

Fifth Circuit Court of Appeal State of Louisiana

No. 26-C-276

NORA INDOVINA

versus

ROYAL SEAFOOD ET AL.

IN RE ROYAL SEAFOOD, LLC, LIANGAN LI, AND MEIZHU ZHENG
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
E. ADRIAN ADAMS, DIVISION "G", No. 831-992

TRUE COPY

July 29, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Stephen J. Windhorst,
Michael P. Mentz, Pro Tempore, and Timothy S. Marcel

WRIT DENIED

In this matter, plaintiff, Nora Indovina, individually, and as a Representative of the Estate of Emily Boffone, filed an action for wrongful death, survival, and negligence against defendants following the death of her mother during Hurricane Ida. Defendants in this matter seek this Court's supervisory review of the trial court's denial of their motion for summary judgment. Finding no error in the trial court judgment, this writ is denied.

At the time of Hurricane Ida, plaintiff's mother, Emily Buffone, resided in a mobile home directly next door to Royal Seafood, L.L.C., which had multiple 40-foot cargo shipping containers on its property. During Hurricane Ida, plaintiff alleges that one or multiple of the 40-foot cargo shipping containers on the property began

to float, becoming dislodged. Plaintiff alleges that a container struck her mother's home, knocking it from its foundation and causing it to sink in the flood waters. Plaintiff's mother was found deceased and pinned under the refrigerator after the storm. Thereafter, plaintiff filed suit, naming Royal Seafood, L.L.C., Liangan Li, and Meizhu Zheng as defendants.

The petitioner alleges that defendants are liable for Boffone's death because it was a direct result of their negligence: (1) they failed to maintain garde of an unreasonably dangerous condition (large containers that were capable of floating); (2) they failed to warn Boffone and other neighbors of the risk of harm caused by the floating, untethered containers in hurricane conditions; (3) the business failed to secure its property in advance of the oncoming storm; and, (4) they abandoned their containers at a time of extreme danger, thereby allowing their property to cause harm to Boffone and her property.

Defendants filed a motion for summary judgment on December 12, 2025, asserting that plaintiff could not prove causation, i.e., she could not prove that the cargo shipping container (1) struck her mother's home, and (2) removed it from its foundation and caused the home to sink into the floodwaters, leading to her mother's death. Plaintiff filed an opposition to the motion for summary judgment on February 13, 2026. In the opposition, plaintiff relied on the affidavit and report of Michael K.A. Gurtler, a general contractor expert witness, and the affidavit of Yuhongjian Peng, a "native speaker of the Chinese dialect referred to as Mandarin Common," to defeat defendants' assertion that plaintiff will not be able to prove causation. The trial court denied defendants' motion for summary judgment on May 14, 2026.

A motion for summary judgment shall be granted if the motion, memorandum, and supporting documents show that there is no genuine issue as to material fact and that the mover is entitled to judgment as a matter of law. La. C.C.P. art. 966 A(3). The burden of proof rests with the mover. La. C.C.P. art. 966 D(1). Nevertheless, if

the mover will not bear the burden of proof at trial on the issue that is before the court on the motion for summary judgment, the mover's burden on the motion does not require him to negate all essential elements of the adverse party's claim, action, or defense, but rather to point out to the court the absence of factual support for one or more elements essential to the adverse party's claim, action, or defense. *Id.* The burden is on the adverse party to produce factual support sufficient to establish the existence of a genuine issue of material fact or that the mover is not entitled to judgment as a matter of law. *Id.*

We review the denial of a motion for summary judgment *de novo*. *Robinson v. Otis Condominium Ass'n, Inc.*, 20-359 (La. App. 5 Cir. 2/3/21), 315 So.3d 356, 361, *writ denied*, 21-343 (La. 4/27/21), 314 So.3d 837. Under this standard, we use the same criteria as the trial court in determining if summary judgment is appropriate: whether there is a genuine issue of material fact and whether the mover is entitled to judgment as a matter of law. *Id.* A fact is "material" when its existence or nonexistence may be essential to the plaintiff's cause of action under the applicable theory of recovery. *Alexander v. Parish of St. John the Baptist*, 12-173 (La. App. 5 Cir. 10/16/12), 102 So.3d 904, 909, *writ denied*, 12-2448 (La. 1/11/13), 107 So.3d 617. Facts are material if they potentially insure or preclude recovery, affect a litigant's ultimate success, or determine the outcome of the legal dispute. *Id.* Litigants should be offered opportunities to conduct adequate discovery prior to a ruling on a motion for summary judgment. La. C.C.P. art. 966(A)(3).

Questions of causation are generally issues for the trier of fact's determination. *Cemo v. State Farm Mutual Automobile Insurance Company*, 22-226 (La. App. 5 Cir. 2/1/23), 358 So.3d 913, 918. Similarly, the determination of whether a defect is unreasonably dangerous necessarily involves a myriad of factual considerations, varying from case to case, and by conducting a risk-utility balancing test, wherein the trier of fact must balance the gravity and risk of harm against

individual societal rights and obligations, the social utility of the thing, and the cost and feasibility of repair. *Tramuta v. Lakeside Plaza, L.L.C.*, 14-410 (La. App. 5 Cir. 2/25/15), 168 So.3d 775, 782.

On the showing made, we find defendants did not meet their initial burden of proving there are no genuine issues of material fact or that they are entitled to judgment as a matter of law. Accordingly, the writ application is denied.

Gretna, Louisiana, this 29th day of July, 2026.

MPM
SJW
TSM

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



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LINDA M. TRAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

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NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **07/29/2026** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

A handwritten signature in blue ink that reads "Curtis B. Pursell".

CURTIS B. PURSELL
CLERK OF COURT

26-C-276

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable E. Adrian Adams (DISTRICT JUDGE)
Robert T. Garrity, Jr. (Respondent)

Brandon E. Davis (Relator)
Peter M. Meisner (Respondent)

MAILED

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