

Winter is Coming Are You (Legally) Prepared?

The century plus old "Massachusetts Rule" has been reversed in a recent decision, by the Massachusetts Supreme Judicial Court.

This rule addresses the "natural accumulation" and wintertime slip and fall accidents on snow and ice.

This now opens the door to a new field of liability for property owners. The "Massachusetts Rule" was based on common law and derived from earlier case law stating that property owners did not violate the duty of reasonable care by failing to remove natural accumulations of snow and ice.

Other Supreme Courts in New England have all rejected the "Massachusetts Rule" of natural accumulation.

This means a property owner is not relieved from correcting a known and obvious danger where the owner can and should anticipate that the snow and ice will cause physical harm to a visitor.

The judge also did not find convincing, the argument that removing said natural accumulations of snow and ice would create a burden and was impractical in the rough Massachusetts winters.

The Supreme Court in Rhode Island noted that landlords today should be able to adequately treat and remove snow and ice with sand and salt, ice- treatment applications, shovels, scrapers and snow blowers.

The other New England High Courts failed to see the rationale for a rule that grants "seasonal exemption" from liability to a landlord because he failed in his duty to take adequate action against the hazards, known to be present during a snow/ ice storm.

The Massachusetts Supreme Judicial Court will now apply the same obligations for snow and ice hazards that a property owner has regarding all other hazards.

This is one more reason to start now to prepare your facilities and yards for the coming winter.