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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

MONIKA LEITERMAN, Plaintiff and Respondent, v. COSTCO WHOLESALE CORPORATION, Defendant and Appellant.	B241885 (Los Angeles County Super. Ct. No. KC059121)

APPEAL from a judgment of the Superior Court of Los Angeles County, Robert A. Dukes, Judge. Affirmed.

Baraban & Teske, Jeffrey H. Baraban and James S. Link for Defendant and Appellant.

Thon Beck Vanni Callahan & Powell, Michael P. O'Connor; Esner Chang & Boyer and Stuart B. Esner for Plaintiff and Respondent

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INTRODUCTION

Defendant Costco Wholesale Corporation appeals from a judgment entered after a jury verdict in favor of plaintiff Monika Leiterman. Costco argues that there is no substantial evidence to support the verdict and that the trial court committed prejudicial error by giving the jury CACI No. 204 regarding intentional concealment or destruction of evidence. We find substantial evidence in support of the verdict and no instructional error, and therefore affirm.

FACTUAL AND PROCEDURAL BACKGROUND

A. *What Monika Leiterman Slipped on*

Monika Leiterman (Leiterman) is a mobile notary. Escrow companies assign her to real estate closings. She prints out real estate documents, brings them to the customer, notarizes them, and then returns the documents to the escrow company.

On April 1, 2009 Leiterman had a full day of notary appointments but realized she needed paper, and the Costco store in the City of Industry was on the way. So she and her husband Tony, who was with her that day, stopped at Costco to get the paper, and, as long as they were there, some other items, including strawberries and frozen teriyaki bowls. While they were there, they decided to grab a quick lunch at the food court after they had purchased their items. Leiterman's husband went to get her a hot dog and a salad for himself while she sat at a food court table listening to voicemail messages and responding to emails. When Mr. Leiterman returned with the hot dog he reported that there was no relish on it because the condiment bin was empty. Leiterman knew that there was more than one relish machine and "didn't think they could all be empty."

Leiterman said, "Well, I have to have relish on my hot dog," so she "went on a mission to get some relish" from one of the other condiment bins.[1]

She did not make it. As she turned a corner she fell when her left foot slipped backward on liquid soap, and she pitched forward and fell on her right knee. Mark Johnson, a Costco manager, Arlene Santiago, a Costco employee monitoring a nearby entrance and exit door, and Mr. Leiterman, all came to Leiterman's aid as she was on the floor. The manager saw one larger puddle of liquid accompanied by other spots of liquid. He "put his hand down and he ran his hand across the floor and said, 'Oh, it's soap.'" The soapy liquid looked blue on his fingers. The manager took some photographs, retrieved Leiterman's shoe, and said, "Oh, it's covered in goo." Leiterman noticed that the liquid soap was bluish on her shoe and the bottom of her shoe "was covered in slime." Leiterman and her husband both saw blue liquid soap on the floor.

Leiterman felt "a big lump on the shin where the kneecap had snapped apart" and she was unable to straighten her knee. The Costco employee from the door brought Leiterman a bag of frozen peas for her knee, while her husband went home to switch the truck they had been driving, which they felt was too high off the ground for Leiterman to get into, for Leiterman's car. Leiterman's husband returned to Costco and took her to the hospital, where she learned that she had broken her knee and would need surgery.

B. *What the Video Recording Showed*

Surveillance video recorded Leiterman's fall. After the accident, Johnson conducted an investigation, reviewed the video recording, and saved a portion of it going back "a couple of minutes before the fall." Of the video recording for that day, Johnson saved only twelve minutes leading up to the accident and three and a half hours after the accident.

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[1] Mr. Leiterman offered to get relish for his wife's hot dog, but Leiterman insisted on getting her own relish, stating, "If I want something done right, I'll do it myself."

The video recording began with a shopping cart parked at the location of the accident.[2] It showed the Leitermans pushing a cart past the parked cart and then going to the food court for lunch. Eventually the parked shopping cart was moved and the liquid soap remained on the floor until Leiterman slipped on it five minutes later. No other carts parked where the cart had been.

The recording also showed, as described by Johnson's accompanying narration at trial, several Costco employees working near or walking by the spill area close enough to see the spill, both before and after the shopping cart was moved. At the store entrance and exit door near the food court, Edna Renteria from the Costco member services department was working, and a manager named Marlene walked through the door and within ten feet of the area of the fall. Johnson explained that Renteria was required to keep a lookout for spills from her post at the door, and that the area of the spill was within her field of vision. Arlene Santiago, wearing a red vest and carrying a clipboard, walked by the shopping cart that was parked where the spill occurred during her floor walk. Santiago appeared in the video a second time, walking through the area of the spill on the way back from her floor walk.

After the cart was moved, a tire shop employee walked by the area and passed within four or five feet of where the cart had been parked. Johnson confirmed that the tire shop employee was responsible for keeping a lookout at all times for spills, and that if he saw a spill he should take remedial action, even if it were in the food court.

Johnson next appeared on the video, walking by the area where the shopping cart had been, and he came within five feet of where Leiterman would soon fall. Johnson admitted that there was nothing blocking his view of the spill as he walked by. After Johnson, a "cart person" in a red vest came by the door, and walked within five to ten feet of the spill. Johnson confirmed that Costco employees who work with the carts must also

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[2] There were surveillance cameras overseeing the checkout stand that would have shown this cart leaving the checkout stand area, but Johnson did not save any video from those cameras.

constantly look for spills and take corrective action if there is a spill in the employee's field of vision. And finally, one more Costco salesperson walked by the spill area just before Leiterman fell. Johnson acknowledged that this employee also had a duty to keep a constant lookout for spills, even in the food court.

The jury saw the video during opening statement and at least five times during the evidence phase of the trial, and listened to almost every witness who testified authenticate the recording, identify the individuals appearing in the recording, and provide descriptions and commentary on the events seen in the recording. The trial court also received the video into evidence.

C. *What The Witnesses Said*

Johnson testified that, after making sure that Leiterman was "taken care of at this point," his role shifted to an investigatory one. He observed a spill on the ground where Leiterman fell and went to get a camera. Johnson observed a larger spill area and "several separate drops to the spill," and a skid mark through the spill. Johnson confirmed that if there is a spill on the floor, regardless of its size, Costco employees must take action to clean up the spill if they have an opportunity to do so, and that this is true for a large spill or a small spill.

Santiago testified that Costco charges her and all other employees "with keeping a constant lookout for spills on the floor of Costco" and other "slip and fall hazards." She testified that when she does a floor walk, as the video recording shows her doing on April 1, 2009 before Leiterman fell, it is a "purposeful inspection" to make sure there are no slip and fall or other hazards that could cause an injury to a Costco customer or employee. She did not recall, however, whether she looked under the cart that was parked in the area where Leiterman subsequently fell. Although a proper inspection of the food court during a floor walk should include walking among the tables of the food

court, Santiago only walked around the perimeter of the food court.[3] She also stated that when she is working at the door, she faces the food court and can see some of the tables.

Renteria testified that she performed a floor walk on April 1, 2009 before Santiago did, and she recognized herself on the video recording. Renteria acknowledged that spills can come from leaking products, that a spill of liquid soap on the floor of the food court can be a slip and fall hazard, and that when she performs a walk-through of the Costco store she keeps an eye out for spills from leaking products. She also stated that from her position at the door, the place where the cart was parked and Leiterman fell was within her field of vision and approximately 20 feet away.

Food court manager Francisco Bautista testified that he knew Costco shoppers parked their shopping carts in the food court, and that there could be items in the carts that leaked. Bautista also acknowledged that a liquid substance on the floor of the food court could pose a slip and fall hazard for a Costco customer or employee.

Leiterman also called Brad Avrit as an expert witness. Avrit is a civil engineer who works with "different organizations that develop safety standards for business and properties to protect against the risk of slips and falls." His company "provides four main services": (1) management of construction projects, (2) "safety engineering work" that involves "assessments of property to determine any safety hazards, building code violations, or problems with the property," (3) "property condition assessments" to evaluate conditions of property "not only from a safety standpoint but also from a building standpoint," and (4) "forensic engineering" relating to "the investigation of accidents that occur." Seventy percent of Avrit's work is in category (4).[4]

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[3] Santiago did not recognize herself performing the floor walk in the video, but admitted that she did a floor walk on April 1, 2009 around the perimeter of the food court without going down the aisle where the condiments were.

[4] Avrit stated he is "certified as a tribometrist, which is a certification in pedestrian safety related to slip and fall investigations." A "tribometrist" is actually someone who uses a tribometer, which is a "slip resistance machine" or "instrument that measures friction between two surfaces." (*Michaels v. Taco Bell Corp.* (D. Or. 2012) 2012 WL

Avrit's real expertise is testifying against Costco in food court slip and fall cases, which he has done "on many, many occasions." He has "investigated at least 30 or 40 cases that have occurred at Costcos throughout California," always working and testifying against Costco. In the five years before trial, Avrit earned over $100,000 in fees investigating cases and testifying against Costco. This case earned Avrit another $6,000 to $9,000.[5]

Most of Avrit's testimony consisted of narrating what he saw on the video and giving non-expert opinions. For example, he stated that "there was no way to determine how this spill got to the location" and that "you can see in the video four different Costco employees after [the] cart was moved away from the area where the spill was ultimately." Similarly, Avrit "opined" that spills should be cleaned up. Avrit testified that it was his opinion that several Costco employees "walked by the area both before and after the cart was moved," again not an expert opinion but a description of what was on the video recording. Avrit concluded that "there were enough people around from Costco that they had multiple opportunities to have identified [the spill] and cleaned it up or discovered it and guarded it before this incident occurred, and that would have prevented this incident." And that even though the food court is "a high-risk area," there was "no food court employee on any of the video." Most of the rest of Avrit's testimony was more narrative of what the jurors were seeing as counsel for Leiterman showed the video to the

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4507953 at p. 1; *Leonard v. Bearcat Corp.* (E.D. Mo. 2002) 2002 WL 34532924 at p. 1; accord, <http://www.lexic.us/definition-of/tribometer> [as of Sep. 13, 2013] [a "tribometer" is "[a]n instrument to ascertain the degree of friction in rubbing surfaces"]; <http://dictionary.reference.com/browse/Tribometer> [as of Sep. 13, 2013] [same]). Avrit used the term essentially to refer to someone who testifies as an expert witness in slip and fall cases. Avrit did not measure or testify about any slip resistance or surface friction in this case.

[5] Avrit and counsel for Costco in this case, Jeffrey Baraban, have a history, including three or four prior trials. Part of the cross-examination of Avrit in this case concerned Avrit's prior testimony under cross-examination by Mr. Baraban in other Costco cases, including a food court case.

jury. Avrit also gave the "opinion" that when there are "surveillance cameras, you can see exactly what happened and when it happened."

Avrit calculated that the size of the spill was about one square foot. Avrit also conducted an inspection of the City of Industry Costco store and took photographs. He placed a cart in the same area where Leiterman had fallen, and took a photograph showing that from a distance of eight to ten feet an observer could see what was underneath the cart.

D. *What The Jury Found*

The jury found that Costco was negligent in the use or maintenance of the store property, and that Costco's negligence was a substantial factor in causing Leiterman's harm. The jury awarded $27,868.28 in past medical expenses, $62,000 in future medical expenses, $50,000 in past non-economic damages, and $275,000 in future non-economic damages, for a total of $414,868.28.

The trial court denied Costco's motions for a new trial and for judgment notwithstanding the verdict. In denying the motions, the trial court found that "it was reasonable for the jury to find that Costco had constructive notice of the spill" in part because the "evidence demonstrated that four Costco employees walked by the area of the spill before [Leiterman] fell but failed to identify the spill," and because "the floorwalker, Arlene Santiago, failed to properly perform the 'floor walk' by not entering and inspecting the food court just minutes before [Leiterman] slipped and fell." The trial court also rejected Costco's contention "that the jury was improperly instructed on spoliation of evidence" because the "evidence in this case demonstrated that Costco had a videotape showing the area of the spill before the incident, but had reviewed the tape and decided not to preserve and/or produce more than approximately 14 minutes before the incident." Costco appealed.

DISCUSSION

A. *Standard of Review*

In determining whether substantial evidence supports the verdict, we view the record in the light most favorable to the prevailing party and resolve all inferences in support of the judgment. (See *Quigley v. McCellan* (2013) 214 Cal.App.4th 1276, 1278, fn. 1; *Kuhn v. Department of General Services* (1994) 22 Cal.App.4th 1627, 1632-1633.) We do not reweigh the evidence or substitute our conclusions for those of the trier of fact. (*Foust v. San Jose Construction Co., Inc.* (2011) 198 Cal.App.4th 181, 188; *OCM Principal Opportunities Fund, L.P. v. CIBC World Markets Corp.* (2007) 157 Cal.App.4th 835, 866; *Eidsmore v. RBB, Inc.* (1994) 25 Cal.App.4th 189, 195.) "'[T]he power of an appellate court *begins* and *ends* with the determination as to whether there is substantial evidence contradicted or uncontradicted which will support the finding of fact.' [Citations.]" (*Gray v. Don Miller & Associates, Inc.* (1984) 35 Cal.3d 498, 503.) "Needless to say, a party 'raising a claim of insufficiency of the evidence assumes a "daunting burden"' [citation] . . . ." (*Wilson v. County of Orange* (2009) 169 Cal.App.4th 1185, 1188.)

B. *There is Substantial Evidence to Support The Verdict*

Costco argues that there is no substantial evidence to "support a rationally drawn inference the 'spill' was on the ground and visible a sufficient time prior to the fall for Costco to discover it with a reasonable inspection." Costco contends that "Leiterman simply failed to present evidence supporting a reasonable inference of constructive notice." We conclude that there was substantial evidence to support the jury's finding that Costco had actual or constructive notice.

"A store owner exercises ordinary care by making reasonable inspections of the portions of the premises open to customers, and the care required is commensurate with the risks involved. [Citation.] If the owner operates a self-service grocery store, where customers are invited to inspect, remove, and replace goods on shelves, 'the exercise of

ordinary care may require the owner to take greater precautions and make more frequent inspections than would otherwise be needed to safeguard against the possibility that such a customer may create a dangerous condition by disarranging the merchandise' and creating potentially hazardous conditions. [Citation.] 'However, the basic principle to be followed in all these situations is that the owner must use the care required of a reasonably prudent [person] acting under the same circumstances.' [Citation.]" (*Ortega v. Kmart Corp.* (2001) 26 Cal.4th 1200, 1205 (*Ortega*), quoting *Bridgman v. Safeway Stores, Inc.* (1960) 53 Cal.2d 443, 448.)

"Because the owner is not the insurer of the visitor's personal safety [citation], the owner's actual or constructive knowledge of the dangerous condition is a key to establishing its liability. Although the owner's lack of knowledge is not a defense, '[t]o impose liability for injuries suffered by an invitee due to [a] defective condition of the premises, the owner or occupier "must have either actual or constructive knowledge of the dangerous condition or have been able by the exercise of ordinary care to discover the condition, which if known to him, he should realize as involving an unreasonable risk to invitees on his premises. . . ."' [Citations.]" (*Ortega*, *supra*, 26 Cal.4th at p. 1206, quoting *Girvetz v. Boys' Market, Inc.* (1949) 91 Cal.App.2d 827, 829.)

"The plaintiff need not show actual knowledge where evidence suggests that the dangerous condition was present for a sufficient period of time to charge the owner with constructive knowledge of its existence. Knowledge may be shown by circumstantial evidence 'which is nothing more than one or more inferences which may be said to arise reasonably from a series of proven facts.' [Citation.] Whether a dangerous condition has existed long enough for a reasonably prudent person to have discovered it is a question of fact for the jury, and the cases do not impose exact time limitations. Each accident must be viewed in light of its own unique circumstances. [Citation.]" (*Ortega*, *supra*, 26 Cal.4th at pp. 1206-1207; see *Moore v. Wal-Mart Stores, Inc.* (2003) 111 Cal.App.4th 472, 477 [whether dangerous condition "has existed long enough for a reasonably prudent person to have discovered it is a question of fact for the jury"].) "'The exact time the condition must exist before it should, in the exercise of reasonable care, have been

discovered and remedied, cannot be fixed, because, obviously, it varies according to the circumstances.'" (*Ortega, supra,* at p. 1210, quoting *Louie v. Hagstrom's Food Stores* (1947) 81 Cal.App.2d 601, 608; accord, *Sapp v. W. T. Grant Co.* (1959) 172 Cal.App.2d 89, 92.) Whether the defendant's inspections are "commensurate with the exercise of ordinary care . . . is a question that [is] properly left with the jury to decide." (*Ortega, supra,* at p. 1208.)

Here, the jury watched actual footage of the accident scene that showed exactly how long the dangerous condition existed on the floor after the cart near it had been moved from the area (five minutes), and a minimum total amount of time the dangerous condition existed (twelve minutes). The jury observed not one, not two, not three, not four, not five, but at least six and maybe seven employees working in and around and walking through the area of the spill, all of whom were charged with the responsibility of actively looking for spills. The jury saw what the accident scene looked like, how people moved through that part of the store, the physical relationship between store and the food court, and where and how Leiterman fell. Although Costco argues that the spill was difficult to see because it was small and covered part of the time with a shopping cart, there was more than enough evidence for the jury to reach the intensely factual conclusion that the dangerous condition created by the spill existed long enough for reasonably prudent Costco employees to have discovered it.

Costco argues that "[t]here is no actual evidence of the length of time the 'spill' was on the floor," and that "no one saw or found the 'spill' in the 5 minutes it was allegedly exposed." True enough, but that does not answer the question the jury had to answer of whether Costco employees, exercising reasonable care, should have discovered and remedied the condition during the five minutes or more the hazard existed without the shopping cart in the picture. Moreover, although the evidence did not show the "exact time" the condition existed, the evidence showed that the condition existed at least five minutes. It was also a very reasonable inference from the evidence that the dangerous condition existed at least twelve minutes, and there might have been evidence that the condition existed more than twelve minutes, and indeed even of the "exact" time

it existed, had Costco chosen to save more than twelve minutes of the recording before the accident.

Costco relies primarily on *Girvetz v. Boys' Market, Inc.*, *supra*, 91 Cal.App.2d 827. The plaintiff in *Girvetz* "slipped on a banana or banana peel while shopping in [the defendant's] market." (*Id.* at p. 828.) "The only evidence as to how long the dangerous condition had existed prior to plaintiff's fall was the testimony of a customer that she saw the banana on the floor 'a good minute and a half' before the happening of the accident." (*Ibid*.) The court held that "where the only evidence is that the foreign object has been on the floor of the market for 'a minute and a half,' it must be held that it is insufficient to support an inference that the defendant proprietor failed to exercise the care required of him." (*Id.* at p. 831.) The evidence in this case, however, is very different. Here the "evidence as to how long the dangerous condition existed" (*id*. at p. 828) included the testimony of multiple employees and a video recording, which showed that the spill that caused Leiterman's injuries was on the floor for five to twelve minutes (and perhaps longer). After the Supreme Court's holding 50 years after *Girvetz* in *Ortega* that "[w]hether a dangerous condition has existed long enough for a reasonably prudent person to have discovered it is a question of fact for the jury," the most that *Girvetz* can stand for is the proposition, inapplicable to this case, that although "the cases do not impose exact time limitations" (*Ortega*, *supra*, 26 Cal.4th at p. 1207), 90 seconds is not enough.[6]

Costco argues that Avrit's opinion that "the Costco employees who passed by the area should have seen the 'spill' coming from the cart . . . is no more than the conjecture

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[6] Similarly, in *Frank v. J. C. Penny Co., Inc.* (1955) 133 Cal.App.2d 123, also cited by Costco, there was "nothing to show that oil or any wet substance had been on the floor any length of time at all." (*Id.* at p. 126.) In contrast, here there was a video recording showing that the wet substance had been on the floor for at least five to twelve minutes. (See *McKenney v. Quality Foods, Inc.* (1957) 156 Cal.App.2d 349, 357 [distinguishing *Frank* on the ground that in *Frank* "there was no evidence to show that the hazard had been present for any length of time"].)

and speculation rejected in *Girvetz*; it is not substantial evidence supporting the verdict." Costco points to a particular question counsel for Leiterman asked Avrit: "And based on your opinion, you view this spill — or it's maybe one large spill and several drops, you view it as a spill that could have and should have been discovered by the employees?" After the trial court overruled counsel for Costco's objection that the question called for speculation, Avrit answered: "Yes, in my opinion, based on the evidence that I saw in the surveillance video that there were four Costco employees that we know walked within 10 feet of this area prior to the incident and after a cart was removed. And we don't know if this spill existed before that cart that was shown in the video was placed there either. So it could have been there even longer than that."

Even without Avrit's opinion that the Costco employees who walked by the spill should have seen it, however, there was substantial evidence to support the verdict. As explained above, there was the direct evidence in the video recording of where the Costco employees were, where Leiterman fell, and (the minimum) amount of time the hazardous condition existed. There was the testimony of Johnson and the other employees who described what they were doing around the time of the accident and how long they were doing it. And there were the other portions of Avrit's testimony about the photographs and measurements he took at the store. Substantial evidence supports the jury's verdict without the challenged portion of Avrit's testimony.

C. *The Trial Court Did Not Err by Giving CACI No. 204*

The trial court instructed the jury based on CACI No. 204: "You may consider whether one party intentionally concealed or destroyed evidence. If you decide that a party did so, you may decide that the evidence would have been unfavorable to that party." Costco argues that the trial court should not have given this instruction because "[n]othing in the actual evidence (as opposed to speculation and conjecture) demonstrates that Costco hid any good or bad evidence by not providing additional video," and the instruction "substantially prejudiced Costco in that the jury most certainly found constructive notice from the inference of the missing 'evidence.'" We review this claim

de novo. (See *Maureen K. v. Tuschka* (2013) 215 Cal.App.4th 519, 526 ["[w]e review de novo the question of whether the trial court's instructions to the jury were correct"]; *Sander/Moses Productions, Inc. v. NBC Studios, Inc.* (2006) 142 Cal.App.4th 1086, 1094 ["[c]hallenges to jury instructions are subject to a de novo standard of review"].)

The trial court did not err in giving this instruction. As the court stated in *Ventura v. ABM Industries Inc.* (2012) 212 Cal.App.4th 258, the "jury was only told that it could 'consider whether one party intentionally concealed or destroyed evidence.' [Costco was] free to present the jury with evidence that" it did not intentionally conceal or destroy any evidence. (*Id*. at p. 273.) But there was enough evidence to support giving the instruction. The main issue at trial was constructive notice. Costco argued that the spill was not there long enough to put Costco on notice. The evidence showed that the spill was there unobstructed for five minutes, and under the shopping cart for approximately seven minutes before that. The minutes and hours that Costco did not save would have answered the very question Costco asks on appeal: How do we know exactly how long the spill was there? The discarded video also would have revealed if the spill was there before the shopping cart was there. Given the centrality of these issues to the case, the trial court did not err in instructing the jury that it could, but did not have to, consider whether Costco intentionally concealed or destroyed the video prior to twelve minutes before the fall.

In any event, any error in giving CACI No. 204 did not result in any prejudice because, in light of all the documentary and testimonial evidence at trial about the sequence of events leading up to the accident, we cannot say that "'it seems probable that the jury's verdict may have been based on the erroneous instruction.'" (*Soule v. General Motors Corp.* (1994) 8 Cal.4th 548, 574; see *Ted Jacob Engineering Group, Inc. v. The Ratcliff Architects* (2010) 187 Cal.App.4th 945, 961 ["'uniform test for civil instructional error'" under *Soule* is whether "it is reasonably probable the error affected the verdict"].) There was substantial evidence from the portion of the video that Costco did save to support the verdict, the challenged instruction permitted but did not require the jury to consider whether Costco intentionally concealed or destroyed evidence and told the jury

that if it did take such conduct into consideration it may but did not have to decide that the evidence would have been unfavorable to Costco, and there is no indication that the jury was misled. (See *Soule*, *supra*, at p. 574.) And although counsel for Leiterman stated in closing argument that "Costco erased the video" and that the video "would have shown that cart coming into the area" and whether "somebody had spilled something before the cart was there," neither attorney discussed or argued CACI No. 204 in closing argument. (See *People v. Lee* (1987) 43 Cal.3d 666, 677 [closing arguments are a relevant consideration in determining whether instructional error is harmless]; *People v. Roder* (1983) 33 Cal.3d 491, 505 [instructional error may be prejudicial where a party relies on the erroneous instruction during argument].) Therefore, any error in giving CACI No. 204 was harmless.

DISPOSITION

The judgment is affirmed. Leiterman is to recover her costs on appeal.

SEGAL, J.*

We concur:

WOODS, Acting P. J.

ZELON, J.

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* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.