

Let It Snow– But Keep Your Commercial Sidewalk Clear

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In an important ruling, the Appellate Division determined that even if it is still snowing, commercial landowners may still have a responsibility to keep public walkways along its property safe and free from snow and ice hazards.

In Pareja v. Princeton Int'l Properties, a plaintiff was seriously injured when he slipped and fell on black ice that formed on defendant Princeton International Properties' concrete driveway. According to the plaintiff, it had snowed days before the accident and it was drizzling sleet at the time of his fall. It appeared that the defendant had not performed any snow or ice pre-treatment or removal on the date of his fall. Plaintiff's engineering expert stated that pre-treating the slippery conditions with anti-icing and de-icing materials would have reduced the hazard.

What is the Ongoing Storm Rule for Commercial Landowners?

In other states, courts have applied the ongoing storm rule, which states that commercial landowners have no duty to remove or reduce snow and ice hazards while precipitation continues, reasoning that to require such actions would be impractical and inexpedient.

In this case, the trial court applied the ongoing storm rule, holding that the defendant had no duty to remove or reduce the ice hazard until after the precipitation ended. The court entered summary judgment in favor of the defendant.

Appeal of the Trial Court's Decision: Was Defendant Potentially Liable for Plaintiff's Injuries?

On appeal, the Appellate Division addressed the ongoing storm rule and rejected it for the first time. After analyzing opinions from other jurisdictions, both in favor and against the ongoing storm rule, the Court decided against adopting a bright line rule.

Instead, the Court determined that the ongoing storm rule ignores circumstances where it is reasonable for commercial landowners to take measures to prevent accidents before the end of a storm. It held that commercial landowners have a duty to exercise reasonable care while precipitation is falling.

The Factors a Personal Injury Jury Would Consider

So, how does a jury determine what is reasonable? The Court listed the following factors a jury should consider:

- the extent of the precipitation
 - the timing of the precipitation
 - the number of individuals expected to use the premises
 - whether any action would be impractical or inexpedient
 - the nature of any efforts taken
 - the past, current, and anticipated weather conditions

Are Commercial Landowners Expected to Remove Snow or Ice Hazards?

Whether a landowner acted reasonably is a question of fact for a jury to decide. The Court sent this case back to the lower court for a jury to determine whether this defendant acted reasonably under these circumstances.