

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS, HOUSTON DIVISION

Jacqueline Cruzco v. Wal-Mart Stores Texas, LLC

Cruzco · No. 4:24-CV-02681 · Decided January 12, 2026

SUMMARY

The United States District Court for the Southern District of Texas grants in part and denies in part Wal-Mart Stores Texas, LLC’s motion for summary judgment in a slip-and-fall case. The court dismisses Jacqueline Cruzco’s negligent activity, failure to maintain, and gross negligence claims, but finds genuine issues of material fact concerning her premises liability claim, including whether the substance posed an unreasonable risk of harm and whether Wal-Mart had constructive knowledge of it. The order was entered on January 12, 2026.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas, Houston Division
JURISDICTION	United States District Court for the Southern District of Texas, Houston Division
DECIDED	January 12, 2026
DOCKET	4:24-CV-02681
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved for summary judgment on Plaintiff's negligence, premises liability, failure to maintain, and gross negligence claims.
STANDARD OF REVIEW	Summary judgment is appropriate when the movant shows that no genuine dispute of material fact exists and the movant is entitled to judgment as a matter of law. The court views reasonable inferences in favor of the nonmovant, and the nonmovant must identify specific facts showing a genuine dispute after the movant meets its initial burden.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- premises liability
- summary judgment
- negligence
- duty of care
- evidence

PRACTICE AREAS

premises liability

negligence

civil procedure

summary judgment

gross negligence

QUESTIONS PRESENTED

1. Whether Plaintiff's negligence claim was legally distinct from and viable alongside her premises liability claim.
2. Whether the evidence raised a genuine issue of material fact concerning whether the substance on the floor posed an unreasonable risk of harm.
3. Whether the evidence raised a genuine issue of material fact concerning Wal-Mart's constructive knowledge of the substance.
4. Whether Plaintiff's failure to maintain or inspect theory was subsumed by her premises liability claim.
5. Whether Plaintiff presented evidence sufficient to support a gross negligence claim.

HOLDINGS

1. Plaintiff could not pursue an active negligent-activity claim because her injury resulted from a condition of the premises rather than from contemporaneous conduct by a Wal-Mart employee.
2. The evidence raised a genuine issue of material fact as to whether the white substance on the floor posed an unreasonable risk of harm.
3. Plaintiff raised a genuine issue of material fact concerning Wal-Mart's constructive knowledge of the substance, precluding summary judgment on the premises liability claim.
4. The failure to maintain or inspect claim was subsumed by Plaintiff's premises liability claim and was dismissed; alternatively, Plaintiff offered no evidence of independent negligence by Wal-Mart or its employees.
5. Plaintiff failed to present evidence raising a genuine issue of material fact on gross negligence, including evidence that Wal-Mart had actual knowledge of an extreme risk and acted with conscious indifference.

KEY QUOTATIONS

“Summary judgment is warranted “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.”” (at 3)

““[N]egligent activity encompasses a malfeasance theory based on affirmative, contemporaneous conduct by the owner that caused the injury, while premises liability encompasses a nonfeasance theory based on the owner's failure to take measures to make the property safe.”” (at 5)

““[T]here must be some proof of how long the hazard was there before liability can be imposed on the premises owner for failing to discover and rectify, or warn of, the dangerous condition.”” (at 9)

““[W]hat separates ordinary negligence from gross negligence is the defendant's state of mind; in other words, the plaintiff must show that the defendant knew about the peril, but his actions or omissions demonstrate that he did not care.”” (at 13)

FACTUAL BACKGROUND

On December 8, 2022, Jacqueline Cruzco was shopping at Wal-Mart's store at 2727 Dunvale Road in Houston, Texas, when she slipped and fell on a white substance on the floor. Cruzco alleged that the substance caused her injuries and relied on surveillance video, photographs, employee testimony, and evidence that another customer slipped on the same substance before her fall. The court found fact issues concerning how long the substance was present, the proximity of Wal-Mart employees, and whether Wal-Mart had constructive notice, but found no evidence that Wal-Mart had actual knowledge or subjective awareness of an extreme risk.

PROCEDURAL HISTORY

Plaintiff filed the action in Harris County District Court after slipping and falling in a Wal-Mart store. Defendant removed the case to the Southern District of Texas based on diversity jurisdiction and moved for summary judgment. The court granted the motion in part and denied it in part, dismissing the negligence, failure to maintain, and gross negligence claims while allowing the premises liability claim to proceed.

DISPOSITION

other

CASES CITED

- Triple Tee Golf, Inc. v. Nike, Inc., 485 F.3d 253, 261 (5th Cir. 2007)
- Celotex Corp. v. Catrett, 477 U.S. 317, 321-25 (1986)
- Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 255 (1986)
- Malacara v. Garber, 353 F.3d 393, 405 (5th Cir. 2003)
- Cobarrubias v. Lowe's Home Centers, LLC, 2023 WL 5729941, at *5 (S.D. Tex. Sept. 4, 2023)
- Clayton W. Williams, Jr., Inc. v. Olivo, 952 S.W.2d 523, 527 (Tex. 1997)
- Del Lago Partners, Inc. v. Smith, 307 S.W.3d 762, 775-76 (Tex. 2010)
- Brown v. Wal-Mart Stores Texas, L.L.C., 2023 WL 4354225, at *2 (S.D. Tex. July 5, 2023)
- Lucas v. Titus County Hosp. Dist./Titus County Mem'l Hosp., 964 S.W.2d 144, 153 (Tex. App.-Texarkana 1998), pet. denied, 988 S.W.2d 740 (Tex. 1998)
- Wal-Mart Stores, Inc. v. Gonzalez, 968 S.W.2d 934, 936 (Tex. 1998)
- Brinson Ford, Inc. v. Alger, 228 S.W.3d 161, 162-63 (Tex. 2007)
- Seideneck v. Cal Bayreuther Assocs., 451 S.W.2d 752, 754-55 (Tex. 1970)
- Dietz v. Hill Country Restaurants, 398 S.W.3d 761, 766 (Tex. App.-San Antonio 2011)
- Christ v. Tex. Dep't of Transp., 664 S.W.3d 82, 87-88 (Tex. 2023)
- United Supermarkets, LLC v. McIntire, 646 S.W.3d 800, 803 (Tex. 2022)
- Keetch v. Kroger Co., 845 S.W.2d 262, 265 (Tex. 1992)
- Wal-Mart Stores, Inc. v. Reece, 81 S.W.3d 812, 816 (Tex. 2002)
- Wal-Mart Stores, Inc. v. Spates, 186 S.W.3d 566, 567-68 (Tex. 2006)

- Shirey v. Wal-Mart Stores Texas, LLC, 699 F. App'x 427, 429 (5th Cir. 2017)
- Brookshire Foods Store, LLC v. Allen, 93 S.W.3d 897, 900-01 (Tex. App.-Texarkana 2002)
- Taylor v. Good Shepherd Hospital, Inc., 2005 WL 2035836, at *3 (Tex. App.-Tyler Aug. 24, 2005) (mem. op.)
- Richardson v. Wal-Mart Stores, Inc., 963 S.W.2d 162, 166 (Tex. App.-Texarkana 1998, no pet.)
- Austin v. Kroger Texas L.P., 746 F.3d 191, 196 n.2 (5th Cir. 2014)
- State v. Shumake, 199 S.W.3d 279, 286 (Tex. 2006)
- Louisiana-Pacific Corp. v. Andrade, 19 S.W.3d 245, 246-47 (Tex. 1999)

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