

## **Two Recent Pennsylvania Slip and Fall Cases Show How Assumption of Risk Defense Can Be Used in Conjunction with the Hills and Ridges Doctrine to Obtain Summary Judgment**

The recent cases of *Denzel v. Federal Cleaning Contractors*, 2015 Pa. Super. Unpub. LEXIS 3651 and *Moon v. Dauphin County*, 2015 Pa. Commw. LEXIS 536, illustrate how different means of defensive attack can be utilized to obtain summary judgment in slip and fall matters involving snow and ice.

In *Denzel*, the Pennsylvania Superior Court addressed the issue of assumption of risk where the plaintiff decided to go shopping following a major snow storm. While shopping, the plaintiff encountered a snow removal maintenance crew removing snow, ice and slush from the nearby vicinity. Despite admitting that she knew the sidewalk on which she was traversing was not clear of snow and ice, the plaintiff attempted to walk on a partially cleared space. In upholding the trial court's grant of summary judgment against the plaintiff, the Superior Court held that since the defendant could have reasonably expected that the risk would be avoided, the defendant was relieved of its duty to the plaintiff. Essentially, the Superior Court held that the plaintiff assumed the risk of falling and injuring herself while walking on a sidewalk which she knew to be at least partially covered with snow and ice following a major snow storm.

Similarly, in *Moon*, the Commonwealth Court held that the "hills and ridges doctrine" protects an owner of land from liability for generally slippery conditions resulting from ice and snow where the owner has not permitted the ice and snow to unreasonably accumulate in ridges or elevations. The Court concluded that because the plaintiff/appellant testified that his fall occurred at the start of a weather event (which he was aware created generally slippery conditions), and that the defendant/appellee had not permitted snow and ice to unreasonably accumulate in ridges or elevations, the latter could not be held liable.

**Comment:** These cases illustrate how drawing out facts regarding a plaintiff's assumption of the risk, or foreknowledge of the slippery condition at issue, can help buttress a defendant's motion for summary judgment either standing alone on assumption of the risk or in unison with the "hills and ridges doctrine" in a slip and fall case. A property owner's understanding of both of these defenses is critical in order to ensure that the owner, property manager and/or snow maintenance contactor is not subject to undue liability for these extremely common claims. The litigation team at LUCAS AND CAVALIER, LLC prides itself on taking an aggressive, proactive approach to discovery in premises-related cases, in order to craft trial strategies specifically tailored to the helpful facts presented in the defense of these claims.