

Counselor

The newsletter
of the Law Office
of Tommie A.
Harsley, III.
8200 Olive Blvd.
St. Louis, MO
63132
(314)872-3900
(314)957-6563

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Lawfirm Statement

To provide excellent legal representation to injured persons. To adhere to the highest standards of ethical conduct, zealous representation and personal service to the people who put their trust in our lawfirm and become our clients.

Accumulated Ice & Snow An Act of God?

Can you be sued successfully for an “act of God”? Imagine that because of accumulated ice or snow on your walkway or steps someone slips and falls on your property. Is that an “act of God”? Are you responsible? Surprisingly, in many instances the property owner or possessor is responsible! In appropriate

circumstances, the property owner or possessor can be sued



successfully by someone who falls on accumulated ice or snow.



The liability of the property owner or possessor may seem strange because the existence of the ice or snow certainly is an “act of God”. However, the law requires the property owner or possessor to take measures to remove the ice or snow as soon as is reasonably practical. The legal standard for determining whether the property owner or

Do I Have A Workers' Compensation Claim?

Mary has worked for twelve years as an assembler for an auto manufacturer. During the work day she is required to perform the same task hundreds of times using her hands. She has been diagnosed with carpal tunnel. Joe drives a

school bus and he is involved in an accident, severely straining his back. Don is walking across his employers' parking lot when he slips and falls striking his head. He suffers a mild concussion and begins to experience chronic

headaches and dizziness. Do Mary, Joe or Don have valid workers' compensation claims? In all likelihood they probably do. Let's look at some of the basic points that are relevant in considering a workers' compensation claim.

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Counselor's Corner

I am very pleased to publish this first edition of *Counselor*. I have wanted to do this for several years.. The practice of law is hectic and my family and church life is busy as well. There never seemed to be enough time to do the extra activities, including the research and writing necessary for this newsletter. Fortunately, my schedule has allowed me some time now to complete this project. I am very happy for this opportunity and I hope that you will find this publication enjoyable and informative.

My goal is to publish a newsletter that informs and educates people as to general legal principles and new developments in the law. The articles will cover

a wide range of subjects but will generally be directed to the legal concerns and questions of individuals as opposed to business or corporate entities. I hope that this publication will appeal to ordinary people and that it will be shared and passed around. Obviously the articles cannot and are not intended to take the place of personalized legal counseling. During a legal consultation, an attorney can apply the law to the specific fact situation of an individual. The legal principles discussed in this newsletter will hopefully be of general community interest.

This newsletter will be distributed bi-annually. I

plan for some of the articles in future editions to coincide with the publication season. In this first winter-spring edition I have included an article dealing with the legal responsibilities of property owners to remove ice and snow from their premises. I trust that articles such as these will benefit readers tangibly by making you aware of some of your legal rights and minimize future legal problems by making you aware of your responsibilities.

I welcome your thoughts and feedback regarding any of the articles and any suggestions you may have for future articles. Also, will be happy to answer any questions you

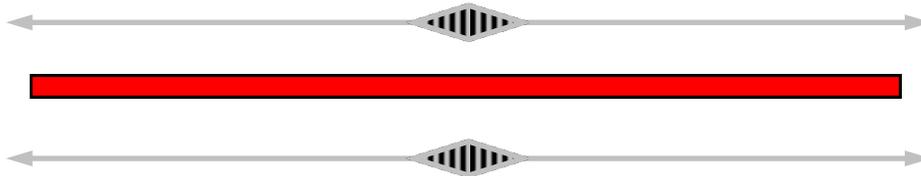


-Bodily Injury

- Workers' Compensation

-Automobile Accidents

- Wrongful Death



Accumulated Ice & Snow cont.

They are 1) that the accumulated ice or snow was on the property and as a result the property was not reasonably safe; 2) that the owner or possessor knew or should have known about the condition; and 3) the owner or possessor failed to use ordinary care to remove or warn of the condition.

In many failure to remove ice and snow cases, the potential liability of the property owner or possessor depends upon how much time the property owner had

to remove the ice or snow. The property owner is not held responsible for weather conditions that exist universally in the community. That is, if ice and snow are everywhere, the owner possessor is not responsible. If the ice or snow accumulation stopped just prior to the injured person falling, the property owner probably would not be held responsible. The longer however that the ice or snow is left unremoved, the more likely the property owner or possessor is to be

held responsible for any later fall.

There is no statute or law that states how long the property owner has to remove the ice or snow. Common sense and reasonableness dictate how much time the property owner has. In cases that go to trial before a jury, the jury members simply weigh all of the known facts surrounding the incident and decide whether the property owner or possessor acted

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Workers' Compensation cont.



“A worker that is in doubt as to whether he should report an injury should always take the safest course and make the report.”

First, an employer/employee relationship must exist. As obvious as this may seem, it is sometimes a disputed issue. This occurs most commonly when an employer characterizes a worker as an independent contractor. Often, cab drivers, couriers and some types of construction workers fall into this category. For these claimants a law judge or arbitrator must decide whether the worker is an employee for purposes of a workers' compensation claim.

Second, the worker must be involved in an accident producing an injury or contract an occupational disease that arises out of and in the

course of the employee's duties. The law books and case reporters are filled with cases in which judges have considered each of these issues in excruciating detail. Very simply however, a worker must be injured or have a disease that is the result of his or her job duties. In the examples given above, both Joe and Don illustrate a worker having an accident that resulted in a work related injury. Mary illustrates a worker who has sustained an occupational disease.

A very important concept that all workers need to be aware of is the notice requirement. The employer is entitled to notice that an injury has occurred. This is

very important so that the employer can begin to investigate the accident if necessary and to provide the appropriate workers' compensation benefits. A worker that believes that he or she has sustained a work related injury should report it immediately to his supervisor or other designated superior. In some cases, injured workers have lost their workers' compensation claims because they failed to report their injury. A worker that is in doubt as to whether he should report an injury should always take the safest course and report the injury. If it develops later that no benefits are necessary,, the worker is not penalized. The old cliché “better safe than

The Statute of Limitations

Mr. Smith has just told me about the very serious injury he has sustained. He had back surgery and was off work for several months. His doctor has advised him that he will continue to have limitations and difficulties for the remainder of his life. He continues to be in much pain. His wife sitting next to him confirms this. From his description of how the accident happened, it appears that he has a very strong claim. In fact, the responsible party has admitted liability. I want very much to pursue this claim on his behalf and to

obtain compensation for the devastating loss that he has experienced. This looks to be an “open and shut” case. However, I sadly inform him that I cannot help him. Why did I tell him this?

The answer is because Mr. Smith waited too long before deciding to pursue his claim. The time during which a person has the legal right to pursue a claim, (lawsuit) is governed by what is known as a statute of limitations. A statute is simply a law. Nearly every type of legal action has a statute that dictates how long a person has to file

their claim or lawsuit. If a person waits longer than the period allowed by the statute, the claim or lawsuit will be dismissed by the court.

The lesson to be learned is the importance of pursuing one's legal claims on a timely basis. The law does not come to the aid of those who sit on their rights. Thus, if you think that you may have a claim, consult with an experienced attorney immediately. This is crucially important because the statute of limitations time periods vary for different types of legal

“If a person waits longer than the period allowed by the statute, the claim or lawsuit will be dismissed by the court.”

The articles in this newsletter are presented for informational purposes only. They are not intended to be construed as legal advice. Consult with an experienced attorney for any specific legal questions.

Lawfirm Resume

Attorney Tommie A. Harsley, III received his undergraduate degree from the University of Illinois at Chicago in 1984 and his law degree from Washington University School of Law in St. Louis, Missouri in 1987. He has been a member of the Missouri Bar since 1987 and the Illinois Bar since 1988.

He was employed as an associate attorney at the lawfirm of Freeman, Whitfield, Montgomery & Staples from 1987 through 1991. There he gained extensive as a trial attorney in both civil litigation, (non-criminal) and workers' compensation law. He

developed an in depth knowledge of workers' compensation law and practice and has litigated numerous cases in Missouri and Illinois. He was employed as associate counsel at a personal injury lawfirm from 1991 through 1995. As a civil trial and workers' compensation attorney he has experience in all phases of trial practice and has developed an excellent reputation as a meticulous preparer and persuasive courtroom advocate.

Attorney Harsley established his law office in 1995. The primary practice areas are personal injury and workers's

compensation. He is a member of the Missouri Association of Trial Attorneys, Association of Trial Attorneys of America and the Bar Association of Metropolitan St. Louis.

Attorney Harsley is involved in advising not-for-profit religious organizations and is very active as a musician and teacher at his local church. He and his wife Vanassa have three children, Robert, Thomas and Rachel.

Law Office Of Tommie A. Harsley, III
8200 Olive Boulevard
St. Louis, Missouri 63132
314)872-3900
314)957-6563 (24 Hours)
314)872-3943 (fax)
Attyharsley@worldnet.att.net



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