

WINTER LAW UPDATE:**SJC ABANDONS
"NATURAL ACCUMULATION
RULE" IN SNOW AND ICE
CASES**

By Gail Ryan, Esq.

The Massachusetts Supreme Judicial Court (SJC) issued a decision earlier this year abolishing the distinction between natural and unnatural accumulations of snow and ice in the context of premises liability in snow and ice cases. In the case of *Papadopoulos v. Target Corporation*, 457 Mass. 368 (2010), the SJC held that property owners now owe the same duty of reasonable care with respect to hazards arising from snow and ice as they owe to lawful visitors on their property with respect to all other hazards: that is, a duty to act as a reasonable person under all of the circumstances, including, the likelihood of injury to others, the probable seriousness of such injuries, and the burden of reducing or avoiding the risk.

In *Papadopoulos*, the plaintiff drove to the Liberty Tree Mall in Danvers on a clear, but below freezing, day in December to shop at Target. The plaintiff parked in the parking lot next to a raised median. The snow which had been previously plowed from the parking lot had been deposited atop the raised median, with some snow remaining on the ground near the edge of the median. The plaintiff entered Target without incident, but upon returning to his vehicle slipped on a piece of ice that had frozen to the pavement. This ice had either fallen from the pile of snow atop the median or formed when snow melted and ran off the pile then refroze.

The property owner defendants initially moved for summary judgment, which the lower Court allowed, finding that the ice on which the plaintiff slipped constituted a "natural accumulation." The plaintiff appealed, and the Appeals Court affirmed the trial Court's ruling.

The SJC then granted plaintiff's application for further appellate

review to address the issue of whether, in a premises liability action involving a slip and fall on snow and ice, the distinction between natural and unnatural accumulations of snow and ice should continue to be a factor under Massachusetts law in determining whether a property owner or other person responsible for maintaining property has been negligent. In applying to hazards arising from snow and ice the same obligation that a property owner owes to lawful visitors as to all other hazards, the SJC reasoned that the duty of reasonable care would not impose unreasonable burdens on property owners and noted that the snow removal reasonably expected of a property owner will depend on the amount of foot traffic to be anticipated on the property, the magnitude of the risk reasonably feared and the burden and expense of snow and ice removal. It will remain for the fact finder to determine what snow removal efforts are reasonable given the circumstances.

The *Papadopoulos* decision abandons the so-called "natural



accumulation rule", which has been the law in Massachusetts since 1883. Under the old rule, a property owner was not liable for injuries caused by natural accumulations of snow or ice and liability would attach only if the condition became "unnatural," i.e. altered by human action, such as the track of a snowplow or footprints. This case expands a property owner's potential liability, which could result in more winter-related premises liability litigation.

ANTHONY J. ANTONELLIS, ESQ.
SLOANE AND WALSH LLP
ATTORNEYS AT LAW
THREE CENTER PLAZA
BOSTON, MA 02108
T: 617-523-6010
F: 617-227-0927
WWW.SLOANEWALSH.COM

127 DORRANCE STREET, 4th Floor
PROVIDENCE, RI 02903-2828
T: 401-454-7700
F: 401-454-8855