

PENNSYLVANIA

SUMMARY JUDGMENT

SLIP & FALL

F | **H** Fowler
Hirtzel
M | **S** McNulty
Spaulding

Lee Eckell and Alice Elmer successfully moved for Summary Judgment in a case in which the plaintiff tripped and fell on snow and ice at a commercial property during an ongoing storm. The Motion argued that pursuant to New Jersey's ongoing storm doctrine, no duty is imposed on a commercial landowner to clear snow and ice during the impossible burden of an ongoing storm. Plaintiff, who was a resident and brought the action against her condominium association, had left her condo during a Winter Weather Advisory. She also testified that she realized it was snowing when she began her walk. Opposing counsel argued that unusual

circumstances gave rise to a duty, arguing that the condominium association's failure to act increased the risk to plaintiff that rose from a preexisting danger. The Court rejected this argument and accepted FHMS' position that the condominium association bore no duty to clear snow and ice until a reasonable time after the conclusion of the storm. This doctrine, known as the ongoing storm rule, was adopted in New Jersey in 2021 when the New Jersey Supreme Court recognized that obligating commercial property owners to continuous maintenance during a storm would pose an undue burden.



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