

Premises Liability - A dinner patron at a Texas Roadhouse restaurant was being led to her table by a restaurant employee; along the way, the patron was injured when she slipped and fell on some peanut shells that were on the floor

Maxwell v. Evansville Roadhouse, LLC., 82D03-0404-CT-1786

Plaintiff: Richard O. Hawley, Jr., *Robert John & Associates, Inc.*, Evansville

Defense: William H. Mullis, *William H. Mullis, P.C.*, Mitchell

Verdict: Defense verdict on comparative fault

County: **Vanderburgh**, Superior (Evansville, IN)

Court: J. Knight, 4-17-09

On 12-27-03, Daryla and Mark Maxwell were planning on having dinner at the Texas Roadhouse restaurant located at 1000 North Green River Road in Evansville. As a Texas Roadhouse employee was leading the Maxwells to their table, however, Daryla slipped on some peanut shells that were lying on the floor.

Daryla fell and suffered an injury, the nature of which is not revealed in the record. However, it is known that she later claimed medical expenses totaling \$165,300.

The Maxwells filed suit against Evansville Roadhouse, LLC., the owner of the restaurant, and blamed the company for allowing the peanut shell hazard to exist on the restaurant's floor. In addition, Mark presented a derivative claim for his loss of consortium.

Evansville Roadhouse defended the case and blamed the incident on Daryla's failure to maintain a proper lookout. The identified defense experts included an engineer, H. Richard Hicks of Indianapolis.

The case was tried for three days in Evansville. The jury returned a verdict for Evansville Roadhouse. Interestingly, the jury did not decide upon a precise allocation of fault. Instead, the verdict simply declared Daryla to have been more than 50% at fault. Based on that finding, the court entered a defense judgment.

1885 - Slip and Fall - Peanut hulls on the restaurant floor led to a woman's fall and soft-tissue symptoms

Baker v. Reno's Roadhouse, 98 CI 0035

Plaintiff: Matthew Lawton Bowling, *Gullett Combs & Bowling*, Hazard

Defense: W.M. Cox, Jr., Williamsburg

Verdict: Defense verdict on liability

Circuit: **Whitley** (2), J. Braden,
11-1-00

Shelbie Baker, age 52, went to a Christmas Party in Corbin for a local group entitled, *Take Off Pounds Sensibly*. It was held in a party room at Reno's Roadhouse. Reno's is the variety of restaurant that offers free peanuts and then features the opportunity to freely throw them on the floor. On this day, patron's enjoyed this privilege, shucking peanut hulls all about the floor.

Back to Baker, the group arrived and waited some ten minutes to be escorted to the party room. It was her first visit to Reno's and she was apparently unaware of its popular peanut practice. A moment later, walking back to be seated, Baker slipped and fell, apparently on peanut hulls.

She landed on her buttocks, and while not certain, she believed the peanuts led to the fall, as when she rose, her clothes were covered. Later that night, she presented to the ER at Jellico with low back pain symptoms. Baker has since treated with Dr. Truman Perry, Family, Corbin. He identified chronic radiating symptoms that he linked to an SI joint injury. His treatment included pain medications and a course of physical therapy. Baker's medicals were \$5,724 and she also sought uncapped sums for future care and suffering.

In this lawsuit against Reno's, Baker criticized the dangerous peanut hull hazard, noting there were no warning signs. This was particularly egregious in the case of first-time patrons such as plaintiff. Reno's defended the case calling the peanut hulls an open and obvious hazard. Moreover, the store acts reasonably, sweeping the floor after lunch and at closing.

The jury charge concerning Reno's duty asked if the floor was not in a reasonably safe condition because of the quantity of the peanut hulls. If a deviation was found, the panel would then consider Baker's duties, apportionment and damages. That didn't happen as this Williamsburg jury returned with a finding for the defendant. Plaintiff has since appealed the entry of a defense judgment.