

**FILED**

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U.S. COURT OF APPEALS

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

**JAMES E. HALL,**

Plaintiff-Appellant,

v.

**REGAL ENTERTAINMENT GROUP,**

Defendant-Appellee.

No. 16-17122

D.C. No. 1:15-cv-01005-EPG

**MEMORANDUM\***

Appeal from the United States District Court  
for the Eastern District of California  
Erica P. Grosjean, Magistrate Judge, Presiding

Submitted December 7, 2017\*\*  
San Francisco, California

Before: **SCHROEDER** and **KOZINSKI**, Circuit Judges, and **ELLIS**,  
District Judge.\*\*\*

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

\*\*\* The Honorable Sara Lee Ellis, United States District Judge for the Northern District of Illinois, sitting by designation.

“Where [a] dangerous condition is brought about by . . . third persons . . . or by other causes which are not due to the negligence of the owner, or his employees, then to impose liability the owner must have either actual or constructive knowledge of the dangerous condition[.]” Hatfield v. Levy Bros., 117 P.2d 841, 845 (Cal. 1941).

Hall alleges that Regal had constructive knowledge of the spill because: (1) Regal’s ushers aren’t provided “carpet cleaner, cleaning solutions, or scrapers” to clean spills; (2) no one addressed the spill for at least 30 minutes after Hall reported it; and (3) Hall’s expert inspected the theater three years later and observed “[s]lippery and sticky spots” on the carpet. These allegations may indicate that Regal didn’t properly clean up spills after Hall slipped, but they have no bearing on Regal’s constructive knowledge of the dangerous condition beforehand. “In the absence of actual or constructive knowledge of the dangerous condition, the owner is not liable.” Moore v. Wal-Mart Stores, Inc., 3 Cal. Rptr. 3d 813, 816 (Cal. Ct. App. 2003).

**AFFIRMED.**