

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
LOUISIANA, LAKE CHARLES DIVISION

Felipe Ortiz v. Home Depot U S A Inc

Ortiz · No. 2:22-CV-05860 · Decided March 19, 2026

SUMMARY

The United States District Court for the Western District of Louisiana granted Home Depot U.S.A., Inc.’s motion for partial summary judgment concerning Felipe Ortiz’s claims for lost wages and impairment of earning capacity. The court concluded that Ortiz failed to present competent, admissible evidence that the December 8, 2020 accident caused or contributed to those claimed losses, particularly because he had been permanently disabled and unemployed before the accident. The court dismissed those claims with prejudice.

CASE DETAILS

COURT	United States District Court for the Western District of Louisiana, Lake Charles Division
WRITING FOR THE COURT	James D. Cain, Jr.
JURISDICTION	United States District Court for the Western District of Louisiana, Lake Charles Division
DECIDED	March 19, 2026
DOCKET	2:22-CV-05860
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved for partial summary judgment on the plaintiff's claims for lost wages and impairment of earning capacity. The plaintiff filed no opposition, and the court granted the motion.
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 moving party bears the initial burden; if that burden is met, the nonmovant must set forth specific facts showing a genuine issue for trial. The court views the evidence and reasonable inferences in the light most favorable to the nonmovant and may not weigh evidence or make credibility determinations.

PRECEDENTIAL VALUE

unpublished district court memorandum ruling; precedential status unknown

TOPICS

summary judgment

damages

personal injury

negligence

civil procedure

PRACTICE AREAS

civil procedure

negligence

personal injury

damages

QUESTIONS PRESENTED

1. Whether Home Depot was entitled to partial summary judgment on Ortiz's claims for past, present, and future lost wages and impairment of earning capacity.
2. Whether Ortiz produced sufficient summary-judgment evidence to create a genuine dispute of material fact that the accident caused compensable wage loss or loss of earning capacity.

HOLDINGS

1. To recover actual wage loss, a plaintiff must prove that he would have been earning wages but for the accident and must provide independent support for the claimed loss.
2. Ortiz failed to submit evidence sufficient to create a genuine issue of material fact on his claims for lost wages or impairment of earning capacity, so Home Depot was entitled to partial summary judgment.

KEY QUOTATIONS

"To recover for actual wage loss, a plaintiff must prove that he would have been earning wages but for the accident in question." (at 3)

"The Court finds that Mr. Ortiz has failed to submit summary judgment evidence to create a general issue of material fact for trial to establish a claim for loss wage or loss of earning capacity claim." (at 4)

FACTUAL BACKGROUND

On December 8, 2020, Felipe Ortiz was struck by a ladder that Home Depot employees caused to fall while moving ladders in the course and scope of their employment. The parties stipulated that the employees breached a duty of care and that the elements of negligence against Home Depot were satisfied. Ortiz had not worked since approximately 2013 and had been determined permanently disabled before the accident because of several medical conditions. He did not produce competent, admissible evidence that injuries from the accident caused or contributed to lost wages or impairment of earning capacity.

PROCEDURAL HISTORY

Felipe Ortiz sued Home Depot U.S.A., Inc. for injuries allegedly sustained when a ladder fell on him at a Home Depot store. The parties stipulated that Home Depot employees caused the ladder to fall, breached a duty of care,

and that the elements of negligence against Home Depot were satisfied. Home Depot moved for partial summary judgment on wage-loss and earning-capacity damages; the motion was unopposed and granted with prejudice.

DISPOSITION

other

CASES CITED

- Tubacex, Inc. v. M/V Risan, 45 F.3d 951, 954 (5th Cir. 1995)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248-49 (1986)
- State Farm Life Ins. Co. v. Gutterman, 896 F.2d 116, 118 (5th Cir. 1990)
- Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133, 150 (2000)
- Clift v. Clift, 210 F.3d 268, 270 (5th Cir. 2000)
- Brumfield v. Hollins, 551 F.3d 322, 326 (5th Cir. 2008)
- Saucier v. State Farm Mut. Auto. Ins. Co., 2016 WL 3977253, at *2 (W.D. La. July 20, 2016)
- Boyette v. United Servs. Auto. Ass'n, 783 So. 2d 1276, 1279 (La. Apr. 3, 2001)
- Stover v. AIG Property Cas. Co., Case No. 23-821, 2025 WL 1116465 (W.D. La. Apr. 15, 2025)

OPINION

Ortiz

PER CURIAM.

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

LAKE CHARLES DIVISION

FELIPE ORTIZ CASE NO. 2:22-CV-05860

VERSUS JUDGE JAMES D. CAIN, JR.

HOME DEPOT U S A INC MAGISTRATE JUDGE LEBLANC

MEMORANDUM RULING

Before the Court is a “Motion for Partial Summary Judgment on Plaintiff’s Damage Claims for Lost Wages and Impairment of Earning Capacity” (Doc. 33) filed by Defendant Home Depot USA Inc. (“Home Depot”). Plaintiff has not filed an opposition to this Motion and the time for doing so has lapsed.

BACKGROUND

On December 8, 2020, Plaintiff Felipe Ortiz was struck by a ladder that fell while he was a customer in Home Depot. The parties have stipulated that while Mr. Ortiz was on Home Depot’s premises, two Home Depot workers caused a ladder to fall on him, while they were moving ladders in the course and scope of their employment at Home Depot.¹ The parties also stipulate that these Home Depot employees breached a duty of care to Mr. Ortiz, and that the elements of negligence against Home Depot are satisfied.² Mr. Ortiz has not been employed since

approximately 2013, and is not currently employed.³ On July 2, 2018 and again on December 16, 2019, Mr. Ortiz's primary care

¹ Doc. 36, ¶ 2.

² Id. ¶¶ 3 and 4. ³ Defendant's exhibit A, Felip Ortiz depo. p. 14:10-12, Defendant's exhibit B, Ortiz depo. p. 11:1-4. physician executed a Physician's Statements for the Texas Health and Human Services Commission stating that he is unable to work and permanently disabled, due to the following disabling medical conditions; ankylosing spondylitis, coronary artery disease, depression, anxiety, and sleep apnea.⁴ As of November 2023, Mr. Ortiz's only claimed source of income were his son's SSI income and his own Social Security Disability.⁵ Other than a 2021 tax return that reflected \$1,000 of income for winnings at a casino, Mr. Ortiz has not paid any taxes on income earned.⁶ Mr. Ortiz has not produced any competent, admissible evidence that the injuries he allegedly sustained in the accident caused or contributed to any loss of wages or loss of earning capacity.

SUMMARY JUDGMENT STANDARD

A court should grant a motion for summary judgment when 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." FED. R. CIV. P. 56. The party moving for summary judgment is initially responsible for identifying portions of pleadings and discovery that show the lack of a genuine issue of material fact. *Tubacex, Inc. v. M/V Risan*, 45 F.3d 951, 954 (5th Cir. 1995). The court must deny the motion for summary judgment if the movant fails to meet this burden. Id. If the movant makes this showing, however, the burden then shifts to the non-moving party to "set forth specific facts showing that there is a genuine issue for trial." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986) (quotations omitted). This ⁴ Defendant's exhibit A, Ortiz depo. p. 14:10-12; Defendant's exhibit B, p. 11:1-4; Defendant's exhibit C. ⁵ Defendant's exhibit A, Ortiz depo. p. 16:25 and 17:1-7. ⁶ Defendant's exhibit B, p. 12:12-14. requires more than mere allegations or denials of the adverse party's pleadings. Instead, the nonmovant must submit "significant probative evidence" in support of his claim. *State Farm Life Ins. Co. v. Gutterman*, 896 F.2d 116, 118 (5th Cir. 1990). "If the evidence is merely colorable, or is not significantly probative, summary judgment may be granted." *Anderson*, 477 U.S. at 249 (citations omitted). A court may not make credibility determinations or weigh the evidence in ruling on a motion for summary judgment. *Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133, 150 (2000). The court is also required to view all evidence in the light most favorable to the non-moving party and draw all reasonable inferences in that party's favor. *Clift v. Clift*, 210 F.3d 268, 270 (5th Cir. 2000). Under this standard, a genuine issue of material fact exists if a reasonable trier of fact could render a verdict for the nonmoving party. *Brumfield v. Hollins*, 551 F.3d 322, 326 (5th Cir. 2008).

LAW AND ANALYSIS

Mr. Ortiz alleges that he sustained a back injury on December 8, 2020, when a ladder fell on him while on Home Depot's premises. He also alleges that the back injury sustained in the accident

caused him to sustain “lost wages and/or impairment of earning capacity; past, present, and future.”⁷ It is undisputed that Mr. Ortiz was permanently disabled prior to the subject accident, has not worked since 2013, and is currently not working as noted above.

7 Doc. 1-1, p. 3, ¶ XI(B).

“To recover for actual wage loss, a plaintiff must prove that he would have been earning wages but for the accident in question.” *Saucier v. State Farm Mut. Auto. Ins. Co.*, 2016 WL 3977253, *2 (W.D. La., 7/20/16), citing to *Boyette v. United Servs. Auto. Ass'n*, 783 So. 2d 1276, 1279 (La. 4/3/01); (emphasis added); see also *Stover v. AIG Property Cas. Co.*, Case No. 23-821, 2025 WL 1116465 (W.D. La., 4/15/25). “It is the plaintiff's burden to prove past lost earnings and the length of time missed from work due to the accident.” /d. “A plaintiff cannot simply allege past lost wages without independent support of the claim.” *Saucier*, 2016 WL 3977253 at *2. The Court finds that Mr. Ortiz has failed to submit summary judgment evidence to create a general issue of material fact for trial to establish a claim for loss wage or loss of earning capacity claim.

CONCLUSION

For the reasons explained herein, the Court will grant Home Depot’s Motion for Partial Summary Judgment on Plaintiff’s Damage Claims for Lost Wages and Impairment of Earning Capacity (Doc. 33) and dismiss with prejudice Mr. Ortiz’s claims for lost wages and impairment of earning capacity. **THUS DONE AND SIGNED** in chambers on this 19th day of March, 2026.

UNITED STATES DISTRICT JUDGE

Page 4 of 4