VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

DORIS KNIGHT FULTZ, Plaintiff,

v. Case No.: CL06-000049

DELHAIZE AMERICA, INC.
d/b/a Food Lion, Inc.,
and
FOOD LION, LLC,
and
NATIONWIDE MONEY SERVICES, INC., Defendants.

ORDER

CAME THE PARTIES, by counsel, to be heard on Plaintiff's Motion to Rehear Grant of Summary Judgment and was argued by counsel. Based upon the Briefs and Arguments of Counsel, and for the reasons set forth in the November 8, 2007 Letter Opinion, it is hereby:

ORDERED that Plaintiff's Motion to Rehear Grant of Summary Judgment is denied.

Let the Clerk of Court send certified copies of this Order to all counsel of record upon entry. And this matter is ended.

ENTER: 1 / 23 / 2008

Cheryl V. Higgins
Judge

SEEN AND AGREED:

Randall Lenhart

Warren H. Britt, Esquire (VSB #26378)
Randall C. Lenhart, Jr., Esquire (VSB #71207)
WARREN H. BRITT, P.C.
10800 Midlothian Turnpike, Suite 105
Richmond, Virginia 23235
(804) 378-6067
(804) 378-4084 (FAX)
Counsel for Defendants Delhaize America, Inc., etc. and Food Lion, LLC

Jonathan P. Jester, Esquire
4480 Cox Road, Suite 225
Glen Allen, Virginia 23060
(804) 253-8185
(804) 253-8199 (FAX)
Counsel for Defendant Nationwide Money Services, Inc.

SEEN AND objected to based on all reasons stated in the briefing; oral argument for the summary judgment motion and motion to reconsider including but not limited to the objections attached to the order granting summary judgment, which are all incorporated herein by reference.

M. Bryan Slaughter, Esquire
MICHIE HAMLETT LOWRY, RASMUSSEN & TWEEL, PLLC
500 Court Square, Suite 300
P.O. Box 298
Charlottesville, Virginia 22902-0298
(434) 951-7200
(434) 951-7218 (FAX)
Counsel for Plaintiff

ASSIGNMENT OF ERROR

1. THE TRIAL COURT ERRED IN GRANTING SUMMARY JUDGMENT IN FAVOR OF THE DEFENDANTS WHEN IT FOUND, AS A MATTER OF LAW, THAT ONE OF TWO SIX INCH HIGH RAILS PLACED BY THE DEFENDANTS ON EITHER SIDE OF AN AUTOMATED TELLER MACHINE WERE AN OPEN AND OBVIOUS CONDITION FOR THE PLAINTIFF, AND THAT NOTHING JUSTIFIED HER FAILURE TO OBSERVE THE RAILS DIRECTLY BENEATH HER.