APPELLATE COURT OF ILLINOIS, FIRST DISTRICT, SECOND DIVISION

Martin v. Fifth Third Bank, National Ass'n

2026 IL App (1st) 250705 · No. 1-25-0705 · Decided February 3, 2026

SUMMARY

The Illinois Appellate Court, First District, reviewed the dismissal of Marsha J. Martin's negligence claim against Fifth Third Bank arising from an alleged fraudulent wire transfer by a bank customer. The court held that Illinois law does not categorically bar a noncustomer from pursuing a negligence claim against a bank and that duty must be analyzed under the Illinois Supreme Court's four-factor framework. The court reversed the dismissal with prejudice and remanded for leave to file a second amended complaint, while declining to decide the UCC article 4A preemption and Moorman doctrine issues.

CASE DETAILS

COURT	Appellate Court of Illinois, First District, Second Division
WRITING FOR THE COURT	Presiding Justice Van Tine; Justice Ellis; Justice D.B. Walker
JURISDICTION	Illinois Appellate Court, First District, Second Division
DECIDED	February 3, 2026
DOCKET	1-25-0705
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a section 2-615 dismissal with prejudice of plaintiff's negligence claim against Fifth Third Bank for failure to state a legally sufficient claim.
STANDARD OF REVIEW	De novo review of the legal sufficiency of a complaint dismissed under section 2-615; the existence of a duty is also reviewed de novo.
PRECEDENTIAL VALUE	Published and precedential Illinois appellate opinion
PARTIES	Marsha J. Martin v. Fifth Third Bank, National Association

TOPICS

negligence · duty of care · commercial litigation · uniform commercial code · appellate procedure

PRACTICE AREAS

negligence · commercial litigation · uniform commercial code · appellate procedure

QUESTIONS PRESENTED

1. Whether Illinois law categorically bars a noncustomer from asserting a negligence claim against a bank.
2. Whether Martin's amended complaint sufficiently alleged that Fifth Third owed her a duty of care under Illinois's four-factor duty analysis.
3. Whether the appellate court should decide whether UCC article 4A preempts Martin's negligence claim when the circuit court did not rule on preemption.
4. Whether the appellate court should decide the applicability of the Moorman economic-loss doctrine when the circuit court did not rule on that issue.

HOLDINGS

1. Illinois law does not adopt a categorical rule that a bank owes no duty of care to a noncustomer. The applicable analysis is the Illinois Supreme Court's general four-factor duty analysis.
2. Martin's complaint did not adequately plead the facts necessary to establish the foreseeability, likelihood, burden, and consequences elements of duty, but it was possible that she could state a viable claim through more specific allegations. The dismissal with prejudice was therefore improper.
3. The appellate court declined to decide whether article 4A preempts Martin's negligence claim because the circuit court did not rule on that issue.
4. The appellate court declined to decide whether the Moorman economic-loss doctrine barred Martin's negligence claim because the circuit court did not rule on that issue.

KEY QUOTATIONS

> *"The Illinois Supreme Court holds that whether a duty exists depends on (1) the reasonable foreseeability of the injury, (2) the likelihood of the injury, (3) the magnitude of the burden of guarding against the injury, and (4) the consequences of placing that burden on the defendant."* (¶ 22)

> *"To be clear, we do not decide whether Fifth Third owes a duty to plaintiff. We merely find that it is possible plaintiff could plead the existence of such a duty sufficient for her negligence claim to survive a section 2-615 motion to dismiss."* (¶ 44)

FACTUAL BACKGROUND

In February 2022, Marsha Martin received an email appearing to request payment to Coastal Custom Builders of NWFL, but the email was sent by Joseph Valdivia after he hacked Coastal Custom's account. Martin wired funds from her Wells Fargo account to a Fifth Third account owned by Valdivia, who then withdrew and transferred the funds. Martin alleged that Valdivia had previously used his Fifth Third accounts to defraud others and that Fifth Third failed to close, freeze, monitor, or impose safeguards on the accounts, causing her financial loss.

PROCEDURAL HISTORY

Martin alleged that a fraudster hacked a construction company's email account and induced her to wire funds from her Wells Fargo account to the fraudster's Fifth Third account. She sued the fraudster and Fifth Third, asserting negligence against the bank based on its alleged failure to prevent or respond to the fraudster's use of the account. The Circuit Court of Cook County dismissed the negligence claim with prejudice, ruling that Fifth Third owed no duty of care to a noncustomer. The appellate court reversed and remanded for leave to file a second amended complaint.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

Reverse the dismissal of Martin's negligence claim against Fifth Third and remand with instructions that the circuit court grant Martin leave to file a second amended complaint. The circuit court must analyze duty under the Illinois Supreme Court's four-factor test.

CASES CITED

- Conder v. Union Planters Bank, N.A., 384 F.3d 397, 400 (7th Cir. 2004)
- Zachman v. Citibank, N.A., 183 F. Supp. 3d 922, 924 (N.D. Ill. 2016)
- Thompson v. Capital One Bank, Inc., 375 F. Supp. 2d 681, 683 (N.D. Ill. 2005)
- Reichert v. Board of Fire & Police Commissioners of Collinsville, 388 Ill. App. 3d 834, 845 (2009)
- People v. Kokoraleis, 132 Ill. 2d 235, 293-94 (1989)
- Praither v. Northbrook Bank & Trust Co., 2021 IL App (1st) 201192, ¶ 21
- Bogenberger v. Pi Kappa Alpha Corp., 2018 IL 120951, ¶¶ 21-22, 46
- Quiroz v. Chicago Transit Authority, 2022 IL 127603, ¶ 13
- Carney v. Union Pacific R.R. Co., 2016 IL 118984, ¶ 27
- Bruns v. City of Centralia, 2014 IL 116998, ¶¶ 13-14, 33, 36
- Simpkins v. CSX Transportation, Inc., 2012 IL 110662, ¶¶ 19, 26-28
- Jarosz v. Buona Cos., 2022 IL App (1st) 210181, ¶¶ 37-38
- Cunis v. Brennan, 56 Ill. 2d 372, 376 (1974)
- Doe-3 v. McLean County Unit District No. 5 Board of Directors, 2012 IL 112479, ¶¶ 22, 31, 35
- Whitaker v. Wedbush Securities, Inc., Whitaker v. Wedbush Securities, Inc., 2020 IL 124792, ¶¶ 17, 36
- Patrick Engineering, Inc. v. City of Naperville, 2012 IL 113148, ¶ 40
- Bogenberger v. Pi Kappa Alpha Corp., 2016 IL App (1st) 150128, ¶ 34
- In re Estate of DiMatteo, 2013 IL App (1st) 122948, ¶ 84
- Whitley v. Frazier, 21 Ill. 2d 292, 294 (1961)
- Bajwa v. Metropolitan Life Insurance Co., 208 Ill. 2d 414, 435 (2004)
- Super Mix of Wisconsin, Inc. v. Natural Gas Pipeline Co. of America, 2020 IL App (2d) 190034, ¶ 55
- Dent v. Constellation NewEnergy, Inc., 2022 IL 126795, ¶ 25
- Addison v. Distinctive Homes, Ltd., 359 Ill. App. 3d 997, 1003 (2005)
- Richter v. Prairie Farms Dairy, Inc., 2016 IL 119518, ¶ 52

- Moorman Manufacturing Co. v. National Tank Co., 91 Ill. 2d 69, 88 (1982)
- Olson v. Ferrara Candy Co., 2025 IL App (1st) 241126, ¶ 43
- Community Bank of Trenton v. Schnuck Markets, Inc., 887 F.3d 803, 812 (7th Cir. 2018)