

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Nancy Gilbert v. Costco Wholesale Corporation, et al.

Gilbert v. Costco · No. Civil No. 23-2221 (RMB/MJS) · Decided December 5, 2025

SUMMARY

The United States District Court for the District of New Jersey denied Costco Wholesale Corporation’s motion for summary judgment in a premises-liability negligence action arising from Nancy Gilbert’s trip over a partially empty wooden pallet in a Costco store. The court held that genuine disputes of material fact remained regarding the pallet’s visibility, the danger it presented, Plaintiff’s awareness and distraction, and the layout and condition of the pallets, requiring resolution by a jury.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Renée Marie Bumb
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	December 5, 2025
DOCKET	Civil No. 23-2221 (RMB/MJS)
DISPOSITION	other
PROCEDURAL POSTURE	Defendant Costco Wholesale Corporation moved for summary judgment on Plaintiff Nancy Gilbert's New Jersey negligence claim arising from a trip-and-fall in a Costco warehouse.
STANDARD OF REVIEW	Summary judgment is appropriate when the movant shows that there is no genuine dispute as to any material fact and that the movant is entitled to judgment as a matter of law. The evidence must be viewed in the light most favorable to the nonmoving party, and the nonmovant must identify concrete evidence showing a genuine issue for trial.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- premises liability
- negligence
- duty of care
- summary judgment
- comparative fault

PRACTICE AREAS

- torts
- premises liability
- personal injury
- civil procedure
- evidence

QUESTIONS PRESENTED

1. Whether Costco was entitled to summary judgment on Gilbert's New Jersey negligence claim because the pallet was open, obvious, and known to her.
2. Whether genuine disputes of material fact existed concerning Gilbert's awareness of the pallet and its danger, her ability to appreciate and avoid the hazard, and the layout and condition of the pallets.
3. Whether the court could resolve the negligence and comparative-negligence issues as a matter of law rather than submitting them to a jury.

HOLDINGS

1. Under New Jersey law, the fact that a condition is open and obvious does not automatically eliminate a business owner's duty of care; the possessor may remain liable when it should anticipate harm despite the invitee's knowledge or the condition's obviousness.
2. Summary judgment was inappropriate because genuine disputes of material fact remained concerning the pallet's layout and condition, Gilbert's awareness of the hazard, whether her attention was distracted, and whether the condition presented a foreseeable risk of injury.

KEY QUOTATIONS

“Plaintiff’s case does not rise or fall purely on whether the pallet was open and obvious to her.”

“These issues of fact shall be resolved by a jury at trial, not this Court.”

“Summary judgment is appropriate where “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.””

FACTUAL BACKGROUND

Nancy Gilbert tripped and fell on a partially empty wooden pallet while shopping for paper products at Costco's warehouse in Mount Laurel, New Jersey. She alleged that the fall caused serious injuries, including a broken shoulder. The parties disputed whether Gilbert knew of the pallet and the danger it posed, whether she was distracted or unable to see the pallet while carrying a large package, and how the pallets and products were arranged. The court also found that the available security footage did not clearly resolve those factual disputes.

PROCEDURAL HISTORY

Gilbert brought a negligence action against Costco in federal court. Costco moved for summary judgment, arguing that the pallet was open, obvious, and known to Gilbert. Gilbert opposed the motion. The court denied summary judgment and directed the parties to prepare for trial in March 2026.

DISPOSITION

other

CASES CITED

- Morgan v. Allison Crane & Rigging LLC, 114 F.4th 214, 220 (3d Cir. 2024)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 250, 252, 255 (1986)
- Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986)
- Orsatti v. New Jersey State Police, 71 F.3d 480, 484 (3d Cir. 1995)
- Jackson v. Danberg, 594 F.3d 210, 227 (3d Cir. 2010)
- Acumed LLC v. Advanced Surgical Servs., Inc., 561 F.3d 199, 228 (3d Cir. 2009)
- SodexoMAGIC, LLC v. Drexel Univ., 24 F.4th 183, 204 (3d Cir. 2022)
- Snead v. Bally's Casino, 700 F. Supp. 3d 203, 220 (D.N.J. 2023)
- Townsend v. Pierre, 110 A.3d 52, 61 (N.J. 2015)
- Nisivoccia v. Glass Gardens, Inc., 818 A.2d 314, 316 (N.J. 2003)
- Antonio v. Harrah's Atl. City Propco, LLC, 847 F. App'x 126, 129 (3d Cir. 2021)
- Gabriel v. Safeway, Inc., 2011 WL 5864033, at *11 (D.N.J. Nov. 21, 2011)

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