DRAMATIC CHANGE IN SNOW AND ICE LAW IN MASSACHUSETTS

Massachusetts defendants have routinely filed, and often prevailed on, summary judgment motions in cases involving slip and falls on snow and ice. That will not continue.

On July 26, the common-law rule of natural accumulation melted away. Under what is known as the "Massachusetts Rule," a property owner was not liable for failing to remove a natural accumulation of snow and ice. The landscape changed dramatically with the issuance of the decision in Papadopoulos v. Target Corp., SJC-10529 (7/26/10).

Plaintiff Papadopoulos was injured when he slipped and fell on a patch of ice in a mall parking lot after leaving a department store. He sued the store and the contractor retained to remove snow and ice from the lot. The trial court concluded that the ice that caused the plaintiff's fall was a "natural accumulation" and allowed summary judgment for the defendants. The plaintiff appealed and the Appeals Court affirmed the judgment.

The Supreme Judicial Court granted further appellate review, and, after reviewing the law in this area over the last century, the Court concluded that the distinction between natural and unnatural accumulations of snow and ice was a "relic of abandoned landlord-tenant law" which "has sown confusion and conflict in our case law." It abolished the distinction. What is reasonably expected of a property owner will depend on the property use and the amount of foot traffic expected.

The ruling is retroactive, which will affect pending claims. Given the number of slip and falls on snow and ice in Massachusetts and the laissex faire attitude of property owners who relied on the law protecting them from liability, we expect an onslaught of personal injury cases.