



## Ankin Law Office LLC

Protecting the Rights of Injured Workers

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### Illinois Appellate Court on Snow Removal and Parking Lot Slip and Fall

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One type of personal injury lawsuit that is litigated quite frequently is a slip and fall case. In areas like Chicago, where there are long winters, snow and ice often accumulate on walkways and injuries can occur when someone slips and falls on a sidewalk outside of a business.

In *Hornacek v. 5th Avenue Property Management*, No. 1-10-3502, that's the exact scenario that resulted in a personal injury lawsuit. The plaintiff alleged that as she was walking to her car, she was injured when she slipped and fell on snow and ice that had accumulated in a parking lot. She claimed that the defendants were liable because they failed to properly maintain the parking lot and allowed an unnatural accumulation of snow and ice in the parking lot, causing her to fall and sustain injuries.

The issue on appeal was whether the plaintiff had offered sufficient proof to establish that the defendants allowed an *unnatural* accumulation of snow or ice to occur, as opposed to naturally occurring snow, and that the defendant's were aware that the condition existed.

Before examining that issue, the Appellate Court of Illinois, First District, explained the law in Illinois regarding a landowner's duty to remove accumulating snow:

In Illinois, a landowner will not be held liable for the failure to remove natural accumulations of snow or ice...A landowner is not responsible for injuries resulting from a natural accumulation of snow or ice that has been left undisturbed...A defendant cannot be held liable for injuries sustained unless a plaintiff shows that the defendant aggravated a natural condition or that the origin of the accumulation of ice, snow, or water was unnatural...If the landowner or a hired contractor creates an unnatural accumulation, then liability may attach as a result of failing to use ordinary care...The fact that snow has been cleared and that there are piles of snow present suggests that the snow piles are an unnatural accumulation...

It is also the duty of the landowner to provide "a reasonably safe means of ingress and egress"...A party under contract with a landowner to remove snow or ice also bears a duty of reasonable care for the customers on the property...This court has held that for a plaintiff to recover in a slip-and-fall case involving ice, snow, or water, the plaintiff must show "that the accumulation of ice, snow or water is due to unnatural causes and that the property owner had actual or constructive knowledge of the condition"...However, where a defendant created the condition through its own negligence, a plaintiff does not need to show constructive or actual notice.

The Court then addressed the issue on appeal: whether the plaintiff had offered sufficient proof to withstand summary judgment. The Court reviewed the evidence offered by the plaintiff and concluded that the testimony of at least one of

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the witnesses, a co-worker of the plaintiff, created an issue fact as to whether there was an unnatural accumulation of snow and ice that was required to be determined by the jury:

(The plaintiff) attached the deposition testimony of David Hampton...(who) testified there was a "big ice flow" in the parking lot and that on the day of the incident, there were snow piles on the north side of the building. He described how snow would melt from those piles to form the "ice flow," where he found Hornacek after her fall.

Accordingly, the Court held that the plaintiff had offered proof sufficient to move forward with her personal injury lawsuit and seek to recover for the serious injuries that she sustained as a result of her fall.

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