

**Fifth Circuit Court of Appeal**  
**State of Louisiana**

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No. 25-CA-486

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PATRICIA ROSE

VERSUS

LAPALCO VILLAGE CENTER, LLC, "XYZ" CONSTRUCTION COMPANY, AND "XYZ"  
INSURANCE COMPANY

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ON APPEAL THE TWENTY-FOURTH JUDICIAL DISTRICT COURT  
PARISH OF JEFFERSON, STATE OF LOUISIANA  
NO. 833-462, DIVISION "M"  
HONORABLE SHAYNA BEEVERS MORVANT, JUDGE PRESIDING

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May 27, 2026

**FREDERICKA HOMBERG WICKER**  
**JUDGE**

Panel composed of Judges Fredericka Homberg Wicker,  
Jude G. Gravois, and Timothy S. Marcel

**AFFIRMED**

**FHW**  
**JGG**  
**TSM**

TRUE COPY



JALISA WALKER  
DEPUTY CLERK

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**WICKER, J.**

Appellant, Patricia Rose (referred to herein as “Appellant”), appeals two judgments of the 24th Judicial District Court, both entered on June 4, 2025. One of the judgments granted the Motion for Summary Judgment filed by appellees, Lapalco Village Center, LLC, Lauricella Land Company, LLC, and Starr Indemnity and Liability Company, resulting in the dismissal of Appellant’s claims against those parties, with prejudice. The other judgment granted the Motion for Summary Judgment filed by appellee, Nations Roof, LLC, and resulted in the dismissal of Appellant’s claims, with prejudice, against that company. For the reasons stated below, the judgments of the district court are affirmed.

**CONCISE STATEMENT OF THE CASE**

In this case, Appellant, Patricia Rose, filed suit, complaining of injuries she allegedly sustained on September 29, 2021, following Hurricane Ida, while she was employed at the Rose Dress For Less Store<sup>1</sup> located in Marrero, Louisiana. She alleged she slipped and fell in the hot, humid store while unpacking merchandise. She sued various entities, including the building owners, Lapalco Village Center and Lauricella Land Co., and Nations Roof, LLC, the roofing contractors, appellees here.

**PROCEDURAL HISTORY**

Appellant filed a Petition for Damages on September 29, 2022, naming as defendants, Lapalco Village Center, LLC (“Lapalco”), XYZ Construction Company, and XYZ Insurance Company. Appellant sought damages pursuant to La. C.C. art. 2317 and 2317.1 for injuries she sustained in a slip and fall accident that occurred on September 29, 2021, at the Ross Dress for Less Store d/b/a dd’s Discount Store (Ross or the “Store”) located on Lapalco Boulevard in Marrero,

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<sup>1</sup> Ross Dress for Less d/b/a dd’s Discount Store and Ross Stores, Inc. may sometimes be collectively referred to herein as “Ross.”

Louisiana.<sup>2</sup> Appellant’s First Amending and Supplemental Petition for Damages, filed on August 7, 2023, substituted Starr Indemnity and Liability Company (“Starr”), Lapalco’s insurer, as a defendant in lieu of XYZ Insurance Company. Appellant’s Second Supplemental and Amending Petition for Damages which was filed October 24, 2023, substituted Nations Roof, LLC (“Nations”) as a defendant in lieu of XYZ Construction Company, and added Lauricella Land Co., LLC (“Lauricella”) as an additional defendant. (As used herein, “Petition” will refer to Appellant’s petition, as amended and supplemented, unless otherwise indicated).

On March 19, 2025, Lapalco, Starr, and Lauricella (the “Lapalco Defendants”) filed a Motion for Summary Judgment as to the issue of causation, claiming that Appellant would not be able to sustain her burden of proof at trial under La. C.C. arts. 2317 and 2317.1. The motion sought dismissal of all of Appellant’s claims against the Lapalco Defendants. The Lapalco Defendants attached the following in support of their motion: (i) an excerpt of the deposition of Patricia Rose, taken on June 28, 2023 in conjunction with a worker’s compensation case filed by Appellant;<sup>3</sup> (ii) an excerpt of the deposition of Carla Gendusa, the Lapalco Defendants’ designated representative, taken on September 26, 2024; (iii) the Petition; (iv) an excerpt of the deposition of Patricia Rose, taken on October 12, 2023, in conjunction with this matter; (v) a letter, dated June 7, 2023, from Sandra Allen, RHIA, the duly authorized custodian of medical records at Ochsner Medical Center, certifying that Appellant’s medical records (the “Ochsner Medical Records”) provided therewith were true and correct copies; (vi) a letter from the

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<sup>2</sup> As will be discussed below, the shopping center property where the Store was located was owned by Lauricella Land Co., LLC and managed by Lapalco. Nations, as hereafter defined, was a roofing contractor hired to perform roof repairs to the Store following Hurricane Ida. Appellant was the Store manager.

<sup>3</sup> The worker’s compensation case filed by Appellant was captioned *Patricia Rose v. Ross Stores, Inc., and Arch Insurance Company*, Docket No.: 23-671, District: “07,” on the docket of the Office of Workers’ Compensation for the Parish of Jefferson, State of Louisiana (the “Worker’s Compensation Case”).

custodian of the records of the Bone & Joint Clinic (the “Bone & Joint Medical Records”), certifying that Appellant’s medical records attached thereto were true and correct copies; and, (vii) the Affidavit of Angel Connor, a Store employee, who was present at the time of Appellant’s accident.

The hearing on the Lapalco Defendants’ summary judgment motion was scheduled for April 28, 2025. The deadline to file an opposition to that motion was April 14, 2025. No opposition was filed on behalf of Appellant on or before that date. On April 17, 2025, Appellant’s counsel filed a motion to continue the hearing on the Lapalco Defendants’ summary judgment motion, alleging that Appellant needed time to depose Angel Connor. The Lapalco Defendants opposed the motion for continuance.

On April 28, 2025, the date appointed for the hearing on the Lapalco Defendants’ summary judgment motion, attorney Ron Austin appeared in court as counsel for Appellant and urged that the matter be continued for the additional reason that Jason Sampley, the attorney in Mr. Austin’s firm to whom the case had recently been reassigned, had fallen ill and could not appear in court that day. The district court granted the continuance based solely on Mr. Sampley’s unavailability and rescheduled the matter for hearing on May 27, 2025; however, the district court expressly ruled that the continuance did not extend Appellant’s deadline for filing an opposition to the Lapalco Defendants’ summary judgment motion. No discovery deadlines were extended, nor was Appellant granted leave to depose Ms. Connor.

On April 11, 2025, Nations filed a Motion for Summary Judgment, also asserting that Appellant could not satisfy her burden of proof at trial under La. C.C. arts. 2317 and 2317.1, as to possession or *garde* of the Store. Nations supported its summary judgment motion with: (i) the October 12, 2023 deposition of Patricia Rose; (ii) the deposition of Carla Gendusa, together with Exhibit 4 to Ms.

Gendusa's deposition;<sup>4</sup> (iii) the deposition of Patricia Rose, given in the Worker's Compensation Case; (iv) the Affidavit of Nick Bush, Vice-President of Nations; (v) the Ochsner Medical Records; (vi) the Bone & Joint Medical Records; and (vii) the Affidavit of Angel Connor. A hearing on Nations' summary judgment motion was set for May 27, 2025.

On May 12, 2025, Appellant filed an "Omnibus Opposition to Defendant's (sic) Motion for Summary Judgment." The opposition was timely as to Nations but not as to the Lapalco Defendants. Attached to the opposition, were: Exhibit 1: Ms. Gendusa's deposition; Exhibit 2: the Affidavit of Warren Peters, a proposed expert witness for Appellant; Exhibit 3: Discovery Pleadings;<sup>5</sup> Exhibit 4: the Lapalco Defendants' summary judgment motion, including exhibits A through G thereto;<sup>6</sup> Exhibit 5: Statement of Uncontested Material Facts submitted by the Lapalco Defendants in support of their summary judgment motion; Exhibit 6: Appellant's June 28, 2023 deposition transcript;<sup>7</sup> and, Exhibit 7: dd's Discounts' Work Order, dated September 4, 2021, together with email correspondence, by and between Al Santa Maria of Ross Stores, Inc. and Thomas Blaylock of Nations, dated September 7, 2021, relative to temporary roof repairs that had been

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<sup>4</sup> Exhibit 4 to Ms. Gendusa's deposition consisted of an Invoice from Nations to Ross Stores, Inc., dated September 14, 2021; various dd's Discounts' Work Orders for repairs before and after August 29, 2021; letters from Ross Dress For Less/dd's Discounts to Lapalco, dated prior to August 29, 2021, relative to repairs; and the Lease, by and between Lapalco and Ross Dress For Less, Inc., effective October 20, 2015.

<sup>5</sup> These consisted of: (A) a Notice of 1442 Deposition to the Lapalco Defendants; (B) a Notice of Appellant's Deposition; (C) Appellant's June 28, 2023 Deposition Transcript; (D) Appellant's Responses to the Lapalco Defendants' Interrogatories; (E) Appellant's Responses to the Lapalco Defendants' Requests for Production of Documents; (F) The Lapalco Defendants' Responses to Appellant's Interrogatories; and (G) the Lapalco Defendants' Responses to Appellant's Requests for Production of Documents. Appellant's Exhibit 3 is not included as an attachment to her omnibus opposition in the electronic record on appeal filed in this Court.

<sup>6</sup> Appellant's Exhibit 4 is not included as an attachment to her omnibus opposition in the electronic record on appeal filed in this Court.

<sup>7</sup> Appellant's Exhibit 6 is not included as an attachment to her omnibus opposition in the electronic record on appeal filed in this Court.

performed by Nations, as well as email correspondence between the two dated October 12, 2021, relative to debris removal and future work.<sup>8</sup>

On May 20, 2025, Nations filed a Reply Memorandum in Support of its Motion for Summary Judgment and La. Code Civ. Proc. Art. 966(D)(2) Objection to Evidence. Therein, Nations objected to Appellant's Exhibits 2 (the Affidavit of Appellant's proposed expert Warren Peters), 3 (discovery pleadings), 4 (Lapalco Defendants' summary judgment motion and exhibits), 5 (Lapalco Defendants' Statement of Uncontested Material Facts), and 7 (unverified business records of Ross Stores, Inc.).<sup>9</sup> On the same date, Nations also filed a motion to strike the portions of Appellant's omnibus opposition and any supporting exhibits thereto that were directed towards the Lapalco Defendants' summary judgment motion on the ground that the district court's April 28, 2025 ruling precluded the filing of an opposition to the Lapalco Defendants' motion. On the following day, the Lapalco Defendants joined in Nation's motion to strike.

At the hearing on May 27, 2025, the district court first took up Nations' motion to strike, which was joined by the Lapalco Defendants. Finding that there was no affidavit of service in the record, the district court denied the motion to strike. The district court next heard Appellant's arguments on her motion to continue the hearing on the motions for summary judgment in order that she might depose Angel Connor. The district court denied the requested continuance, observing that the time for discovery had come and gone without any request having been made by Appellant for an extension of the discovery deadline.

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<sup>8</sup> Appearing as an additional exhibit to Appellant's omnibus opposition in the electronic record on appeal filed in this Court, is Nations Roof LLC's Motion and Incorporated Memorandum in Support of its Motion to Strike Certain Aspects of the Plaintiff's Omnibus Opposition to Motions for Summary Judgment and Motion to Expedite, although this pleading was not filed by Nations until *after* Appellant had filed her omnibus opposition on May 12, 2025. The inclusion in the electronic record of this after-filed pleading as an exhibit to Appellant's omnibus opposition is likely a mistake.

<sup>9</sup> At the May 27, 2025 hearing on Nations' objections to Appellant's exhibits, Nations withdrew its objections to Exhibits 4 and 5 because those pleadings were part of the record of the proceedings.

Thereafter, the district court heard arguments on the Lapalco Defendants' (unopposed) summary judgment motion. The Lapalco Defendants contended that, because Appellant testified that she did not know what caused her to fall on the date of the accident, she would not be able to establish an essential element of her case (cause in fact) at trial. The district court granted summary judgment in favor of the Lapalco Defendants on that basis. A judgment dismissing Appellant's claims against the Lapalco Defendants, with prejudice, was entered on June 4, 2025.

The district court next considered Nations' objections to Appellant's summary judgment evidence, specifically, Exhibits 2, 3 and 7. Nations contended that the Affidavit of Warren Peters (Exhibit 2) did not meet the requirements of an expert witness affidavit; that the discovery pleadings (Exhibit 3) were not contained in the exclusive list of acceptable summary judgment evidence listed in La. C.C.P. art. 966(A)(4)(a); and the business records of Ross Stores, Inc. (Exhibit 7) were unverified by any affidavit by an appropriate individual. The district court agreed and found those exhibits inadmissible in opposition to Nations' summary judgment motion. The district court then granted Nations' motion for summary judgment and dismissed Appellant's claims against Nations, with prejudice. A judgment to that effect was entered on June 4, 2025.

Appellant filed a Motion for a Devolutive Appeal on August 11, 2025. The motion was granted on August 22, 2025. This appeal timely followed.

### **ASSIGNMENTS OF ERROR**

Appellant has assigned four errors for our review. She first contends that the district court erred in granting summary judgment where genuine issues of material fact exist regarding causation, custody/garde, notice, and unreasonable risk of harm. Her second assignment of error alleges that the district court erred by weighing evidence and resolving competing factual inferences against her. Third,

Appellant asserts that the district court erred in finding that because she could not identify the precise mechanism of her fall, she could not establish causation.

Finally, Appellant contends that the district court erred in granting summary judgment where the defendants failed to establish their entitlement to judgment as a matter of law.

### **STATEMENT OF FACTS**

In August and September 2021, Appellant was employed as the manager of the Ross, a woman's clothing store (the Store) located in the Lapalco Center, in Marrero, Louisiana (the "Center"). Lapalco owned the Center. Lauricella was Lapalco's managing member. The Store was leased by Ross Stores, Inc. pursuant to a Lease (the "Lease") that became effective on October 20, 2015.

Hurricane Ida made landfall on August 29, 2021, causing extensive and widespread damage to areas of Jefferson Parish, including the Center and the Store. After the storm passed, Ross required Appellant to go back to work at the Store even though the damage was such that the Store could not open for business.

Section 11.2.1(a) of the Lease provides that the Tenant "shall maintain the interior of the Store . . . in good repair and condition, reasonable wear and tear excepted." The Landlord, however, is responsible for the roof and roofing (including the interior ceiling, walls, floors, and merchandise damaged from leaking, provided that damage to the roof was not caused by Tenant or Tenant's agents, contractors, or employees). Sections 11.2.1(b) and 21.7 of the Lease give the Tenant the right, under certain circumstances, to undertake immediate repairs which are the Landlord's responsibility. Those conditions were present following Hurricane Ida and Ross invoked those sections to commence repairs to the Store, including temporary repairs to the Store's roof.

Appellant was the employee directly responsible for dealing with the contractors retained by Ross, including roofing contractors, and was the person

responsible for reporting on the condition of the building and the state of the repairs. Carla Gendusa, the entity representative for the Lauricella Defendants testified that Ross retained more than one roofing contractor, one of which was Nations, to effect temporary repairs to the Store's roof. Two others were Falcon Roofing, LLC, and Division's Maintenance Group. Ms. Gendusa stated that, at the time, it was difficult to obtain roofing materials and that the work done by Ross' contractors was never designed to be permanent; it was undertaken only to make the roof watertight until a permanent roof could be installed by Lauricella on behalf of Lapalco. Ms. Gendusa was not aware when the temporary roof repairs were completed.

Appellant testified at her first deposition, taken in conjunction with the Worker's Compensation Case, that on the date of the accident, she was working inside the Store with several other employees, including Angel Connor. At some point, Appellant and Ms. Connor were working in the receiving department, taking merchandise out of boxes, and hanging it up on racks to be put out into the Store for sale. Appellant described the conditions in the receiving department area as being "hot" and "moist." As Appellant was taking merchandise out of a box on one side of her and hanging it on a rack on the other side, she suddenly slipped and fell to the floor on her left side, suffering injuries.

Appellant testified that she could not say what caused her to slip and fall. She stated that her shoes could have been wet or that she may have tripped on some cardboard that was on the floor. She believed that Ms. Connor witnessed the incident.

At her deposition given in conjunction with the instant matter on October 12, 2023, Appellant testified that she had begun working in the Store almost immediately after Hurricane Ida. During the time period between August 29, 2021, and the date of her accident on September 29, 2021, she had been in the

Store's receiving department daily and was aware of the condition of the area. She testified that roof repairs at the Store had been on-going at the time of her accident, but she was unaware of the specifics of any roof repairs that had been made during the month between Hurricane Ida's landfall and her accident. Appellant reaffirmed the testimony she had given in her prior deposition in the Worker's Compensation Case, that she did not know what caused her to fall on the date of the accident.

On questioning by her counsel, Appellant stated that the day of her accident was a "misty, rainy day." She described the condition of the Store that day as "horrible." She said that the entire Store was under construction at the time. She stated that it was hot, there was no air conditioning in the building, water was coming into the building from the ceiling, "especially through the receiving area," and that cardboard boxes were present "throughout the receiving area." Appellant said that Ross had been made aware of the condition of the Store. She believed that the Lapalco Defendants were also aware of the Store's condition because, at some point prior to her accident, she had met with representatives of the "Landlord" and permitted them to walk through and inspect the Store.

When specifically asked to explain how the accident happened, Appellant stated:

All that I know is I was working . . . back in the receiving area. It was very moist and wet back there. And I was processing and looked like I turned and I fell . . . All I know, I was back there working and I fell.

\* \* \*

[I]t definitely was wet back there, yes, and I – I went to process and then I – all I know is that – I don't know, I just fell. I just fell.

In her affidavit, Ms. Connor attested that she was the only other person in the receiving area with Appellant at the time of the accident. She did not witness the accident but observed Appellant pushing boxes of clothes in the receiving area near the conveyor belt. She did not see how Appellant got between the two belts.

She heard something and asked what it was, whereupon Appellant cried out for help. Ms. Connor went to Appellant and asked what happened. Appellant related that she took her foot and tried to push the boxes and lost her balance. Ms. Conner, together with other employees, then rendered assistance to Appellant.

Appellant was initially taken to the Ochsner Clinic Emergency Room in Marrero, Louisiana. The Ochsner Medical Records reflect that Appellant reported to emergency room personnel that she lost her balance and fell while at work. The Bone & Joint Medical Records indicate that two days after the accident, Appellant reported to the Bone & Joint Clinic that she tripped on something at work and fell. Appellant's Petition alleges that on the date of the accident, she "suddenly and without warning, slipped and fell in a puddle of water, causing serious injuries."

The Affidavit of Nick Bush, the Vice President for Nations, attests to the fact that Nations was retained by Ross on September 4, 2021, to perform emergency temporary roof repairs to the Store's roof. Nations was working on-site at the Store on September 6, 2021, and completed its work that day. Mr. Bush also attested that Nations did not perform any services related to the Store's roof after September 6, 2021. Nations informed Ross that the repairs were temporary and that the Store would require a new permanent roof. Nations was not selected as the contractor to install the new permanent roofing system. Mr. Bush also attested that neither Nations, nor any of its employees, entered the inside of the Store and that Nations never received any notice of any issue, problem or complaint with the temporary roof repair work carried out by Nations.

### **SUMMARY JUDGMENT STANDARDS**

Appellate courts review summary judgments *de novo*, under the same criteria as the district courts to determine whether summary judgment is appropriate. *Neville v. Redmann*, 22-175, p. 7 (La. App. 5 Cir. 12/31/22), 356

So.3d 568, 575, *writ denied*, 23-126 (La. 4/4/23), 558 So.3d 861, (citing *Lapuyade v. Rawbar, Inc.*, 18-474 (La. App. 5 Cir. 12/27/18), 263 So.3d 508, 511-12, *writ denied*, 19-315 (La. 4/15/18), 267 So.3d 1126). “After an opportunity for adequate discovery, 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.”<sup>10</sup> La. C.C.P. art. 966(A)(3). The burden of proof rests with the mover unless the mover will not bear the burden of proof at trial on the issue before the court on summary judgment. La. C.C.P. art. 966(D)(1). In that instance, the mover need only show the court the absence of factual support for one or more essential elements of the adverse party's claim. *Id.* The burden then shifts to the adverse party to establish factual support sufficient to demonstrate the existence of a genuine issue of material fact or that the mover is not entitled to judgment as a matter of law. *Id.* A court's determination of whether a genuine issue of material fact exists requires reference to the applicable substantive law. *Hacienda Holding Co., L.L.C. v. Home Bank*, 20-189, p. 15 (La. App. 5 Cir. 12/30/20), 309 So.3d 435, 445 (citing *Stephens v. Southern Sweeping Servs.*, 03-826 (La. App. 5 Cir. 11/25/03), 862 So.2d 197, 199).

### **APPLICABLE SUBSTANTIVE LAW**

Appellant's action for premises liability arises under Articles 2317 and 2317.1. In order to make out a claim for premises liability under those articles, a claimant must demonstrate that: (1) the property which caused the damage was in the custody of the defendant; (2) the property had a condition that created an unreasonable risk of harm; (3) the unreasonably dangerous condition was a cause in fact of the resulting injury; and (4) the defendant had actual or constructive

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<sup>10</sup> We observe from the record that plaintiff's petition was filed in 2022 and the motions for summary judgment were filed in 2025.

knowledge of the risk. *Richard's Real Estate Properties, LLC v. City of Grand Isle, et al.*, 25-253, p. 3 (La. App. 5 Cir. 12/3/25), 12/3/25), 428 So.3d 695, 698; *Dragna v. Terrytown Café, Inc.*, 22-239, p. 7 (La. App. 5 Cir. 10/5/22), 353 So.3d 203, 209, (citing *Bryant v. Ray Brandt Dodge, Inc.*, 19-464 (La. App. 5 Cir. 3/17/20), 292 So.3d 190, 197).<sup>11</sup> Actual or constructive knowledge (or notice) of the defect means that the party either knew of the defect or, in the exercise of reasonable care, should have known of the defect. *Richard's Real Estate Properties*, 428 So.3d at 698. The concept of constructive knowledge under La. C.C. art. 2317.1 imposes a reasonable duty to discover apparent defects in the thing in the defendant's *garde* or legal custody. *Id.*

## **DISCUSSION**

### *Summary Judgment in Favor of the Lapalco Defendants*

An essential element of Appellant's claim is that the unreasonably dangerous condition, *i.e.*, the puddle of water that she allegedly slipped in causing her to fall, was a cause in fact of her resulting injuries. Although Appellant testified that the area was moist and wet, she repeatedly testified that she did not know what caused her to fall. She was only able to speculate that her shoes were wet or that she had slipped on wet cardboard. Mere conclusory allegations, improbable inferences, and unsupported speculation will not support the finding of a genuine issue of material fact even if contained in a deposition. *Dragna*, 353 So.3d at 209 (citing *Sears v. Home Depot, USA, Inc.*, 06-201 (La. App. 4 Cir. 10/18/06), 943 So.2d 168).

Immediately after her fall, Appellant told Ms. Connor that the accident occurred when she was pushing boxes with her foot and lost her balance and

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<sup>11</sup> A writ application was decided in *Dragna* on the same date. See *Dragna v. Terrytown Café, Inc.*, 22-241 (La. App. 5 Cir. 10/5/22), 355 So.3d 8, filed by F&W Southern Corporation ("F&W"), the owner of the property in which the Terrytown Café was located. We reversed the district court and granted summary judgment in favor of F&W on the ground that the plaintiff could not establish the cause of her trip or slip and fall accident.

informed the emergency room personnel at Ochsner that she lost her balance and fell. She informed the Bone & Joint Clinic two days later that she fell when she tripped on something at work.

Accordingly, upon our *de novo* review, we find that summary judgment in favor of the Lapalco Defendants was appropriate because, as discussed above, Appellant will be unable to provide evidence as to what caused her slip-and-fall. She did not testify in either of her depositions that there was a puddle of water on the floor in which she slipped, causing her to fall and sustain injuries. She provided a different version of what caused her to slip and fall to each of Ms. Conner, Ochsner, and the Bone & Joint Clinic, none of which were the same as the allegation set forth in her Petition. She specifically testified that she did not know what caused her to fall. Under the circumstances, Appellant has not met her burden of demonstrating that she will be able to establish the essential element of causation at trial or of demonstrating that the Lapalco Defendants are not entitled to judgment as a matter of law.

#### *Summary Judgment in Favor of Nations*

Summary judgment was properly granted in favor of Nations, dismissing Appellant's claims against that company. Appellant neither alleged in her Petition, nor introduced any summary judgment evidence, demonstrating that Nations had custody or *garde* of the Store at the time of her accident. Nations submitted the Affidavit of Mr. Bush, with documentary back-up, demonstrating that Nations was contracted by Ross only to provide temporary roof repairs, which it completed on September 6, 2021, weeks before Appellant's accident. Mr. Bush's affidavit also demonstrated that Nations performed no work at the Store following the completion of its temporary repair work on September 6, 2021. Proof that Nations had custody or *garde* of the Store at the time of Appellant's accident is an essential element of her premises liability claim against Nations.

Appellant was also required to demonstrate that Nations had actual or constructive notice of the defect. Mr. Bush's affidavit attests to the fact that Nations received no notice of any defective work or any issue with its work. Appellant testified that she was the contact between Ross and the contractors. She introduced no evidence that she or anyone else ever notified Nations of any defective work or that she notified anyone other than Nations of any defective work having been performed by Nations.

The testimony of Ms. Gendusa established that multiple roofing companies performed work on the Store in the aftermath of Hurricane Ida, at the behest of Ross. Appellant never identified Nations in either of her depositions as the company that had custody or *garde* of the Store at the time of the accident. She did not testify that Nations' work was defective, that Nations knew or should have known of any defect, or that any defective work by Nations caused her to fall and suffer injuries. Appellant would bear the burden of proof as to these issues at trial. Moreover, as discussed above, Appellant could not demonstrate the cause in fact of her accident and resulting injuries.

Appellant has failed to establish sufficient factual support to demonstrate the existence of a genuine issue of material fact as to any of these issues or to demonstrate that Nations is not entitled to judgment as a matter of law.

### **DECREE**

For the reasons stated above, the June 4, 2025 Judgments of the district court granting summary judgments in favor of Nations Roof, LLC, Lapalco Village Center, LLC, its insurer, Starr Indemnity and Liability Company, and Lauricella Land Company, LLC, dismissing Appellant's claims against those entities, with prejudice, are affirmed.

**AFFIRMED**

SUSAN M. CHEHARDY  
CHIEF JUDGE

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

JUDGES



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SUSAN S. BUCHHOLZ  
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**NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY**

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **MAY 27, 2026** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

**CURTIS B. PURSELL**  
CLERK OF COURT

**25-CA-486**

**E-NOTIFIED**

24TH JUDICIAL DISTRICT COURT (CLERK)

HONORABLE SHAYNA BEEVERS MORVANT (DISTRICT JUDGE)

JASON M. SAMPEY (APPELLANT)

WILLIAM PRATT (APPELLANT)

PAUL J. POLITZ (APPELLEE)

RON A. AUSTIN (APPELLANT)

DERRICK A. JUSCZAK (APPELLEE)

JUSTINE M. WARE (APPELLEE)

VICTOR M. GOLDHUSH (APPELLANT)

DONALD G. CASSELS, III (APPELLEE)

RAYMOND C. LEWIS (APPELLEE)

**MAILED**

NO ATTORNEYS WERE MAILED