

# Fifth Circuit Court of Appeal State of Louisiana

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No. 26-C-351

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LORENZA MARTYN

*versus*

CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS AND  
NATIONAL UNION FIRE INSURANCE COMPANY OF  
PITTSBURGH, PA

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IN RE CELLCO PARTNERSHIP AND NATIONAL UNION FIRE INSURANCE COMPANY OF  
PITTSBURGH, PA  
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT  
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE  
DANYELLE M. TAYLOR, DIVISION "O", No. 840-449

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TRUE COPY

September 11, 2026



MORGAN NAQUIN  
DEPUTY CLERK

Panel composed of Judges Susan M. Chehardy,  
Jude G. Gravois, and Marc E. Johnson

## WRIT DENIED

Defendants, Cellco Partnership d/b/a Verizon Wireless and National Union Fire Insurance Company of Pittsburgh, PA, seek this Court's supervisory review of the trial court's May 26, 2026 judgment which denied defendants' motion for summary judgment. For the following reasons, on the showing made, we deny the writ application.

On May 5, 2023, plaintiff, Lorenza Martyn, filed a petition for damages, alleging she was injured on May 21, 2022 when the bench she was sitting on at a Verizon Wireless store collapsed. Plaintiff's petition claimed defendants had actual or constructive knowledge of the condition which caused the damage, and they failed to exercise reasonable care.

On March 6, 2026, defendants filed a motion for summary judgment under the Louisiana Merchant Liability Statute, La. R.S. 9:2800.6. Relying on plaintiff's deposition testimony, defendants argued plaintiff cannot meet her burden of proving defendants created, knew of, or should have known of any alleged defect in the bench. Defendants asserted that plaintiff has not conducted any discovery and failed to produce any evidence to establish the elements of her claim.

In her deposition, plaintiff testified that she was at the Verizon Wireless store to purchase a new phone. While a Verizon employee was working on transferring the information from her old phone to her new phone, plaintiff went to sit down on a bench. She did not notice any defects in the bench—explaining she “just went to sit down.” As she sat on the right side of the bench, the bench collapsed “right away,” and she fell to the floor. She did not know how long the bench was defective before she sat down. Immediately after, Verizon employees came over and “took the bench away right away.” She told them she wanted to see the bench, but the employees would not let her see it and they refused to let her take a picture of the bench. She did not know if any of the employees knew that something was wrong with the bench before she fell. The employee that helped plaintiff after the fall told her she did not need to fill out any incident report, but she was ultimately given a “claim number.”

In opposition, plaintiff argued that genuine issues of material fact remain as to defendants' constructive notice of the defective condition of the bench, their failure to maintain any reasonable inspection protocol for customer seating, and the extent of plaintiff's injuries. She also argued that the motion is premature as she has not had the opportunity to conduct discovery as to the evidence within defendants' control. She claimed that on April 20, 2026, she served defendants with interrogatories and requests for production of documents, and the discovery has not yet been answered.

At the May 7, 2026 hearing, the trial court found that a genuine issue of material fact remained as to whether reasonable care was taken and the motion was premature since discovery on that issue was ongoing. A written judgment denying the motion for summary judgment was signed on May 26, 2026.

Generally, a motion for summary judgment may only be granted “[a]fter an opportunity for adequate discovery ... .” La. C.C.P. art. 966(A)(3). Upon finding that the parties have not had time to conduct adequate discovery, a trial court has the

discretion to deny the motion for summary judgment to allow further discovery. *See Schultz v. Cox Operating, LLC*, 17-165 (La. App. 4 Cir. 1/31/18), 317 So.3d 336, 340. Although the language of La. C.C.P. art. 966 does not grant a party the absolute right to delay a decision on a motion for summary judgment until all discovery is complete, the law does require that the parties be given a fair opportunity to present their case. *Leake & Anderson, LLP v. SIA Ins. Co. (Risk Retention Grp.), Ltd.*, 03-1600 (La. App. 4 Cir. 3/3/04), 868 So.2d 967, 969.

Upon *de novo* review, on the showing made, and considering the ongoing discovery in this matter, we cannot say that the trial court abused its broad discretion in denying the motion for summary judgment until additional discovery is completed. We thus find no error in the trial court's denial of defendants' motion for summary judgment as premature at this point. Accordingly, this writ application is denied.

Gretna, Louisiana, this 11th day of September, 2026.

**JGG**  
**SMC**  
**MEJ**

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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CURTIS B. PURSELL  
CLERK OF COURT

SUSAN S. BUCHHOLZ  
CHIEF DEPUTY CLERK

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 **09/11/2026** 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:

**CURTIS B. PURSELL**  
CLERK OF COURT

**26-C-351**

**E-NOTIFIED**

|                                               |                                    |
|-----------------------------------------------|------------------------------------|
| 24th Judicial District Court (Clerk)          |                                    |
| Honorable Danyelle M. Taylor (DISTRICT JUDGE) |                                    |
| Benjamin B. Perkins (Relator)                 | Lee M. Peacocke (Relator)          |
|                                               | Brian L. King (Respondent)         |
|                                               | Paul C. Mitchell, III (Respondent) |

**MAILED**