

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
VIRGINIA, RICHMOND DIVISION

Daniel Costello v. Waste Management of Virginia, Inc.

Civil Action No. 3:25-cv-254 · No. Civil Action No. 3:25-cv-254 · Decided May 13, 2026

SUMMARY

The court grants Waste Management of Virginia, Inc.’s motion for summary judgment on Daniel Costello’s negligence claim arising from a fall at a landfill. It concludes that the curb and twigs over which Costello tripped were open and obvious, making him contributorily negligent as a matter of law under Virginia law. The court denies as moot the motion as to Costello’s previously dismissed ADA claim and other pending pretrial motions.

CASE DETAILS

COURT	United States District Court for the Eastern District of Virginia, Richmond Division
JURISDICTION	United States District Court for the Eastern District of Virginia, Richmond Division
DECIDED	May 13, 2026
DOCKET	Civil Action No. 3:25-cv-254
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved for summary judgment on the plaintiff’s negligence and ADA claims after the ADA claim had already been dismissed. The court denied the motion as moot as to the ADA claim and granted it as to the negligence claim.
STANDARD OF REVIEW	Summary judgment is proper when the movant shows that no genuine dispute of material fact exists and that it is entitled to judgment as a matter of law. The court views the evidence and draws reasonable inferences in favor of the nonmoving party, but when the movant provides adequate supporting evidence, the nonmovant may not rely on the pleadings alone to create a factual dispute.
PRECEDENTIAL VALUE	unpublished district court decision; persuasive only
PARTIES	Waste Management of Virginia, Inc. v. Daniel Costello

TOPICS

premises liability

contributory negligence

summary judgment

negligence

ada / disability

PRACTICE AREAS

premises liability

negligence

civil procedure

disability discrimination

QUESTIONS PRESENTED

1. Whether defendant was entitled to summary judgment on the negligence claim because the curb and twigs were open and obvious and plaintiff was contributorily negligent as a matter of law.
2. Whether the motion for summary judgment was moot as to the ADA claim because that claim had already been dismissed.

HOLDINGS

1. Summary judgment was proper because the curb and twigs that caused Costello's fall were open and obvious, and Costello presented no evidence of an external condition excusing his failure to observe them.
2. The motion was denied as moot as to the ADA claim because the court had previously dismissed that claim.

KEY QUOTATIONS

"Costello tripped over open and obvious materials. The Court, therefore, must find him contributorily negligent and unable to recover any damages." (at 1)

"Due to Costello's contributory negligence, Waste Management prevails on the negligence claim." (at 6)

FACTUAL BACKGROUND

Costello had visited Waste Management's Amelia County landfill nearly 450 times over sixteen years and was familiar with a seven-inch-high, eighty-foot-long yellow curb and recurring foliage and twigs in the parking lot. After a stroke limited movement in his left leg, Costello usually visited with assistance, but on the day of the accident he went alone. He saw twigs and debris, attempted to lift his injured leg over the curb without looking over it, struck the curb, stepped onto the twig-covered ground, and fell when the twigs slid beneath him. He testified that both the curb and twigs caused his fall.

PROCEDURAL HISTORY

Costello initially sued Waste Management, Inc. in Virginia state court. The case was removed to federal court, the parent company was dismissed because it did not own or operate the landfill, and Costello amended the complaint to name Waste Management of Virginia, Inc. as defendant. The court later dismissed the ADA claim, retained jurisdiction over the state-law negligence claim, and considered defendant's unopposed motion for summary judgment.

DISPOSITION

other

CASES CITED

- *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986)
- *Somers v. Devine*, 132 F.4th 689, 695 (4th Cir. 2025)
- *Marquis v. Davis*, 1:21-cv-1427, 2022 WL 18026337, at *1 n.2 (E.D. Va. Nov. 7, 2022)
- *Knibbs v. Momphard*, 30 F.4th 200, 213 (4th Cir. 2022)
- *Libertarian Party of Va. v. Judd*, 718 F.3d 308, 313 (4th Cir. 2013)
- *Strothers v. City of Laurel*, 895 F.3d 317, 326 (4th Cir. 2018)
- *Blue Ridge Serv. Corp. of Va. v. Saxon Shoes, Inc.*, 271 Va. 206, 218, 624 S.E.2d 55, 62 (2006)
- *Trimyer v. Norfolk Tallow Co.*, 192 Va. 776, 780, 66 S.E.2d 441, 443 (1951)
- *A/Britton v. Commonwealth*, 299 Va. 392, 405, 853 S.E.2d 512, 520 (2021)
- *Fobbs v. Webb Bldg. Ltd. P'ship*, 232 Va. 227, 229, 349 S.E.2d 355, 357 (1986)
- *Foglia v. Clapper*, 885 F. Supp. 2d 821, 828 (E.D. Va. 2012)
- *Town of Va. Beach v. Starr*, 194 Va. 34, 36, 72 S.E.2d 239, 240 (1952)
- *Scott v. City of Lynchburg*, 241 Va. 64, 66, 399 S.E.2d 809, 810 (1991)
- *Deitz v. Daleville Town Ctr. Bus. Ass'n*, 2026 WL 1134636, at *3 (W.D. Va. Apr. 27, 2026)
- *Fein v. Wade*, 191 Va. 203, 209, 61 S.E.2d 29, 32 (1950)
- *Rocky Mt. Shopping Ctr. Assocs. v. Steagall*, 235 Va. 636, 637, 369 S.E.2d 193, 194 (1988)
- *Beach v. Costco Wholesale Corp.*, 2020 WL 1879016, at *3 (W.D. Va. Apr. 15, 2020)
- *West v. City of Portsmouth*, 217 Va. 734, 735, 232 S.E.2d 763, 764 (1977)
- *S. Floors and Acoustics, Inc. v. Max-Yeboah*, 267 Va. 682, 685, 594 S.E.2d 908, 910 (2004)
- *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986)