Personal Injury Issues When It's Snowing or Sleeting: What happens if during a storm you slip and fall on black ice while walking on a commercial property? A decision made by the Appellate Division states that the commercial landowner has a duty to take reasonable efforts to remove or reduce snow and ice hazards even while precipitation is falling

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In the personal injury matter of Pareja v. Princeton Int'l Properties, the Appellate Division released an important decision on April 9, 2020, (A-2111-18T3) regarding a commercial landowner's potential responsibility to keep its public walkways along its property safe, via snow and ice removal, even when precipitation is falling. This is important for slip and fall cases that happen during inclement weather.

In this case, the plaintiff Angel Alberto Pareja 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 this incident. 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?

The ongoing storm rule that has been embraced by other jurisdictions means that commercial landowners have no duty to remove or reduce snow and ice hazards while precipitation is falling. This rule is based on the assumption that to take such actions during a continuous storm would always be impractical and inexpedient.

In the Pareja case, the lower court applied the ongoing storm rule and granted defendant's motion for summary judgment holding that the defendant had no duty to remove or reduce the ice hazard until after the precipitation ended.

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 states both rejecting the ongoing storm rule and adopting it, the Court found the opinions rejecting the bright-line rule more persuasive.

The Court determined that categorically adhering to 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.
Instead, the Appellate Division held that commercial landowners have a duty to exercise reasonable care while precipitation is falling.

The Factors a Personal Injury Jury Would Consider

The decision held that whether the commercial landowner defendant acted reasonably by not taking any steps to prevent, remove, or reduce hazards during the precipitation was a question for the jury. In determining whether the defendant acted reasonably under the circumstances, the Court noted that the jury could consider factors such as:

- 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?

The Appellate Division held that commercial landowners can no longer wait until after a storm ends to take reasonable efforts to remove or reduce snow and ice hazards. The Court sent the case back to the lower court for a jury to decide whether this defendant acted reasonably under the circumstances, and based upon that future outcome, the plaintiff may be compensated for his injuries.