

**5.20I DUTY OF A SUPERMARKET TO A BUSINESS INVITEE
WALKING IN ONE OF THE AISLES (Approved 10/90)**

One who owns or operates a business establishment such as a supermarket and invites members of the public to enter for business purposes has a duty to exercise reasonable care for the safety of his/her customers. That duty includes the duty to use reasonable care to see to it that the premises are in reasonably safe condition for the use of his/her customers.

If you find that the premises were not in a reasonably safe condition because of failure to exercise such care (that is, subjected the customer to an unreasonable risk of harm), and defendant did not exercise reasonable care, then defendant was negligent.¹ On the other hand, if you find that the condition of the premises was reasonably safe (that is, did not subject the customer to an unreasonable risk of harm) then defendant was not negligent.

Plaintiff was a person to whom defendant owed the duty of exercising reasonable care to maintain the aisle in a reasonably safe condition for passage. Plaintiff had a right to assume that the floor of the defendant's store was free from obstruction as he/she walked down the aisle. This right existed until he/she was aware or should have been aware of the hazard which allegedly caused the

¹ Define constructive notice where applicable (*See* Model Civil Charge 5.20F, numbered paragraph 10).

accident. The plaintiff is not required to maintain a continued surveillance of the floor to discover hazards; but if you find that immediately before the accident, plaintiff was not exercising due care for his/her own protection, he/she was negligent. On the other hand, if plaintiff was exercising due care, then he/she was not negligent.

Cases:

See Krackomberger v. Vornado, Inc., 119 N.J. Super. 380 (App. Div. 1972); *Bozza v. Vornado, Inc.*, 42 N.J. 355, (1964); *Wollerman v. Grand Union Stores, Inc.*, 47 N.J. 426 (1966).