

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Pierino Perciballi and Brigida R. Perciballi v. Mountain Creek Resort Inc.; Mountain Creek Management, LLC; Great Gorge; Snow Creek, LLC D/B/A Mountain Creek Resort, Inc.; Snow Operating, LLC; Snow Partners, LLC; John Doe Ski Resort Operators (1-5); John Doe Ski Resort Maintenance Companies (1-5); John Doe Ski Resort Inspection and Safety Companies (1-5)

Pierino Perciballi and Brigida R. Perciballi v. Mountain Creek Resort Inc., et al., Case No. 2:23-cv-00948 (BRM) (SDA) (D.N.J. Jan. 29, 2026) · No. 2:23-cv-00948 (BRM) (SDA) · Decided January 29, 2026

SUMMARY

The United States District Court for the District of New Jersey denied Mountain Creek’s motion for summary judgment in a negligence action arising from a skier’s collision with fencing at Mountain Creek Resort. The court found factual disputes concerning whether Mountain Creek had constructive notice of allegedly sagging or downed fencing and whether the resort’s course design and management were negligent under the New Jersey Ski Statute. The court also allowed the plaintiff’s derivative loss-of-consortium claim to proceed.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Brian R. Martinotti
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	January 29, 2026
DOCKET	2:23-cv-00948 (BRM) (SDA)
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for summary judgment on the plaintiffs' negligence and loss-of-consortium claims after discovery and expert discovery had closed. The court also considered the remaining portions of plaintiffs' expert evidence following a separate partial ruling on defendants' motion to preclude the expert.
STANDARD OF REVIEW	Summary judgment is appropriate when the movant shows that no genuine dispute of material fact exists and that the movant is entitled

to judgment as a matter of law. The court must view the evidence and draw all justifiable inferences in favor of the nonmovant, without making credibility determinations or weighing evidence.

PRECEDENTIAL VALUE

nonprecedential

TOPICS

summary judgment

negligence

premises liability

loss of consortium

civil procedure

PRACTICE AREAS

torts

personal injury

civil procedure

premises liability

evidence

QUESTIONS PRESENTED

1. Whether defendants were entitled to summary judgment on plaintiffs' claim that Mountain Creek violated its duties under the New Jersey Ski Statute by failing to remove or correct an allegedly hazardous sagging or downed fence.
2. Whether defendants were entitled to summary judgment on plaintiffs' negligent course-design and resort-management theory.
3. Whether Brigida Perciballi's loss-of-consortium claim survived summary judgment because the underlying tort claim survived.

HOLDINGS

1. Summary judgment was denied because a reasonable jury could find that Mountain Creek had constructive notice of an obvious fencing hazard and failed to act as required by the New Jersey Ski Statute.
2. Summary judgment was denied because plaintiffs presented sufficient evidence to allow a jury to consider whether the resort's course design and management contributed to the accident, and because the statutory protection for ordinary ski-area equipment did not necessarily immunize a hazardous condition that developed after installation.
3. The loss-of-consortium claim survived because it is derivative of the injured spouse's tort claim, and the underlying negligence claims survived summary judgment.

KEY QUOTATIONS

“So long as “ski area operators,” like Mountain Creek, fulfil their responsibilities under the statute, “there can be no recovery” for injuries which befall skiers despite the operator’s safety measures.” (3)

“Here, even if Mountain Creek was “not actually aware of its dangerous potential,” if a reasonable jury were to conclude “its dangerousness was obvious and thus impute[] constructive knowledge [to the defendant],” the motion for summary judgment shall not be granted.” (13)

“To the degree the placement of the courses is relevant to Mr. Perciballi’s injuries, it falls under the question of negligent course design and management and may be considered by the jury.” (15)

FACTUAL BACKGROUND

On February 21, 2021, Pierino Perciballi skied with his sixteen-year-old son on Matchmaker trail, an intermediate terrain-park course at Mountain Creek Resort. Perciballi collided with blue mesh fencing separating Matchmaker trail from a learning area, became entangled, and suffered significant injuries requiring hospitalization and causing continuing disability. Plaintiffs contended that the fencing had been allowed to sag or fall, was insufficiently visible, and was not adequately monitored or maintained; they also challenged the resort's course design and placement of the learning area.

PROCEDURAL HISTORY

Plaintiffs filed the action on February 17, 2023, alleging negligent management and design of Mountain Creek Resort and derivative loss of consortium. Defendants answered on April 20, 2023. After fact and expert discovery, an unsuccessful mediation, and a separate partial ruling excluding portions of plaintiffs' expert evidence, defendants moved for summary judgment. The district court denied the motion, concluding that material factual disputes remained for trial.

DISPOSITION

other

CASES CITED

- Kaucher v. Cnty. of Bucks, 455 F.3d 418, 423 (3d Cir. 2006)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 255 (1986)
- Read v. Profeta, 397 F. Supp. 3d 597, 625 (D.N.J. 2019)
- Dellapenna v. Tredyffrin/Easttown Sch. Dist., 449 F. App'x 209, 215-16 (3d Cir. 2011)
- Robertson v. Allied Signal, Inc., 914 F.2d 360, 382 n.12 (3d Cir. 1990)
- Celotex Corp. v. Catrett, 477 U.S. 317, 322-24 (1986)
- Marino v. Indus. Crating Co., 358 F.3d 241, 247 (3d Cir. 2004)
- Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133, 150-51 (2000)
- Adams v. Fayette Home Care & Hospice, 452 F. App'x 137, 139 (3d Cir. 2011)
- Hunt v. Cromartie, 526 U.S. 541, 553 (1999)
- Williams v. Borough of W. Chester, 891 F.2d 458, 459 (3d Cir. 1989)
- TLE Mktg. Corp. v. WMB, LLC, No. 17-11752, 2023 WL 2433884, at *1 (D.N.J. Mar. 9, 2023)
- Rau v. Allstate Fire & Cas. Ins. Co., 793 F. App'x 84, 87 (3d Cir. 2019)
- Lauria v. Lieb, 152 F.4th 549, 553 (3d Cir. 2025)
- Lupyan v. Corinthian Colleges Inc., 761 F.3d 314, 320 (3d Cir. 2014)
- Brett v. Great American Recreation, Inc., 677 A.2d 705, 715 (1996)

- Brough v. Hidden Valley, Inc., 711 A.2d 382, 386 (App. Div. 1998)
- Neustadter v. Mountain Creek Resort, Inc., No. L-670-03, 2008 WL 398807, at *1, *4 (N.J. Super. Ct. App. Div. Feb. 15, 2008)
- Magnifico v. James, No. A-0883-18T3, 2019 WL 6487290 (N.J. Super. Ct. App. Div. Dec. 3, 2019)
- Horvath v. Rimtec Corp., 102 F. Supp. 2d 219 (D.N.J. 2000)

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