IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

MELVIN A. LITZ, SR.,	:	
Plaintiff	:	DOCKET NO. 10-00398
	:	CIVIL ACTION – LAW
vs.	:	
	:	
JERSEY SHORE STATE BANK,	:	
Defendant	:	

V E R D I C T

AND NOW, this 19th day of October, 2011, after a civil non-jury trial on the matter, Verdict is hereby entered in favor of Defendant. This Court finds that no credible evidence was produced by Plaintiff to infer negligence on the part of Defendant Jersey Shore State Bank.

The mere happening of an accident or a fall on a business premises is not, in and of itself, evidence of negligence on the part of a business owner. *Moultrey v. Great Atlantic & Pacific Tea Co.*, 422 A.2d 593, 596 (Pa. Super. Ct. 1980). A business owner owes a duty of reasonable care to a business invitee. *Blasi v. Bonnert*, 142 A.2d 752, 754 (Pa. Super. Ct. 1958). "It is his duty to keep the premises in a reasonably safe condition and, if there are any defects known or discoverable by the exercise of reasonable care and diligence, to warn the business visitor or invitee of the defects or danger." *Id.* This duty

> to keep premises safe for invitees applies only to defects or conditions which are in the nature of hidden dangers, traps, snares, pitfalls, and the like, in that they are not known to the invitee, and would not be observed by him in the exercise of ordinary care. The invitee assumes all normal or ordinary risks attendant upon the use of the premises, and the owner or occupant is under no duty to reconstruct or alter the premises so as to obviate known and obvious dangers. An owner in possession… is not required to have his premises in such condition that no accident could possibly befall a person entering….

Hild v. Montgomery, 20 A.2d 228, 229 (Pa. 1941). A business owner is not liable when a business invitee is injured on the business premises by an obvious and known condition because "all that the law requires is that the premises be so constructed and maintained that they can be used without danger by persons using ordinary care for their own safety." *Rogers v. Max Azen,*

Inc., 16 A.2d 529, 531 (Pa. 1940).

In this matter, Plaintiff is considered to be a business invitee of Defendant because Plaintiff was on Defendant's premises for banking purposes. However, this Court finds that the curb that Plaintiff allegedly tripped over was a known and obvious condition on Defendant's Bridge Street Branch premises. This Court believes that the curb on the right and left side of the sidewalk in front of the Bridge Street premises is obvious to anyone who might use the pedestrian walkway. This incident could have only occurred by Plaintiff's departure from the safe sidewalk provided by Defendant; the photographs presented by Plaintiff establish that the curb in question does not touch the sidewalk that Plaintiff was walking on at the time of his fall. Evidence of record establishes that the configuration of the parking lot, sidewalk, and curb in question has not changed since at least 1995; evidence also establishes that Plaintiff has conducted banking transactions at Defendant's Bridge Street branch since that date. Additionally, both Plaintiff's and Defendant's photographs do not portray a bush that would have hidden this curb from pedestrian travelers on the walkway on the date of the accident. This Court finds credible the testimony of Ms. Tammy L. Gunsallus and Ms. Jenna Snyder; these Jersey Shore State Bank representatives testified that the curb that Plaintiff allegedly tripped over was not obscured from view by a bush or bushes on the day in question.

By The Court,

_____ _____

Date Richard A. Gray, J.

RAG/abn

cc: Michael H. Collins, Esquire
Charles R. Rosamilia, Jr., Esquire
Gary L. Weber, Esquire