

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF VERMONT

Faith Keresztessy v. Mount Snow, Ltd., Vail Resorts, Inc., The Vail Corporation, Peak Resorts, Inc., and VR NE Holdings, LLC

Keresztessy · No. 2:22-cv-204 · Decided January 13, 2026

SUMMARY

The United States District Court for the District of Vermont denied Defendants’ motion for summary judgment in Faith Keresztessy’s negligence action arising from her fall at Mount Snow. The court held that Plaintiff became a trespasser when she entered a closed ski-lift area marked with a rope and a “KEEP OUT” sign, but concluded that a jury could find the Defendants had actual or constructive knowledge of constant trespass onto closed lifts, potentially triggering an exception to the general no-duty rule owed to trespassers.

CASE DETAILS

COURT	United States District Court for the District of Vermont
WRITING FOR THE COURT	Mary Kay Lanthier
JURISDICTION	United States District Court for the District of Vermont
DECIDED	January 13, 2026
DOCKET	2:22-cv-204
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for summary judgment on Plaintiff's negligence claim, arguing that Plaintiff was trespassing and that the alleged danger was open and obvious. The court denied the motion.
STANDARD OF REVIEW	Summary judgment is proper only when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court must resolve ambiguities and draw permissible factual inferences in favor of the nonmoving party and may not resolve disputed factual issues or weigh competing evidence.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Defendants: Mount Snow, Ltd.; Vail Resorts, Inc.; The Vail Corporation; Peak Resorts, Inc.; and VR NE Holdings, LLC v. Faith Keresztessy

TOPICS

summary judgment

premises liability

negligence

duty of care

civil procedure

PRACTICE AREAS

negligence

premises liability

personal injury

summary judgment

civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff was a trespasser, rather than an invitee, when she entered the Sundance lift structure despite a rope barrier and a KEEP OUT sign.
2. Whether the evidence created a triable issue under the constant-trespass exception to the general rule that possessors of land owe no duty of care to trespassers.
3. Whether the danger posed by the missing railing was open and obvious as a matter of law.
4. Whether Defendants exercised reasonable care to warn trespassers of the specific risk that caused Plaintiff's injury.
5. Whether Defendants were entitled to summary judgment on Plaintiff's negligence claim.

HOLDINGS

1. Plaintiff became a trespasser as a matter of law when she stepped over the rope and the sign instructing visitors to KEEP OUT and entered the Sundance lift structure.
2. Although Plaintiff was a trespasser, the evidence was sufficient for a reasonable jury to find that Defendants had actual or constructive knowledge of repeated trespasses onto a limited area consisting of the Sundance lift and similar ski lifts, potentially triggering a duty under Restatement (Second) of Torts § 335.
3. The court could not determine as a matter of law that the missing railing and resulting fall hazard were open and obvious; a genuine factual dispute required resolution by the jury.
4. Whether Defendants exercised reasonable care to warn trespassers of the specific danger associated with the Sundance lift was a question for the jury because the sign may have warned only that the lift could start, not that a person could fall through an unguarded opening.

KEY QUOTATIONS

“Whether Defendants exercised reasonable care to warn trespassers of dangers associated with the Sundance lift is an issue for a jury.” (at 20)

“Reasonable minds can come to different conclusions on each element of Section 335 such that the court cannot grant summary judgment.” (at 21)

“Defendants’ Motion for Summary Judgment is DENIED.” (at 21)

FACTUAL BACKGROUND

On September 20, 2020, Faith Keresztessy visited Mount Snow in Vermont and purchased a ticket to ride a chairlift. She entered the area of the non-operational Sundance lift after stepping over a rope and a sign stating, "DANGER! This lift could start at any time. KEEP OUT," then climbed stairs to a metal landing to take photographs. She fell backward through an access point without a railing or protective barrier, sustaining vertebral fractures, paraplegia, and related complications. Evidence indicated that Mount Snow employees had observed multiple prior instances of visitors trespassing onto non-operational lifts and that Defendants had identified the missing railing as a hazard before the accident.

PROCEDURAL HISTORY

Plaintiff filed a negligence action after falling from a metal landing associated with a non-operational chairlift at Mount Snow. Defendants moved for summary judgment, and Plaintiff opposed the motion. The court concluded that Plaintiff was a trespasser as a matter of law but that genuine disputes existed regarding the constant-trespass exception, the nature and obviousness of the danger, and whether Defendants exercised reasonable care to warn of the risk.

DISPOSITION

other

CASES CITED

- Holtz v. Rockefeller & Co., Inc., 258 F.3d 62, 73 (2d Cir. 2001)
- Gross v. FBL Financial Services, Inc., 557 U.S. 167 (2009)
- Omega Engineering, Inc. v. Omega, S.A., 432 F.3d 437, 443 (2d Cir. 2005)
- O'Connell v. Killington, Ltd., 665 A.2d 39, 42 (Vt. 1995)
- Denis Bail Bonds, Inc. v. State, 622 A.2d 495, 499 (Vt. 1993)
- Merritt v. United States, 592 F. Supp. 3d 340, 347 (D. Vt. 2022)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-48 (1986)
- Terry v. Ashcroft, 336 F.3d 128, 137 (2d Cir. 2003)
- Stern v. Trustees of Columbia University in City of New York, 131 F.3d 305, 312 (2d Cir. 1997)
- Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986)
- Demag v. Better Power Equip., Inc., 2014 VT 78, 197 Vt. 176, 102 A.3d 1101
- Ball v. Melsur Corp., 633 A.2d 705, 711 (Vt. 1993)
- Trudo v. Lazarus, 73 A.2d 306, 307 (Vt. 1950)
- Buzzell v. Jones, 556 A.2d 106, 108 (Vt. 1989)
- Hillier v. Noble, 458 A.2d 1101, 1103-04 (Vt. 1983)
- Higgins v. Bailey, 2021 VT 74, 215 Vt. 461, 263 A.3d 1252
- Sanville v. Williams, 418 A.2d 860, 861-62 (Vt. 1980)
- Handy v. Nejam, 111 So. 3d 610, 613 (Miss. 2013)
- Smither v. Texas Utilities Electric Co., 824 S.W.2d 693, 696 (Tex. App. 1992)

- Huffman v. Appalachian Power Co., 415 S.E.2d 145, 147-50 (W. Va. 1991)
- Addison Central School District v. Monsanto Co., 2024 WL 4348194, at *6 (D. Vt. 2024)
- LeClair v. LeClair, 2017 VT 34, 204 Vt. 422, 169 A.3d 743
- Maffucci v. Royal Park Ltd. Partnership, 707 A.2d 15, 21-23 (Conn. 1998)
- Davis v. United States, 716 F.2d 418, 422 (7th Cir. 1983)
- Colosimo v. Gateway Community Church, 424 P.3d 866, 877 (Utah 2018)
- Eichelberg v. National Railroad Passenger Corp., 57 F.3d 1179, 1184 (2d Cir. 1995)
- Eisenhauer v. Culinary Institute of America, 84 F.4th 507, 515 (2d Cir. 2023)
- Porter v. Dartmouth-Hitchcock Medical Center, 92 F.4th 129, 147 (2d Cir. 2024)
- Bucheleres v. Chicago Park District, 665 N.E.2d 826, 832 (Ill. 1996)
- Hawley v. Hannaford Bros. Co. LLC, 2018 WL 3647202, at *8 (D. Vt. Aug. 1, 2018)
- Wisdom v. TJX Companies, Inc., 410 F. Supp. 2d 336, 346 (D. Vt. 2006)
- Spooner v. Todd Transportation Co., 2018 WL 1281788, at *7 (D. Vt. Mar. 9, 2018)
- Foster v. Alabama Power Co., 395 So. 2d 27, 31 (Ala. 1981)
- Ryckele v. Georgia Power Co., 176 S.E.2d 493, 497 (Ga. Ct. App. 1970)
- Cooper v. Unimin Corp., 639 F. Supp. 1208, 1213 (D. Idaho 1986)
- Bennett v. Public Service Co. of New Hampshire, 542 F.2d 92, 97 (1st Cir. 1976)
- Miller v. General Motors Corp., 207 Ill. App. 3d 148, 159-60, 565 N.E.2d 687, 694 (1990)
- Henderson v. United States, 846 F.2d 1233, 1235 (9th Cir. 1988)