumulation of leaves plaintiff alleged caused her to fall).

Here, while the evidence showed the Lees were aware that their roof leaked, which sometimes caused water to pool in various places throughout their home, including on the dining room floor, they were not aware of the specific hazard that caused Adams to fall – the puddled water on the dining room floor that afternoon. When the Lees left for work that morning, it was sunny, there was no water on the dining room floor, and the Lees did not have any opportunity after that to return home to see if there was water present. The Lees additionally testified their roof did not leak every time it rained. When it did leak, there were multiple leaks throughout the house, and water would not always pool on the dining room floor. The places where the leaks

would appear were random. Sometimes when it rained, water would accumulate in the basement, the master bedroom, and closets. Sometimes, “contingent on how much it rained,” the Lees would put pots down to collect the water where it was leaking. Whether the roof would leak or cause water to puddle in their house, “was random,” and depended on “too many variables.”

Accordingly, even viewing the evidence in the light most favorable to Adams, the evidence does not support Adams’ contention that through their actual knowledge of a “pervasive hazard” (i.e. their leaky roof), the Lees had actual knowledge of the specific hazard, the puddle on the dining room floor, that caused Adams’ fall.<sup>5</sup>

*(b) Constructive Knowledge*

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<sup>5</sup> Although this is not the precise basis on which the trial court granted a directed verdict, “the grant of a motion for directed verdict will be affirmed if right for any reason.” *Law v. Chemtall, Inc.*, 342 Ga. App. 374, 378 (802 SE2d 408) (2017). See also *Rogers v. Dupree*, 340 Ga. App. 811, 816(2) (799 SE2d 1) (2017) (“[T]his Court will affirm a judgment if it is correct for any reason, even if that reason is different than the reason upon which the trial court relied ... so long as the movant raised the issue in the trial court and the nonmovant had a fair opportunity to respond.”) (quotation marks omitted). Here, the distinction between a specific hazard and a generally prevailing condition was a key part of the parties’ arguments on the motion for a directed verdict, and so the issue was fairly raised below.

Similarly, Adams argues the Lees had constructive knowledge of the hazard which caused her to fall because they were aware that the leaky roof could cause water to puddle in certain areas of their home. Again, we disagree.

As detailed above in Division 1 (a), Georgia law does not recognize constructive knowledge of a specific hazard through knowledge of pervasive hazardous conditions. Rather, Georgia law provides that “constructive knowledge can be shown by evidence that [the Lees’] failure to discover the hazard resulted from a failure to exercise reasonable care in inspecting the premises.” *Thomas v. Deason*, 289 Ga. App. 753, 755 (658 SE2d 165) (2008). See also *Lawless v. Sasnett*, 200 Ga. App. 398, 399 (408 SE2d 432) (1991) (plaintiff must prove defendants had constructive knowledge of the existence of the hazard, “i.e., that their failure to discover it resulted from a failure to exercise reasonable care in inspecting the premises.”).

Here, the evidence presented does not reveal that the Lees had constructive knowledge of the pooling water in their dining room through a failure to exercise reasonable care. The testimony was consistent that there was no water on the floor when the Lees left for work. Thus, the Lees’ failure to discover the pooled water in their dining room was not due to a failure to inspect because any ordinary diligence by

the Lees would not have discovered the hazard. See *Brown v. Host/Taco Joint Venture*, 305 Ga. App. 248, 250 (699 SE2d 439) (2010) (a plaintiff may establish constructive knowledge by showing “the alleged hazard remained on the floor long enough that ordinary diligence by the [owners] should have discovered it.”) Accordingly, under Georgia law, Adams did not present sufficient evidence to show that the Lees had constructive knowledge of the hazard.

2. Because Adams cannot show that the Lees had either actual or constructive knowledge of the pooled water in their dining room, the trial court did not err in granting the Lees’ motion for a directed verdict. See *Thomas*, 289 Ga. App. at 754. Thus, we need not reach Adams’ other allegations of error regarding the weather and any potential for rain on the date of Adams’ fall.

“Normally it is for a jury to determine whether an owner has exercised ordinary care in keeping the premises safe for those invited thereon, except in plain and palpable cases where reasonable minds cannot differ as to the conclusions to be reached.” *Barksdale v. Nuwar*, 203 Ga. App. 184, 185 (416 SE2d 546) (1992). “The law only requires such diligence toward making the premises safe as the ordinarily prudent person in such matters is accustomed to use.” *Id.* Here, the evidence shows

that the Lees discharged the duty of ordinary care to Adams, leaving no room for reasonable minds to differ.

Accordingly, we affirm the trial court's grant of directed verdict to the Lees.

*Judgment affirmed. Doyle, P. J., and Whitaker, J., concur.*