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WILLIAM D. LASH vs. APOLLO PLASTICS COMPANY.
93-069

DATE OF VERDICT/SETTLEMENT: February 1, 1995

TOPIC: SLIP AND FALL AT LOADING DOCK WHILE PICKING UP GOODS - UNNATURAL ACCUMULATION OF ICE ALLEGEDLY COVERING SIDEWALK.

SUMMARY:

Result: Defendant's Verdict

ATTORNEY:

Plaintiff's: Thomas Fleisher, of Worcester, MA for plaintiff.

Defendant's: [John B. Stewart](#) of Springfield, MA for defendant.

RANGE AMOUNT: \$0

STATE: Mass.

COUNTY: Hampshire County

INJURIES:

SLIP AND FALL AT LOADING DOCK WHILE PICKING UP GOODS - UNNATURAL ACCUMULATION OF ICE ALLEGEDLY COVERING SIDEWALK.

FACTS:

This action involved a 42-year-old male plaintiff truck driver who sustained a torn rotator cuff injury in a slip and fall accident which occurred at the defendant's loading dock. The plaintiff contended that the defendant had permitted an unnatural accumulation of ice to cover the steps leading to and from the loading dock, causing the plaintiff to fall and injure his rotator cuff.

The subject accident occurred on March 9, 1990, while the plaintiff was on the premises of the defendant for the purpose of picking up goods to be transported elsewhere. The evidence indicated that the plaintiff had backed his truck up to the loading dock. When he alighted from the truck, he allegedly slipped on steps leading to and from the loading dock. The plaintiff testified that the steps were covered with a sheet of ice which he described as a 'smooth' coating of ice. During cross-examination, the plaintiff acknowledged previously describing the condition of the steps as 'untreated' and their coating as 'in its natural state' in a pretrial deposition.

The defendant denied liability, alleging that the plaintiff had not met his burden of proof in establishing that the ice constituted an unnatural accumulation as required by Massachusetts law so as to establish liability on the part of the premises owner for injury resulting therefrom. The defendant presented a representative of the defendant company who testified that the custom and habit of the defendant company was to salt and sand regularly throughout the winter months as necessary.

The medical evidence indicated that the plaintiff suffered a torn rotator cuff requiring surgery. The plaintiff was unable to return for a three year period following the accident, but has since returned to work as a truck driver. The plaintiff's orthopedic expert assigned a 10% to 12% permanent partial disability of the shoulder as a result of the injury. The plaintiff presented medical specials approximating \$15,000 and claimed past lost wages of \$100,000.

After two hours of deliberation, the jury found for the defendant.

(Publication page references are not available for this document.)

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