

Facts:

The Fonz and Richie Cunningham were shopping at the local GroceryMart. The Fonz slipped and fell when he stepped in a puddle of water. The fall caused the Fonz to break his arm. He filed a lawsuit against GroceryMart for his injuries. The floor in the aisle where the Fonz fell had not been swept or mopped in the last two hours. The GroceryMart is located in a state which has adopted a “pure” comparative negligence statute.

Richie Cunningham saw the Fonz slip and was able to avoid falling as he entered the aisle. Richie was not injured in any way.

Questions:

1. Is The Fonz likely to recover damages against GroceryMart?
2. Is Richie Cunningham likely to recover damages against GroceryMart?

Sample Answer:

1. The first step in analyzing GroceryMart’s potential liability is to classify whether The Fonz is a trespasser, licensee, or invitee because a different duty is owed to each. The Fonz does not appear to be a trespasser. A trespasser is one who enters or remains on the land of another without permission. Accordingly, The Fonz is either a licensee or an invitee. He is more likely to be classified as an invitee licensee because invitees are generally business visitors or public people. As an invitee, GroceryMart owes The Fonz the duty to protect him not only against defects known to it, but also against those which GroceryMart could discover by the exercise of ordinary care. The GroceryMart has a duty of inspection as well as a duty to repair or warn of known defects. The fact that the floor had not been swept or mopped in the last two hours tends to indicate that GroceryMart failed to make reasonable inspections of an area in which its invitees would walk.

The Fonz is likely to recover compensatory damages for his personal injury including loss of earnings, medical expenses, and pain and suffering.

2. No. A prima facie case of negligence requires: duty, breach of that duty, causation, and damages. The Plaintiff must prove these elements by a preponderance of the evidence. Here, Richie will not be able to prove that he suffered damages as the result of GroceryMart’s actions.