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## C A S E A L E R T

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### **New Jersey Supreme Court Adopts “Ongoing Storm Doctrine” As Advocated By M&W’s Bill Bloom**

In a case successfully briefed and argued by M&W's [Bill Bloom](#), the New Jersey Supreme Court - overturning the Appellate Division - has expressly adopted the ongoing storm doctrine, which holds that a commercial landowner does not have a duty to remove snow and ice on its property until the precipitation has ended.

In [Pareja v. Princeton International Properties](#), the plaintiff was a pedestrian who slipped and fell on black ice on a driveway apron on the defendant's property at approximately 7:50 a.m. Freezing rain and sleet had been falling in varying degrees beginning at 1:00 a.m. and continuing through the time of the incident. Defendant had not undertaken any attempts at snow or ice removal.

The trial court granted summary judgment but the Appellate Division reversed, rejecting the ongoing storm doctrine as arbitrary and unfair. Instead, the appellate panel ruled that the issue of negligence in such circumstances should ordinarily be decided by a jury, and laid out numerous factors for the factfinder to consider. Under the Appellate Division's

approach, dismissal of claims arising out of falls during storms would be the exception and trial would be the rule.

M&W took up the cause of the defendant with a petition for certification drafted by Bill Bloom and his team. The Supreme Court granted certification and ruled, in a decision released today, that "it is categorically inexpedient and impractical to remove and reduce hazards from snow and ice while the precipitation is ongoing."

The ruling allows for two limited exceptions: cases where the commercial property owner takes affirmative action that increases risk to pedestrians or invitees, and cases where the hazard which causes the plaintiff to fall is the consequence of a pre-existing condition. Neither of those exceptions applied to the claims of Mr. Pareja, resulting in the reinstatement of summary judgment.

Friends and clients are welcome to address questions about the impact of this decision to [Bill Bloom](#).

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