

SUPREME COURT- STATE OF NEW YORK
DUTCHESS COUNTY

Present:

Hon. THOMAS R. DAVIS

Justice.

SUPREME COURT: DUTCHESS COUNTY

DEBORAH A. SIMMONS,

Plaintiff,

-against-

STOP & SHOP SUPERMARKET COMPANY, LLC,
d/b/a SUPER STOP & SHOP,

Defendant.

DECISION AND ORDER
Index No. 2019-53983

The following papers were reviewed on this motion: NYSCEF documents 29 through 59.

In this action for personal injuries, the Plaintiff alleges that she was injured when a cashier at the Defendant's store bumped into her when he was bending over to reach beneath the cash register, he was operating as the Plaintiff was walking behind him in the adjoining checkout lane.

The incident was recorded by the store's video surveillance system. The Court has reviewed same. While it is not clear whether the Plaintiff and cashier ever even made physical contact, it is apparent that no negligence occurred here.

In *Weinstein v Seawane Golf and Country Club, Inc.*, 153 AD3d 582 [2d Dept 2017], the Second Department ruled that when an employee of the defendant "allegedly backed up and bumped into [plaintiff], causing her to fall and sustain personal injuries" it was not an act of negligence.

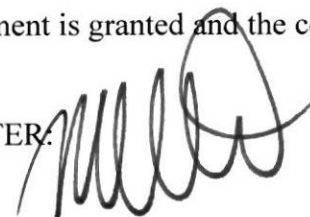
The Court notes that in the instant matter, the Plaintiff did not fall down and went about the rest of her business.

For the foregoing reasons, the Defendant's motion is granted in its entirety. Therefore, it is hereby,

ORDERED, that Defendant's motion for summary judgment is granted and the complaint is dismissed in its entirety.

Dated: January 9, 2023
Poughkeepsie, NY

ENTER:



Hon. Thomas R. Davis, J.S.C.

VIA NYSCEF

Keith S. Rinaldi, Esq.
Keith S. Rinaldi PC
Attorney for the Plaintiff
The Rinaldi Building
10 Arlington Avenue
Poughkeepsie, NY 12603

VIA NYSCEF

Andria S. Kelly, Esq.
Cullen and Dykman LLP
Attorney for the Defendant
100 Quentin Roosevelt Blvd.
Garden City, NY 11530

Pursuant to CPLR Section 5513, an appeal as of right must be taken within thirty days after service by a party upon the appellant of a copy of the judgment or order appealed from and written notice of its entry, except that when the appellant has served a copy of the judgment or order and written notice of its entry, the appeal must be taken within thirty days thereof.