

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Sarah Banta v. Costco Wholesale Corporation; and Does I-V

Banta · No. 3:23-cv-00054-MMD-CLB · Decided January 7, 2026

SUMMARY

The United States District Court for the District of Nevada issued findings of fact and conclusions of law after a bench trial in Sarah Banta’s negligence action against Costco Wholesale Corporation. The court held that Banta failed to prove that Costco caused the food debris or had actual or constructive notice of it before her slip-and-fall. Judgment was directed in Costco’s favor, and the case was ordered closed.

CASE DETAILS

COURT	United States District Court for the District of Nevada
JURISDICTION	United States District Court for the District of Nevada
DECIDED	January 7, 2026
DOCKET	3:23-cv-00054-MMD-CLB
DISPOSITION	other
PROCEDURAL POSTURE	Following a bench trial on Plaintiff's single negligence claim arising from a slip-and-fall, the district court issued findings of fact and conclusions of law and directed entry of judgment for Costco.
STANDARD OF REVIEW	Bench-trial findings were made based on the preponderance of the evidence; the opinion does not state a separate appellate standard of review.
PRECEDENTIAL VALUE	Unpublished federal district-court order; persuasive authority only
PARTIES	Sarah Banta v. Costco Wholesale Corporation, Does I-V

TOPICS

- premises liability
- negligence
- burden of proof
- evidence
- civil procedure

PRACTICE AREAS

- premises liability
- negligence
- evidence
- civil procedure

QUESTIONS PRESENTED

1. Whether Banta proved that Costco breached its premises-liability duty by causing the food debris or having actual or constructive notice of it and failing to remedy it.
2. Whether Costco's self-service food-court mode of operation established constructive notice or otherwise showed that Costco's inspection practices fell below the reasonable standard of care.
3. Whether Banta established liability on her negligence claim by a preponderance of the evidence.

HOLDINGS

1. Under Nevada premises-liability law, a business owner breaches its duty of care for a temporary hazardous condition if the owner or its agent caused the condition, or if the owner had actual or constructive notice of the condition and failed to remedy it.
2. Nevada's mode-of-operation approach does not eliminate the plaintiff's burden to prove notice; the plaintiff must show that the injury was attributable to a reasonably foreseeable dangerous condition related to the owner's self-service operation and that a recurrent risk existed.
3. Banta failed to prove by a preponderance of the evidence that Costco had actual or constructive notice of the food debris before the accident.
4. Banta failed to establish breach of duty and therefore failed to establish liability on her single negligence claim.

KEY QUOTATIONS

“Plaintiff fails to establish by a preponderance of the evidence that Costco had constructive notice of food debris on the floor prior to the accident and therefore cannot show a breach of duty of care.” (Summary)

“Under the mode of operation approach, “the plaintiff’s burden to prove notice is not eliminated. Instead, the plaintiff satisfies the notice requirement if he establishes that an injury was attributable to a reasonably foreseeable dangerous condition on the owner’s premises that is related to the owner’s self-service mode of operation.”” (Conclusion of Law IV.A.12)

“The Court therefore finds that Defendant did not breach its duty of care to Plaintiff because it did not have actual or constructive of the food debris that caused Plaintiff to slip and fall.” (Conclusion of Law IV.C.28)

FACTUAL BACKGROUND

On April 16, 2022, Sarah Banta slipped near the self-service condiment station in Costco's Carson City, Nevada, food court. The substance was determined to be food debris, possibly lettuce or onion, but the evidence did not establish who placed it on the floor or how long it had been there. Costco employee Shannon Moats inspected the food-court area at approximately 11:13 a.m., about twenty-two minutes before the fall, and observed no hazard; Costco also maintained hourly floor walks and daily inspections. Banta did not present evidence of actual notice, prior similar falls, or a recurrent risk of food debris in the incident area.

PROCEDURAL HISTORY

Banta sued Costco in negligence after slipping on food debris near a Costco food-court condiment station. The court conducted a bench trial, partially granted Rule 37 sanctions striking undisclosed policy-related testimony,

and considered the parties' pretrial and post-trial submissions. The court concluded that Banta failed to prove that Costco caused the debris or had actual or constructive notice of it, and directed judgment for Costco.

DISPOSITION

other

CASES CITED

- Sims v. General Tel. and Electric, 815 P.2d 151, 154 (Nev. 1991)
- States Marine Corp. v. Producers Co-op. Packing Co., 310 F.2d 206, 212 (9th Cir. 1962)
- Joynt v. Cal. Hotel & Casino, 835 P.2d 799, 801 (Nev. 1992)
- Sprague v. Lucky Stores, Inc., 849 P.2d 320, 322-23 (Nev. 1993)
- Eldorado Club v. Graff, 377 P.2d 174, 176 (Nev. 1962)
- Asmussen v. New Golden Hotel Co., 392 P.2d 49, 50 (Nev. 1964)
- FGA, Inc. v. Giglio, 278 P.3d 490, 496-97 & n.5 (Nev. 2012)
- Linnell v. Carrabba's Italian Grill, LLC, 833 F. Supp. 2d 1235, 1238 (D. Nev. 2011)
- Sheehan v. Roche Bros. Supermarkets, Inc., 863 N.E.2d 1276, 1283 (Mass. 2007)