

Michigan Court of Appeals Dismisses Black Ice Slip and Fall Claim

Provizer & Phillips, P.C., was recently successful in defending a property management company in a claim for injury due to a slip and fall that allegedly occurred on “black ice.”

The Michigan Court of Appeals in *Katherine Jean Hay and John Hay v McKinley & Associates, Inc*, 2010 WL 5129723 (12/16/10) (unpublished) upheld the trial court’s ruling that the defendant property manager had no duty to protect plaintiff even from “black ice” which was shaded by a nearby building, because there were other signs and indications of icy conditions that should have alerted a reasonable person on casual observation of a danger. It was thus an open and obvious danger. In this case, it was very cold, and there had been a slight snow fall the day before.

Other clients of the defendant had reported icy conditions. Photographs taken soon after the fall showed the ice and snow on the ground, even in the shadows.

This case shows the importance of taking contemporaneous photographs of the site of a fall when possible. It also establishes that “black ice” cases can be won at the summary judgment stage with proper development of the record.

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