

SUMMARY STATEMENT

Oswald v. Costco Wholesale Corporation

Docket No. 47261

This appeal addresses the duty a possessor of land owes to invitees to protect from third-party negligence on the premises. John A. Oswald and Nancy R. Poore (“the Plaintiffs”) appeal from an Ada County district court’s final judgment entered after the court awarded summary judgment in favor of the defendant, Costco Wholesale Corporation (“Costco”). The lawsuit focuses on the parking lot of Costco’s Boise store—specifically, the parking lot’s pedestrian walkway that bisects two perpendicular rows of ADA-accessible parking spaces. In February 2017, Oswald and Poore were walking on that walkway when an elderly driver drove onto it, striking Oswald and pinning him against a vehicle parked on the opposite side, causing Oswald to suffer significant injuries. The Plaintiffs sued Costco alleging (1) premises liability, (2) negligence and willful wanton conduct, (3) negligent infliction of emotional distress, and (4) intentional infliction of emotional distress. After the district court resolved a discovery dispute in Costco’s favor, Costco moved for summary judgment. In granting the motion, the district court ruled that Costco had no notice that its walkway was a dangerous condition and, therefore, owed no duty to redesign it or warn pedestrians about it. The district court entered judgment dismissing the Plaintiffs’ claims with prejudice.

The Idaho Supreme Court held that the foreseeability of a particular harm was not an appropriate consideration in the analysis of what duty a possessor of land owes an invitee; rather, a possessor of land owes a general duty of reasonable care to invitees and it is for the jury to decide whether that duty was breached under the unique circumstances of the case. Additionally, the Idaho Supreme Court held that the district court did not err in granting Costco a protective order, but did err in striking portions of Plaintiffs’ expert reports which could assist the jury in determining if Costco was negligent under the circumstances. Correspondingly, the Idaho Supreme Court reversed the district court’s grant of summary judgment, vacated the judgment, and remanded the matter for further proceedings.

This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.