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Walking in a winter wonderland

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It's been a snowy winter here in Massachusetts and we are seeing an onslaught of slip and fall claims. Luckily for property owners and managers, the courts recognize that it snows a lot in Massachusetts.

As a general rule the landowner has no duty to remove or warn of the dangers of "natural accumulations" of snow and ice and freezing rain. However, if a claimant can prove it was an "unnatural accumulation" of snow and ice, there can be liability. An "unnatural accumulation" is an accumulation of snow or ice or other naturally occurring condition that is made worse by the actions of the property owner or manager. Examples of this may be piling up the snow in or near walkways; or the melting and refreezing of ice by gutters or drains.

The success of the legal defense of these claims depends on the specific procedures in place to protect your property which should include the following:

Written procedural guidelines which all staff understand and follow consistently.

Identify areas on your property that are known to become icy, and treat them frequently. For example: entrance ways, parking lots, walkways, stairs and ramps.

Document all sanding, salting and snow removal efforts on a maintenance or "sweep" log.

Whenever possible, use sub-contractors for snow removal with written contracts that transfer the responsibility to the independent contractor.

Record every incident that occurs on your premises and review these reports for any trends.

These proactive preventative measures will not only prevent slip and fall incidents; they will dramatically reduce the cost of claims that may occur.

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