

OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT, LICKING
COUNTY

Wagner v. Athletico, Ltd.

2026-Ohio-888 · No. 2025 CA 00054 · Decided March 16, 2026

SUMMARY

The Fifth District Court of Appeals of Ohio reversed a jury verdict awarding Jon and Lynda Wagner \$110,000 against Athletico, Ltd. for injuries caused when a resistance-band board detached from a wall during physical therapy. The court held that the Wagners presented no evidence that Athletico had actual or constructive notice of the hazardous condition and that *res ipsa loquitur* was unavailable because an outside contractor could have caused the defect. The court sustained Athletico’s directed-verdict assignment of error, rendered the remaining assignments moot, and remanded for entry of a directed verdict.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District, Licking County
WRITING FOR THE COURT	Craig R. Baldwin; David M. Gormley; Robert G. Montgomery
JURISDICTION	Ohio Court of Appeals, Fifth Appellate District, Licking County
DECIDED	March 16, 2026
DOCKET	2025 CA 00054
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Athletico appealed from a jury verdict awarding Jon Wagner \$100,000 and Lynda Wagner \$10,000 for loss of consortium after the trial court denied Athletico's motions for directed verdict and judgment notwithstanding the verdict.
STANDARD OF REVIEW	A directed-verdict motion is reviewed by asking whether probative evidence, construed most strongly in favor of the nonmovant, would permit reasonable minds to reach different conclusions on an essential element. A motion for judgment notwithstanding the verdict is reviewed under the same test as a directed-verdict motion.
PRECEDENTIAL VALUE	published
PARTIES	Athletico, Ltd. v. Jon H. Wagner, Lynda Wagner

TOPICS

premises liability negligence duty of care motion for directed verdict standard of review

PRACTICE AREAS

premises liability negligence personal injury appellate procedure evidence

QUESTIONS PRESENTED

1. Whether the trial court erred in denying Athletico's motion for directed verdict and judgment notwithstanding the verdict where the Wagners presented no evidence that Athletico had actual or constructive notice of a hazardous condition.
2. Whether res ipsa loquitur could supply the required inference of negligence where an outside contractor installed the allegedly defective equipment and the evidence therefore presented a possible cause not attributable to Athletico.
3. Whether Athletico's remaining assignments concerning summary judgment, jury instructions, and the manifest weight of the evidence remained justiciable after reversal on the directed-verdict issue.

HOLDINGS

1. Athletico was entitled to a directed verdict because the Wagners failed to present evidence establishing that Athletico had actual or constructive notice of the hazardous condition or otherwise breached a duty owed to them.
2. Res ipsa loquitur did not apply because the evidence presented a possible cause of the injury—the outside contractor's installation of the board—that was not attributable to Athletico.
3. Athletico's assignments concerning summary judgment, jury instructions, and the manifest weight of the evidence were moot because reversal and entry of a directed verdict disposed of the case.

KEY QUOTATIONS

“The doctrine of res ipsa loquitur is not a substantive rule of law furnishing an independent ground for recovery.” (§ 21)

“The Ohio Supreme Court has stressed this rule of evidence should only be utilized when a defendant's negligence is the only reasonable inference from the facts.” (§ 21)

FACTUAL BACKGROUND

Jon Wagner was injured during a physical-therapy session when a wall-mounted board supporting resistance bands detached from the wall and struck his forehead. Athletico had moved the board to its Newark facility in 2019 and hired an outside contractor to install it. Athletico's employees performed regular inspections and had observed no defect before the incident, and the Wagners presented no evidence that Athletico had actual or constructive notice of a dangerous condition. The Wagners relied on res ipsa loquitur to establish negligence and notice.

PROCEDURAL HISTORY

The Wagners filed a premises-negligence complaint in the Licking County Court of Common Pleas. The trial court denied Athletico's motion for summary judgment, later denied two motions for directed verdict, instructed the jury on *res ipsa loquitur*, and entered judgment on the jury's verdict for the Wagners. The Fifth District sustained Athletico's second assignment of error, reversed the denial of the motion for directed verdict, and remanded for entry of a directed verdict; the remaining assignments were rendered moot.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for entry of a directed verdict consistent with the opinion.

CASES CITED

- Sanek v. Duracote Corp., 43 Ohio St.3d 169, 172, 539 N.E.2d 1114 (1989)
- Stark Cty. Bd. of Commrs. v. Eslich Wrecking Co., 2002-Ohio-2656, ¶ 10 (5th Dist.)
- Teeter v. Ball Jar Corp., 2020-Ohio-6997, ¶ 57 (5th Dist.)
- Keister v. Park Center Lanes, 3 Ohio App.3d 19, 22 (5th Dist. 1981)
- Ball v. New Era Golf BT Inc., 2022-Ohio-2125, ¶¶ 25-27 (5th Dist.)
- Simmons, 2016-Ohio-525, ¶ 26, 60 N.E.3d 454
- Johnson v. Wagner Provision Co., 141 Ohio St. 584, 589, 49 N.E.2d 925 (1943)
- Clark v. Barcus, 2018-Ohio-152, ¶ 20 (5th Dist.)
- Menifee v. Ohio Welding Prods., Inc., 15 Ohio St.3d 75, 77, 472 N.E.2d 707 (1984)
- Bieber v. Perry Cnty. Bd. of Comm'rs, 2020-Ohio-3996, ¶¶ 32, 35 (5th Dist.)
- Cone v. City of Canton, 2017-Ohio-8035, ¶ 14 (5th Dist.)
- Davis v. City of Akron, 2000 Ohio App. LEXIS 843, 2000 WL 254900, *1 (Mar. 8, 2000)
- Heckert v. Patrick, 15 Ohio St.3d 402, 473 N.E.2d 1204 (1984)
- Current v. Ohio Dep't of Rehab. & Correction, 2020-Ohio-1247, 153 N.E.3d 648
- Hughes v. Ohio Dept. of Rehab. & Corr., 2010-Ohio-4736, ¶ 14 (10th Dist.)
- Austin v. OhioHealth Mansfield Hosp., 2025-Ohio-4932 (5th Dist.)
- Jennings Buick, Inc. v. City of Cincinnati, 63 Ohio St.2d 167, 169-170, 406 N.E.2d 1385 (1980)
- King v. Emergency Med. Transp., Inc., 2024-Ohio-2542, ¶¶ 25, 28-30, 247 N.E.3d 1075 (5th Dist.)
- Estate of Hall v. Akron Gen. Med. Ctr., 125 Ohio St. 3d 300, 2010-Ohio-1041, ¶¶ 16, 35, 927 N.E.2d 1112
- Torres v. Gentry, 2007-Ohio-4781 (5th Dist.)
- Hake v. George Wiedemann Brewing Co., 23 Ohio St.2d 65, 66-67, 262 N.E.2d 703 (1970)
- Morgan v. Children's Hosp., 18 Ohio St.3d 185, 192, 480 N.E.2d 464 (1985)

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