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Laks v. X-tra Super Food Centers, Inc.
Fla.App. 3 Dist.,1995.

District Court of Appeal of Florida,Third District.
Carl L. LAKS and Helga Laks, his wife, Appellants,
v.

X-TRA SUPER FOOD CENTERS, INC., Appellee.

No. 93-1258.

April 12, 1995.

Rehearing Denied May 31, 1995.

Store patron brought action against store owner to recover for injuries sustained in accident involving motorized sliding glass door. The Circuit Court, Dade County, [Robert P. Kaye, J.](#), entered judgment against patron, and he appealed. The District Court of Appeal held that injury was caused by freakish and improbable chain of events which was unquestionably unforeseeable.

Affirmed.

[Levy, J.](#), dissented with opinion.

West Headnotes

[1] Negligence 272  **1102**

[272](#) Negligence

[272XVII](#) Premises Liability

[272XVII\(D\)](#) Breach of Duty

[272k1100](#) Buildings and Structures

[272k1102](#) k. Doors, Entryways and

Exits. [Most Cited Cases](#)

(Formerly 272k44)

Landowner could not have reasonably anticipated confluence of events which allowed electric eye and motion detector at store's entrance to be defeated and accident involving motorized sliding glass door to occur, and, accordingly, store owner was not liable for patron's injuries.

[2] Negligence 272  **213**

[272](#) Negligence

[272II](#) Necessity and Existence of Duty

[272k213](#) k. Foreseeability. [Most Cited Cases](#)

(Formerly 272k10)

The law does not impose liability for freak injuries that are utterly unpredictable in light of common human experience.

***578** Simon & Nelson and [Steven Nelson](#), Maland & Ross and [Lauri Waldman Ross](#), Miami, for appellants.

Gaebe, Murphy, Mullen & Antonelli and [David Kleinberg](#), Coral Gables, for appellee.

Before [NESBITT, COPE](#) and [LEVY, JJ.](#)

PER CURIAM.

[1] Carl L. Laks and Helga Laks appeal an adverse summary judgment in a premises liability case. We affirm.

[2] After careful review of the record herein, we conclude that the injury in this case was caused by a “freakish and improbable chain of events [which was] ... unquestionably unforeseeable.” [McCain v. Florida Power Corp.](#), 593 So.2d 500, 503 (Fla.1992). We do not think that the landowner could have reasonably anticipated the confluence of events which allowed the electric eye and motion detector at the store's entrance to be defeated and the accident to occur. “The law does not impose liability for freak injuries that were utterly unpredictable in light of common human experience.” *Id.* at 503.

Plaintiff contends alternatively that there may have been a malfunction in the motorized sliding glass door involved in this case. The testimony by the witness familiar with the door's control mechanisms indicates that in the event of an electrical malfunction the door would become stationary. We find ourselves***579** in agreement with the trial court in the entry of summary judgment.

Affirmed.

[NESBITT](#) and [COPE, JJ.](#), concur.

[LEVY](#), Judge (dissenting).

I would respectfully dissent. The record in this case clearly reflects the existence of disputed issues of material fact. Accordingly, I would reverse the summary judgment entered on behalf of the appellee,

who was the defendant below, and would remand the cause for trial on the issue of liability.

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654 So.2d 578, 20 Fla. L. Weekly D902

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