

SUPERIOR COURT OF THE STATE OF DELAWARE

Pousson v. D’Andrea

Pousson v. D’Andrea · No. C.A. No. S23C-04-020 MHC · Decided March 31, 2026

SUMMARY

The Delaware Superior Court considers defendants’ motions for summary judgment and motions in limine in a premises-liability and negligence action arising from a golf-cart accident at a resort. The court denies the motions in limine concerning the plaintiff’s premises-safety expert and holds that three liability waivers are insufficient under Delaware law to release the defendants from their own alleged negligence. The court denies summary judgment on certain negligence claims because genuine factual disputes remain regarding duty and breach.

CASE DETAILS

COURT	Superior Court of the State of Delaware
WRITING FOR THE COURT	Mark H. Conner
JURISDICTION	Delaware Superior Court
DECIDED	March 31, 2026
DOCKET	C.A. No. S23C-04-020 MHC
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff sued defendants for negligence, negligent entrustment, and premises liability arising from injuries sustained when she was ejected from a recreational golf cart. Defendants moved for summary judgment, and defendants and Defendant D’Andrea separately moved in limine to exclude expert testimony. The court denied both motions in limine and granted summary judgment in part.
STANDARD OF REVIEW	Summary judgment is proper under Delaware Superior Court Civil Rule 56 when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. The evidence is viewed in the light most favorable to the nonmoving party, and summary judgment is improper when sufficient evidence would allow a jury to return a verdict for that party. Expert admissibility is governed by Delaware Rule of Evidence 702, requiring relevant and reliable testimony based on sufficient facts or data and reliable principles and methods.

PRECEDENTIAL VALUE	Published Superior Court memorandum opinion; precedential status is identified as published in the source metadata.
PARTIES	Lisa Pousson v. Lianna D’Andrea, Sun Communities, Inc., Blue Water Hospitality Management, LLC

TOPICS

summary judgment

expert testimony

premises liability

negligence

contracts

PRACTICE AREAS

civil litigation

torts

evidence

contract law

QUESTIONS PRESENTED

1. Whether Mark Monteith was qualified to testify as an RV, campground, premises-safety, and recreational-facilities-management expert under Delaware Rule of Evidence 702.
2. Whether alleged factual misunderstandings, evidentiary choices, and methodology defects in Monteith’s opinions affected admissibility or instead presented matters for cross-examination and credibility assessment.
3. Whether the defendants’ water-feature waiver, golf-cart liability waiver, and short-term rental agreement clearly and unequivocally released the defendants from liability for their own negligence.
4. Whether genuine issues of material fact precluded summary judgment on the negligence claims in Counts III and V.
5. Whether Delaware law barred the negligence claim in Count IV against Sun Communities based on allegedly serving or permitting an intoxicated patron to operate a golf cart.
6. Whether plaintiff produced sufficient evidence to support negligent entrustment claims in Counts VI and VII.
7. Whether summary judgment was proper on the premises-liability claim in Count X, including the theories based on failure to confiscate golf carts and enforce rules and on inadequate staffing or security.

HOLDINGS

1. Monteith was qualified to testify concerning RV and campground operations, premises safety, recreational-property management, and applicable standards of care. His opinions were relevant, based on an adequate factual foundation, and formed through reliable principles and methods under Delaware Rule of Evidence 702.
2. The water-feature waiver, golf-cart liability waiver, and short-term rental agreement did not clearly and unequivocally release the defendants from claims arising from their own negligence and were therefore insufficient to bar plaintiff’s claims.
3. Summary judgment was denied on Counts III and V because Monteith’s opinions and the evidence concerning defendants’ knowledge of reckless golf-cart operation, failure to enforce rules, and failure to

confiscate the carts created genuine issues of material fact concerning duty, breach, and causation.

4. Summary judgment was granted for Sun Communities on Count IV because Delaware does not recognize a common-law or statutory dram-shop cause of action against a tavern or commercial operator for injuries caused by an intoxicated patron.
5. Summary judgment was granted on Counts VI and VII because plaintiff did not produce evidence that D’Andrea was reckless or incompetent at the time the golf cart was entrusted to her, or that defendants knew or had reason to know of such recklessness or incompetence.
6. Summary judgment was denied to the extent Count X alleged that Sun Communities negligently failed to confiscate the golf carts and enforce its own rules and procedures. Summary judgment was granted on the theories based on inadequate staffing and lack of security because those theories were not pleaded with sufficient particularity and lacked necessary expert support.

KEY QUOTATIONS

“Delaware law allows a party to limit liability for its own negligence, so long as the waiver is not unconscionable, unambiguous, and not against public policy.” (at 16)

“as a matter of public policy, a provision exonerating a party for its own negligence will only be given effect if the language ‘makes it crystal clear and unequivocal that the parties specifically contemplated’ such a release.” (at 16)

“no cause of action against a tavern operator for injuries to third parties, caused by an intoxicated patron, exists in Delaware under either the common law or statutes regulating the dispensing of alcoholic beverages.” (at 24)

“the key element in the tort of negligent entrustment . . . is the foreseeability of the harm” (at 25-26)

FACTUAL BACKGROUND

During Labor Day weekend in 2021, Lisa Pousson was a guest at Massey’s Landing Resort, which was owned by Sun Communities and managed by Blue Water Hospitality Management. Pousson was injured when she was ejected from a golf cart operated by her niece, Lianna D’Andrea, while D’Andrea attempted a U-turn. Earlier that afternoon, resort personnel had received reports that members of the Pousson/D’Andrea party were operating golf carts recklessly or while intoxicated and instructed the party to slow down, but the carts were not confiscated. Pousson was intoxicated at the time of the accident, while D’Andrea was not intoxicated according to police testing.

PROCEDURAL HISTORY

Plaintiff initiated the action on April 18, 2023, and amended her complaint on August 31, 2023. Defendants moved for summary judgment on December 19, 2025; plaintiff responded on January 13, 2026; and defendants replied on January 26, 2026. The Superior Court partially granted summary judgment, denied the motions in limine, allowed Counts III and V and part of Count X to proceed, and entered judgment for defendants on Count IV and Counts VI and VII and on the security-and-staffing aspect of Count X.

DISPOSITION

other

CASES CITED

- Brown v. Dollar Tree Stores, Inc., 2009 WL 5177162, at *2 (Del. Super. Ct. 2009)
- Health Sols. Network, LLC v. Grigorov, 2011 WL 443996, at *2 (Del. 2011)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 250-51 (1986)
- McLeod v. McLeod, 2015 WL 854299, at *1 (Del. Super. Ct. 2015)
- Perry v. Berkley, 996 A.2d 1262, 1271 (Del. 2010)
- State v. Dale, 2021 WL 5232344, at *5 (Del. Super. Ct. 2021)
- Henlopen Hotel, 2020 WL 233333, at *4 (Del. Super. Ct. 2020)
- Smack-Dixon v. Wal-Mart, Inc., 2021 WL 3012056, at *6 (Del. Super. Ct. 2021)
- Ketler v. PFPA, LLC, 132 A.3d 746, 747-48 (Del. 2016)
- Slowe v. Pike Creek Ct. Club, Inc., 2008 WL 5115035, at *2 (Del. Super. Ct. 2008)
- Hong v. Hockessin Athletic Club, 2012 WL 2948186, at *2 (Del. Super. Ct. 2012)
- Strand-Yarbray v. Bike Delaware, Inc., 2024 WL 4950314, at *1, *3 (Del. Super. Ct. 2024)
- Samson v. Smith, 560 A.2d 1024, 1025 (Del. 1989)
- Shea v. Matassa, 918 A.2d 1090, 1091-92, 1095-96 (Del. 2007)
- Perez-Melchor v. Balakhani, 2006 WL 3055852, at *4 (Del. Super. Ct. 2006)
- Finkbiner v. Mullins, 532 A.2d 609, 617 & n.3 (Del. Super. Ct. 1987)
- Berger v. Millstone, 2001 WL 1628308, at *2 (Del. Super. Ct. 2001)
- Murray v. Mason, 244 A.3d 187, 192 (Del. Super. Ct. 2020), modified (Jan. 5, 2021)
- Fox v. Fox
- Chesapeake and Potomac Tel. Co. of Maryland v. Chesapeake Utilities Corp., 436 A.2d 314, 338 (Del. 1981)
- Kaster v. Big Kahuna of Wilmington, Inc., 1999 WL 459135, at *2 (Del. Super. Ct. 1999)
- Richards v. Salvation Army, 1996 Del. Super. LEXIS 292, at *2 (Del. Super. Ct. 1996)