

Property Owners: Pay Attention to Your Walkways In The Winter Or Else.

Let it snow, let it snow, let it snow.

Maybe not, if property owners pay attention to the Massachusetts Supreme Court.

A recent ruling by the Massachusetts Supreme Judicial Court makes it easier for people injured on snow covered walkways to successfully sue those property owners who don't clear snow from walking surfaces. Winter is here and so are slippery sidewalks, parking lots and walkways.

Previously, Massachusetts courts have ruled that a property owner cannot be held liable if someone is injured walking on new or what courts have called "natural" snow. Instead, owners can be held liable if someone walks over the natural snow and then another person falls down while walking on the same area of snow, called "unnatural" snow by the courts. Confusing at best!

The case that changed the way property owners should look at snow removal involves a man who slipped and fell after shopping at Target inside the Liberty Tree Mall in Danvers eight years ago. He was walking out of the store when he slipped on a piece of ice that had frozen near his car after a snowplow had cleared off the store parking lot. He filed a lawsuit against both Target and Weiss Landscaping Company Inc. In 2002 the Court ruled that neither Target nor the landscaping company that plowed the parking lot were liable because the ice was considered natural accumulation and did not violate the duty of reasonable care.

But this past July at the height of the summer heat, the Supreme Judicial Court abolished the distinction between natural and unnatural accumulation of snow or ice and vacated the decision by the previous court, leaving the suit active. The court created a liability for injuries due to ice and snow and made the distinctions clearer than before. Property owners should keep a journal or sweep log identifying each time their parking lots are cleared. They should also conduct inspections of the property during the winter months. Keeping the area clear of snow and ice and documenting it provides the best defense against any potential claims.

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