

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS, HOUSTON DIVISION

Francisca Garcia A/N/F of A.U. v. Wal-Mart Stores Texas, LLC

Garcia v. Wal-Mart · No. 4:24-CV-01350 · Decided March 11, 2026

SUMMARY

The United States District Court for the Southern District of Texas granted Wal-Mart Stores Texas, LLC’s motion for summary judgment in a slip-and-fall case involving a minor plaintiff. The court held that the plaintiff failed to provide evidence of a dangerous condition posing an unreasonable risk of harm and dismissed her negligence, premises liability, failure to maintain, gross negligence, and negligent hiring, training, supervision, and retention claims with prejudice. A final judgment was to issue separately.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas, Houston Division
WRITING FOR THE COURT	Andrew S. Hanen
JURISDICTION	United States District Court for the Southern District of Texas, Houston Division
DECIDED	March 11, 2026
DOCKET	4:24-CV-01350
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved for summary judgment in a removed diversity action involving alleged injuries from a slip and fall in a Wal-Mart store. The court granted the motion and dismissed the matter with prejudice.
STANDARD OF REVIEW	Summary judgment is proper when the movant shows that no genuine dispute as to any material fact exists and that the movant is entitled to judgment as a matter of law. The court views reasonable inferences in favor of the nonmovant, but the nonmovant must identify specific evidence establishing a genuine factual dispute.
PRECEDENTIAL VALUE	Unpublished federal district-court order; precedential status not identified in the source.

PARTIES

Francisca Garcia A/N/F of A.U. v. Wal-Mart Stores Texas, LLC

TOPICS

summary judgment

premises liability

negligence

civil procedure

evidence

PRACTICE AREAS

civil procedure

premises liability

negligence

personal injury

evidence

QUESTIONS PRESENTED

1. Whether Wal-Mart was entitled to summary judgment on Plaintiff's active-negligence claim because the alleged injury resulted from a premises condition rather than contemporaneous negligent activity.
2. Whether Plaintiff produced evidence of a premises condition posing an unreasonable risk of harm sufficient to create a genuine issue of material fact.
3. Whether Plaintiff's failure-to-maintain claim was subsumed by premises liability or, alternatively, lacked evidence of negligence and causation.
4. Whether Plaintiff's gross-negligence claim failed because she could not establish the predicate negligence or premises-liability elements.
5. Whether Plaintiff's negligent hiring, training, supervision, and retention claims failed because the claims were based on the same premises condition and lacked evidence of negligence and causation.

HOLDINGS

1. Plaintiff could not pursue an active-negligence claim because the alleged injury resulted from a premises condition and did not occur contemporaneously with affirmative conduct by a Wal-Mart employee.
2. Plaintiff failed to raise a genuine issue of material fact that any condition on the Wal-Mart floor posed an unreasonable risk of harm or caused A.U.'s alleged fall.
3. Plaintiff's failure-to-maintain claim was subsumed by her premises-liability claim and was dismissed; alternatively, Plaintiff presented no evidence of negligence or causation.
4. Plaintiff's gross-negligence claim failed because she did not establish the underlying negligence or premises-liability elements.
5. Plaintiff's negligent hiring, training, supervision, and retention claims failed because they were based on the same injury and premises condition, and Plaintiff produced no evidence of negligent conduct or causation.

KEY QUOTATIONS

"Summary judgment is warranted "if 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."" (at 2)

"Plaintiffs cannot pursue both a negligence claim and a premises liability claim based on the same injury." (at 3)

“To succeed on a gross negligence claim, a plaintiff must satisfy the elements of an ordinary negligence or premises liability claim and demonstrate clear and convincing evidence of “an act or omission involving subjective awareness of an extreme degree of risk, indicating conscious indifference to the rights, safety, or welfare of others.”” (at 10)

FACTUAL BACKGROUND

On August 6, 2022, A.U. allegedly slipped and fell while in a Wal-Mart store in Humble, Texas, and allegedly injured his head. Plaintiff attributed the fall to scattered school supplies, cardboard boxes, or other merchandise on the floor, but neither A.U. nor Plaintiff knew what caused the alleged slip. Surveillance footage showed A.U. and another child running, with A.U. leaving the camera frame and later returning while holding his head; the alleged fall occurred outside the camera's view.

PROCEDURAL HISTORY

Plaintiff originally filed the action in the 270th Judicial District Court of Harris County, Texas. Wal-Mart removed the case to the Southern District of Texas based on diversity jurisdiction. After briefing on Wal-Mart's motion for summary judgment, the district court granted the motion on all asserted claims and stated that a final judgment would issue separately.

DISPOSITION

other

CASES CITED

- Triple Tee Golf, Inc. v. Nike, Inc., 485 F.3d 253, 261 (5th Cir. 2007)
- Celotex Corp. v. Catrett, 477 U.S. 317, 321-25 (1986)
- Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 255 (1986)
- Malacara v. Garber, 353 F.3d 393, 405 (5th Cir. 2003)
- Cobarrubias v. Lowe's Home Centers, LLC, 2023 WL 5729941, at *5 (S.D. Tex. Sept. 4, 2023)
- Clayton W. Williams, Jr., Inc. v. Olivo, 952 S.W.2d 523, 527 (Tex. 1997)
- Austin v. Kroger Tex. L.P., 746 F.3d 191, 196 n.2, 197 (5th Cir. 2014), certified question answered, 465 S.W.3d 193 (Tex. 2015)
- Del Lago Partners, Inc. v. Smith, 307 S.W.3d 762, 775-76 (Tex. 2010)
- Brown v. Wal-Mart Stores Texas, L.L.C., 2023 WL 4354225, at *2 (S.D. Tex. July 5, 2023)
- Lucas v. Titus County Hosp. Dist./Titus County Mem'l Hosp., 964 S.W.2d 144, 153 (Tex. App.—Texarkana 1998, pet. denied), 988 S.W.2d 740 (Tex. 1998)
- Wal-Mart Stores, Inc. v. Gonzalez, 968 S.W.2d 934, 936 (Tex. 1998)
- Brinson Ford, Inc. v. Alger, 228 S.W.3d 161, 162-63 (Tex. 2007)
- Seideneck v. Cal Bayreuther Assocs., 451 S.W.2d 752, 754 (Tex. 1970)

- Dietz v. Hill Country Restaurants, 398 S.W.3d 761, 766 (Tex. App.—San Antonio 2011, pet. denied)
- Richardson v. Wal-Mart Stores, Inc., 963 S.W.2d 162, 166 (Tex. App.—Texarkana 1998, no pet.)
- State v. Shumake, 199 S.W.3d 279, 286 (Tex. 2006)
- Louisiana-Pacific Corp. v. Andrade, 19 S.W.3d 245, 246-47 (Tex. 1999)
- Shelton v. Wal-Mart Stores Tex., LLC, 2024 WL 3744402, at *2 (S.D. Tex. Aug. 8, 2024)
- Medina v. Costco Wholesale Corp., 2024 WL 1122054, at *2 (N.D. Tex. Mar. 14, 2024)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-southern-district-of-te/2026/francisca-garcia-a-n-f-of-a-u-v-wal-mart-stores-texas-llc-y2vindy8>