

OHIO CASE SUMMARIES

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Ohio case summaries will be provided on a continuing basis every Wednesday and Friday of each week (excluding holidays). Summaries include brief descriptions of cases decided in the past week by the Ohio Supreme Court and lower appellate courts on issues related to insurance law. To discontinue receiving this service, please call Travis Vieux at 937-224-3333 or email Travis at tjvieux@green-law.com.

Court of Appeals: Tenth District

Case Name: Cooper v. Valvoline Instant Oil Change
(2007-Ohio-5930)

Decided: November 6, 2007 (Posted November 6, 2007)

Issue: Winter No-Duty Rule

Summary of Opinion: The Tenth District affirmed summary judgement against the plaintiff in a slip-and-fall on a recently shoveled sidewalk.

Plaintiff Cooper dropped off her car for an oil change at Defendant's business in mid-December 2003. The weather was a mix of snow and ice and an employee of the Defendant had recently shoveled the sidewalk adjacent to the store. Plaintiff slipped and fell on the icy sidewalk. After the fall, Cooper heard the manager say to another employee: "I thought I told you to go down and get some salt for that."

Cooper filed a complaint for negligence based on premises liability. Valvoline filed for summary judgement relying on the "winter no-duty rule" that it had no duty to remove or warn Cooper of natural accumulations of ice and snow. Cooper responded that Valvoline was negligent in failing to salt the sidewalk after shoveling. The trial court entered summary judgement for Valvoline.

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As a service to our clients, we provide weekly summaries of the most recent Ohio Supreme Court and appellate court decisions on cases of interest to our insurance clients. No opinion as to the legal import of the cases summarized is intended. Any questions regarding the information contained in this transmission should be directed at any time to one of the attorneys of the firm.

The Supreme Court of Ohio has consistently held that an owner or occupier's duty of ordinary care does not extend to natural accumulations of snow and ice. The courts have recognized two exceptions to this general rule: 1. where an owner or occupier had actual or implied notice that a natural accumulation of snow or ice created a condition substantially more dangerous than a business invitee should have anticipated and 2. The no-duty rule is inapplicable where the owner or occupier is actively negligent in permitting or creating an unnatural accumulation of ice or snow.

The Tenth District found as a matter of law that a shoveled and unsalted sidewalk does not create a condition substantially more dangerous than what the plaintiff should have anticipated from the prevailing weather conditions. The court found that Cooper's reliance of the statement of the manager was misplaced as it did not demonstrate that Valvoline's knowledge of the dangers were superior to Cooper's own knowledge. To the extent that a business invitee and an owner have equal knowledge of the dangers resulting from natural accumulations of snow and ice, the owner cannot be charged with negligence.

Further, the court found that shoveling and salting do not turn a natural accumulation of ice and snow into an unnatural accumulation. When the top portion of a natural accumulation of snow and ice is removed, the accumulation of ice and snow remaining is still a natural accumulation.

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