

Ice and Snow: Weather Conditions, Location and Property Ownership All Impact Personal Injury Cases

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As we feel the first signs of cold weather here in New Jersey, we anticipate questions from those who have slipped and fallen on ice and sustained a personal injury. Slip and fall accidents are fact-sensitive when it comes to compensation, and it is critical that the attorney consider all of the details, from the location of the fall to the ownership of the property where the injury occurred. This blog examines several weather-related cases to illustrate how our [Accidents/Personal Injury practice group](#) reviews slip and fall cases with the objective of securing the best outcome possible for our clients.

Statutory Protection for Public Entities: Weather Conditions on Streets & Highways

If a person slips and falls on property owned by a public entity, the applicable statutes are [N.J.S.A .59:4-7](#) or Title 59 and the New Jersey Tort Claims Act which present several hurdles and immunities that must be considered in the analysis of a case and in determining liability.

Icy Highway Slip & Fall

[Title 59](#) states, “neither a public entity nor a public employee is liable for an injury caused solely by the effect on the use of streets and highways of weather conditions.” In other words, a dangerous, icy highway that is caused solely by weather conditions means that the public entity or public employee associated with that highway cannot be held liable for the icy condition.

Icy Sidewalk Slip & Fall

The statute's direct reference to "streets and highways" is important terminology in all cases. For example, in a case where a pedestrian slipped and fell on any icy sidewalk of a city housing complex, the city housing authority was **not** immune from liability because the statutory terms did not apply to an accident that occurred on a sidewalk. In that case, the pedestrian's action for premises liability for injuries sustained was permitted to proceed against the city housing authority, a public entity.

Icy Driveway Slip & Fall

Another case that veers from the statute is a fall that occurred on an internal driveway of a housing complex, wherein the weather immunity clause available to protect a public entity from liability, was again determined to be limited to accidents that occurred on streets or highways and not on internal driveways located within the housing complex.

Location is a Critical Detail for Slip & Falls on Public Property

The bottom line is that if a person falls and injures themselves as a result of ice on public property, the statutes mentioned above will be triggered to protect the public entity, but the specific location where the person falls on the public property is critical to determining whether a recovery exists for injuries.

Commercial Entities: Maintenance Duties Related to Weather Conditions

If a person [slips and falls on ice on commercial property](#) rather than property owned by a public entity, the facts will trigger a completely different analysis by a personal injury attorney. The Tort Claims Act is no longer applicable but, there is a great body of case law that discusses the duty of a commercial landowner to clear sidewalks of snow and ice.

Commercial Property Owners and Sidewalk Maintenance

Prior to 1981, there had been a longstanding rule placing responsibility for the maintenance of sidewalks on the government. In 1981, however, a court determined that commercial landowners are responsible for maintaining in reasonably good condition, the sidewalks abutting their property. The case therefore concluded that commercial landowners are liable to pedestrians who are injured as a result of the landowners' negligent failure to maintain the good condition of the sidewalks.

Commercial Landowners' Duty to Maintain Sidewalks and Remove Ice and Snow

Another case then extended the duty to maintain sidewalks to include the removal of snow and ice. That case was further argued on appeal, but the court declared that the duty to maintain sidewalks, remove snow and remove ice was non-delegable, meaning that the commercial landowner cannot delegate those maintenance tasks to a tenant via a lease or contract.

Liability Extended to Commercial Tenant with Duty to Maintain Premises

In 2020, a personal injury case was brought against a commercial tenant by a mail delivery driver who fell due to snow and ice conditions at a commercial property. The court concluded that the commercial tenant was exclusively responsible for the driver's injuries because the lease stated that the tenant was responsible for maintaining the property as if it was the "de facto owner." Therefore, the commercial tenant was liable for the injury due to the tenant's failure to remove snow and ice from the premises.

Knowing the Location and Ownership Detail, Statutes and Case Law is Critical to Your Personal Injury Case

Snow and ice are part of our lives in New Jersey. Bad weather conditions will happen, and people will slip and fall and injure themselves on that snow and ice. Exactly where a person falls and who owns

that property are critical details and impact whether a recovery can be successful. The [attorneys in the personal injury department](#) at Einhorn, Barbarito, Frost & Botwinick, P.C. are well versed in the law on these issues and have advocated successfully for many people who slipped and fell on ice and sustained devastating injuries impacting their quality of life. Please [contact us](#) if you would like to discuss your matter.