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FAST FIVE

RHODE ISLAND APPELLATE PRACTICE

WINTER STORM WARNING FOR RHODE ISLAND LANDLORDS AND BUSINESS OWNERS

Before the next big winter storm packs a punch, if you are a landlord or business owner in Rhode Island, make sure you understand your obligation to remove snow accumulation and treat surface areas on your premises.



Image courtesy of Maggie Smith at FreeDigitalPhotos.net

In June 2013, when temperatures were milder, the Rhode Island Supreme Court issued its decision in *Sullo v. Greenberg*, 68 A.3d 404 (R.I. 2013), which confirmed that Rhode Island

landlords and businesses must clear snow accumulation and treat surface areas within a reasonable time after a snow, ice or freezing rain storm has ended.

In deciding the duty of a landlord or business invitor to treat surfaces during and after a snowstorm, Rhode Island has adopted its sister state's approach, which it aptly refers to as the "Connecticut Rule." *Id.* at 407. Under the Connecticut Rule, Rhode Island landlords and business have a duty to their tenants and invitees to clear snow accumulation and treat surfaces impacted by a storm, however, that duty does not arise until a reasonable time after the storm has ended. *Id.* (citing *Benaski v. Weinberg*, 899 A.2d 499, 502-03 (R.I. 2006)). The rule is designed to permit landlords and businesses a reasonable time to clear a natural accumulation of snow and ice after a winter storm. *Id.* (citing *Berardis v. Louangxay*, 969 A.2d 1288, 1292 (R.I. 2009)). The rule recognizes that in areas like New England, it is appropriate "to allow a reasonable time to treat surfaces rather than ineffectually fight a continuing storm." *Id.*

The rule applies regardless of whether customers or patrons are expected to be on the premises during the storm. *See Berardis*, 969 A.2d at 1292-93. A duty to remove snow accumulation before the end of a storm will arise only in exceptional circumstances. For example, if a property owner exacerbates or increases the risk of a customer falling during a storm, the property owner will have a duty to remove the snow accumulation or otherwise treat the premises. Thus, when an automobile repair shop relocated a customer's vehicle to an untreated parking lot, the Supreme Court held that the repair shop could be liable for exacerbating and increasing the risk of the plaintiff falling. *Terry v. Central Auto Radiators, Inc.*, 732 A.2d 713, 717-18 (R.I. 1999). However, in ordinary circumstances, a property owner will not have a duty to remove snow and ice accumulation even when it anticipates that customers will be on their property during the storm. *See Sullo*, 68 A.3d at 408-09.

When the next winter storm strikes, Rhode Island landlords and business owners do not need to be at their properties “shovel in hand, catching the flakes before they hit the ground,” but they must promptly treat surfaces upon the conclusion of a snow, ice or freezing rain storm. *Benaski*, 899 A.2d at 503. So, after you fill your car with gasoline and your grocery cart with bread and milk, don’t forget to make arrangements to have your property plowed and treated.

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