

Bond Case Briefs

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LIABILITY - NEW YORK

Panzica v. Fantauzzi

Supreme Court, Appellate Division, Fourth Department, New York - September 27, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 06127

Pedestrian brought action against business owner and village, seeking to recover damages for personal injuries allegedly sustained in slip-and-fall on icy public sidewalk adjacent to business.

The Supreme Court, Appellate Division, held that:

- No provision of village code subject owner to liability;
- Special use doctrine did not impose liability on owner; and
- Hazard on sidewalk was not created by artificial means.

Under the special use doctrine, a landowner whose property abuts a public sidewalk may be liable for injuries that are caused by a defect in the sidewalk when the municipality has given the landowner permission to interfere with a street solely for private use and convenience in no way connected with the public use and the landowner fails to maintain the sidewalk in a reasonably safe condition. Special use doctrine did not act to impose liability on business owner in relation to pedestrian's slip-and-fall on icy public sidewalk outside of business, because sidewalk was unencumbered by installation of any objects or by other variances in construction, and pedestrian submitted no evidence that sidewalk was constructed in special manner for benefit of owner.