

Recently Rejected, Connecticut Rule, Changes the Game for Landowners

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The Indiana Court of Appeals recently rejected the “Connecticut Rule” which permitted landowners to wait until the end of a storm, and a reasonable time thereafter, to remove accumulations of snow and ice from their premises. See, *Henderson v. Reid Hospital and Healthcare Services*, 17 N.E. 3d 311 (Ind.Ct.App. 2014). Although the Connecticut Rule was never officially adopted as part of Indiana jurisprudence, the reasoning set forth under the Rule has been used in the analysis of several cases. See, *Rising-Moore v. Red Roof Inns, Inc.*, 368 F.Supp.2d 867, 874 (S.D.Ind. 2005) *aff’d* 435 F.3d (7th Cir. 2006); *Bell v. Grandville Cooperative, Inc.*, 950 N.E.2d 747, 749 (Ind.Ct.App. 2011).

In *Henderson*, freezing fog led to the accumulation of ice in the hospital parking lot where the plaintiff worked. The hospital’s engineering department was notified that the fog was causing icy conditions in the parking lot at 5:55 a.m. The engineering department promptly called in four employees to address the conditions. By 7:45 a.m. the engineering department’s employees had spread 3,600 pounds of salt and 2,000 pounds of calcium chloride on the parking lot and adjacent sidewalks. The plaintiff arrived for work at 7:20 a.m., and as she stepped out of her vehicle, her feet slipped out from under her and she fell, suffering injury.

The plaintiff filed suit against the hospital, alleging that she was injured by a dangerous and hazardous condition in the hospital’s parking lot which was known to the hospital and which the hospital negligently failed to remove. The hospital filed a motion for summary judgment asserting that it did not breach its duty of care to the plaintiff. The trial court, relying on the Connecticut Rule, granted summary judgment in favor of the hospital, finding that the hospital did not breach its duty of care to the plaintiff because the weather conditions causing

the ice to accumulate had not ceased and the hospital did not have a reasonable amount of time to remove the ice from its parking lot before the plaintiff fell.

On appeal, the Court found that the trial court erred when it relied on the reasoning of the Connecticut Rule as the appropriate standard on which to determine whether the hospital breached its duty to the plaintiff. The court, rejecting the rule, held that there is no requirement that the storm or weather condition causing the accumulation of snow or ice cease before the landowner's duty to exercise reasonable care to maintain his premises arises. The court did recognize that the landowner is entitled to actual or constructive notice of the accumulated snow and ice on his premises and a reasonable opportunity to remove it.

Interestingly, despite ultimately finding that the landowner, even without the reasoning of the Connecticut Rule, must have a reasonable opportunity (after notice) to remove snow or ice on its premises, the court reversed the trial court's grant summary judgment. In so doing, the court found that the designated evidence (i.e. the swift action taken by the hospital to salt the parking lot and the application of almost three tons of salt) was not sufficient to establish that the hospital used reasonable care under the circumstances to remove the ice before the plaintiff fell.