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PRACTICE AREAS

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Illinois Supreme Court Considers CTA's Obligation to Remove Accumulated Snow and Ice

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In *Krywin v. Chicago Transit Authority*, No. 108888, the Supreme Court of Illinois considered the issue of whether the Chicago Transit Authority (CTA) was liable for a passenger's injuries that occurred when she exited the train and slipped on snow and water that had accumulated on the train platform.

The injured plaintiff alleged, in part, that the CTA was liable for her serious injuries as a result of its failure to remove the snow and ice that accumulated on the platform and that the CTA also failed to warn her of the dangerous condition presented by the accumulated snow and ice.

The Court rejected the plaintiff's arguments, holding that the CTA was not liable for her injuries. Importantly, the Court reaffirmed that the natural accumulation rule, which relieves a property owner from liability for injuries caused by the natural accumulation of ice and snow, applies even if a storm is not currently in progress:

We note that the general rule that property owners have no duty to remove natural accumulations of ice or snow from their property has been applied without regard to any ongoing precipitation (see *Sheffer*, 261 Ill.App.3d at 152, 198 Ill.Dec. 458, 632 N.E.2d 1069 (the weather was "bright and sunny" at the time the plaintiff fell on the ice)) or the length of time the natural accumulation has



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existed.

Judge Freeman issued a strongly worded dissent, arguing that the natural accumulation rule, which was originally intended to shield municipalities from liability, should not be extended to common carriers that provide public transportation, such as the CTA:

In view of both Illinois statutory and common law, I would hold that a common carrier's standard of care trumps the natural accumulation rule. That is, the duty of care should extend to the kind of risk encountered by plaintiff here, a risk which is not only foreseeable but is likely to cause injury to passengers.

His rationale was based, in part, on the fact that Chicago officials encourage citizens to use public transportation during snow storms in order to facilitate snow removal and the smooth flow of traffic, thus putting those law abiding citizens "who follow officials' directions in potential harm's way with no recourse for the damages they might incur if injured on an icy CTA platform."

Judge Freeman raises a valid point. The arguable public policy contradiction is difficult to reconcile and seemingly requires Chicago citizens who use public transportation to assume the risk of injury during inclement weather.

Howard Ankin of Ankin Law Office LLC (www.ankinlaw.com) handles **workers' compensation and personal injury cases**. Mr. Ankin can be reached at (312) 346-8780 and howard@ankinlaw.com.