

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

Maria Macias-Garcia v. Moody Gardens, Inc.

Macias-Garcia v. Moody Gardens · No. 01-24-00706-CV · Decided June 2, 2026

SUMMARY

The First Court of Appeals of Texas affirmed summary judgment in favor of Moody Gardens, Inc. in a premises-liability negligence action arising from Maria Macias-Garcia’s fall at an aquarium exhibit. The court held that the simulated sandbar condition was open and obvious, eliminating Moody Gardens’ duty to warn, and also noted that Macias-Garcia failed to challenge that independent summary-judgment ground on appeal.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	Kristin Guiney; Chief Justice Adams; Justice Guerra; Justice Guiney
JURISDICTION	Court of Appeals for the First District of Texas
DECIDED	June 2, 2026
DOCKET	01-24-00706-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a take-nothing summary judgment in favor of the premises owner in an invitee's negligence and premises-liability action.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The reviewing court takes as true all evidence favorable to the nonmovant, indulges every reasonable inference in the nonmovant's favor, and resolves doubts in the nonmovant's favor. When the trial court does not specify the grounds for summary judgment, the judgment must be affirmed if any asserted ground is meritorious. A defendant seeking matter-of-law summary judgment must disprove at least one essential element of the plaintiff's claim or conclusively establish each element of an affirmative defense.
PRECEDENTIAL VALUE	Published memorandum opinion; precedential status is identified as published in the provided metadata.
PARTIES	Maria Macias-Garcia v. Moody Gardens, Inc.

TOPICS

premises liability

summary judgment

duty of care

standard of review

preservation of error

PRACTICE AREAS

torts

premises liability

civil procedure

QUESTIONS PRESENTED

1. Whether the trial court erred in granting Moody Gardens summary judgment on Macias-Garcia's negligence claim.
2. Whether the simulated sandbar was an open and obvious condition such that Moody Gardens owed Macias-Garcia no duty to warn.
3. Whether Macias-Garcia's failure to challenge the open-and-obvious ground independently required affirmance of the summary judgment.

HOLDINGS

1. The simulated sandbar was an open and obvious condition because its contrasting color and texture, elevation change, and rope barrier made it readily perceivable to a reasonably prudent invitee. Moody Gardens therefore had no duty as a matter of law to warn Macias-Garcia about that condition.
2. An appellant challenging summary judgment must challenge every independent ground that could support the judgment. If the appellant fails to challenge an independent ground, the appellate court must affirm the judgment.

KEY QUOTATIONS

"Combined, these concepts present the general rule regarding a premises owner's duty to an invitee, which is "to make safe or warn against any concealed, unreasonably dangerous conditions of which the [premises] [owner is, or reasonably should be, aware but the invitee is not." (9-10)

"A danger is open and obvious if a reasonably prudent invitee would have known and appreciated the nature and extent of the danger under similar circumstances." (13)

"Because, on appeal, Macias-Garcia failed to challenge this independent ground supporting the trial court's ruling, we must uphold the trial court's summary-judgment ruling." (14-15)

FACTUAL BACKGROUND

Macias-Garcia, an invitee at Moody Gardens' aquarium in Galveston, fell while leaving a simulated sandbar at a mangrove touch-tank exhibit on March 12, 2022. The sandbar was a differently colored and textured elevated surface, separated from surrounding flooring by a rope barrier, and was used by guests to reach into the touch tank. Moody Gardens presented evidence that three signs reading "CAUTION WATCH YOUR STEP" and depicting a falling person were present near the area. Macias-Garcia alleged that an uneven, wet, and dimly lit condition caused her fall, although she did not know precisely what caused it and did not challenge on appeal the independent ground that the condition was open and obvious.

PROCEDURAL HISTORY

Macias-Garcia sued Moody Gardens after falling on a simulated sandbar at an aquarium exhibit and alleged that a dangerous premises condition caused her injuries. Moody Gardens moved for summary judgment, arguing that the condition was open and obvious or known to Macias-Garcia and that warnings discharged any duty owed. The trial court granted the motion and ordered that Macias-Garcia take nothing. The Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Valence Operating Co. v. Dorsett, 164 S.W.3d 656, 661 (Tex. 2005)
- Provident Life & Accident Ins. Co. v. Knott, 128 S.W.3d 211, 215 (Tex. 2003)
- Beverick v. Koch Power, Inc., 186 S.W.3d 145, 148 (Tex. App.—Houston [1st Dist.] 2005, pet. denied)
- Cathey v. Booth, 900 S.W.2d 339, 341 (Tex. 1995)
- Centeq Realty, Inc. v. Siegler, 899 S.W.2d 195, 197 (Tex. 1995)
- Transcon. Ins. Co. v. Briggs Equip. Tr., 321 S.W.3d 685, 691 (Tex. App.—Houston [14th Dist.] 2010, no pet.)
- Goodyear Tire & Rubber Co. v. Mayes, 236 S.W.3d 754, 755 (Tex. 2007)
- Wal-Mart Stores, Inc. v. Reece, 81 S.W.3d 812, 816 (Tex. 2002)
- Del Lago Partners, Inc. v. Smith, 307 S.W.3d 762, 769 (Tex. 2010)
- Kroger Co. v. Elwood, 197 S.W.3d 793, 795 (Tex. 2006)
- Austin v. Kroger Tex., L.P., 465 S.W.3d 193, 202-04 (Tex. 2015)
- Advance Tire & Wheels, LLC v. Enshikar, 527 S.W.3d 476, 481 (Tex. App.—Houston [1st Dist.] 2017, no pet.)
- Dewberry Farm, LLC v. Elias as Next Friend of N.E., No. 01-18-01058-CV, 2020 WL 6589331, at *3 (Tex. App.—Houston [1st Dist.] Sept. 1, 2020, pet. dismiss'd) (mem. op.)
- 4Front Engineered Sols., Inc. v. Rosales, 505 S.W.3d 905, 912 (Tex. 2016)
- Brookshire Grocery Co. v. Goss, 262 S.W.3d 793, 795 (Tex. 2008)
- Allen Keller Co. v. Foreman, 343 S.W.3d 420, 425 (Tex. 2011)
- Nicholson v. Smith, 986 S.W.2d 54, 59 (Tex. App.—San Antonio 1999, no pet.)
- Coffee v. F. W. Woolworth Co., 536 S.W.2d 539, 541 (Tex. 1976)
- Tex. Dep't of Transp. v. Ramirez, 566 S.W.3d 18, 25 (Tex. App.—San Antonio 2018, pet. denied)
- Culotta v. DoubleTree Hotels LLC, No. 01-18-00267-CV, 2019 WL 2588103, at *3 (Tex. App.—Houston [1st Dist.] June 25, 2019, pet. denied) (mem. op.)
- Medallion Stores, Inc. v. Eidt, 405 S.W.2d 417, 421-22 (Tex. Civ. App.—Texarkana 1966, writ ref'd n.r.e.)
- McCoy v. Rogers, 240 S.W.3d 267, 271 (Tex. App.—Houston [1st Dist.] 2007, pet. denied)
- Vawter v. Garvey, 786 S.W.2d 263, 264 (Tex. 1990)
- Star-Telegram, Inc. v. Doe, 915 S.W.2d 471, 473 (Tex. 1995)

- *Jarvis v. Rocanville Corp.*, 298 S.W.3d 305, 313 (Tex. App.—Dallas 2009, pet. denied)
- *Britton v. Tex. Dep't of Crim. Justice*, 95 S.W.3d 676, 681 (Tex. App.—Houston [1st Dist.] 2002, no pet.)
- *Andrews v. Hayman*, No. 01-23-00038-CV, 2024 WL 234413, at *5-6 (Tex. App.—Houston [1st Dist.] Jan. 23, 2024, no pet.) (mem. op.)
- *Heritage Gulf Coast Props., Ltd. v. Sandalwood Apartments, Inc.*, 416 S.W.3d 642, 653 (Tex. App.—Houston [14th Dist.] 2013, no pet.)
- *Born v. Fielder*, No. 05-25-00239-CV, 2026 WL 815111, at *3 (Tex. App.—Dallas Mar. 24, 2026, no pet.) (mem. op.)
- *Smith v. Ranger Excavating, L.P.*, No. 03-24-00754-CV, 2025 WL 3165466, at *6 (Tex. App.—Austin Nov. 13, 2025, no pet.) (mem. op.)
- *Dintino v. Hanger Prosthetics & Orthotics E., Inc.*, 210 N.E.3d 641, 650 (Ohio Ct. App. 2023)

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