



# Ready for the Defense

## No Liability For Slip and Fall on Rainwater Tracked In From Outside

**I**T'S A RAINY DAY. People come into and out of the township offices or the county courthouse and these visitors track rainwater inside the building from the outside as they stomp off their feet, brush off their raincoats or hats, or shake off their umbrellas. Water puddles up inside the building on the bare floor or on mats or carpets set out to absorb the water—the mats become water-soaked.

What if someone sues the township, county or other local public entity because of slipping and falling down on this tracked-in rainwater? Is there liability? Is it the fault of the township, county or other local public entity?

The answer to the question is: no. There is no liability. The township, county or other local public entity is not at fault.

You may recall that in January and February, we discussed the “natural accumulation of ice and snow” rule. Well, that same rule applies to rainwater tracked inside from outside by visitors, patrons or customers. Tracked-in rainwater is a natural accumulation of which there is no duty to remove or warn about. (*Reed v. Galaxy Holdings, Inc.*, 394 Ill.App.3d 39, 914 N.E.2d 632 (1st Dist. 2009) (Laundromat owner not liable to customer who slipped and fell on rain water inside laundromat tracked inside from outside by customers as such rain water is a natural accumulation of which there is no duty to remove or warn of)).

Consideration of the *Reed v. Galaxy Holdings* case is helpful to understanding the rule that there is no liability for accidents and injuries caused by rainwater tracked inside from outside by visitors because such rainwater is a natural accumulation—it is caused by or created by nature and not the owner or possessor of the property.

In *Reed v. Galaxy Holdings, Inc.*, 394 Ill.App.3d 39, 914 N.E.2d 632 (1st Dist. 2009), plaintiff Aletha Reed, at defendant Laundry World to do her laundry, entered the laundromat from outside where it was raining and stepped off a mat in the vestibule onto the bare floor and slipped and fell on a natural accumulation of rain water tracked in by patrons.

The trial court granted summary judgment for defendant Laundry World based upon the no liability for natural accumulations of water, even water brought onto the premises by customers, rule. The Appellate Court affirmed.

The Appellate Court in *Reed* explained the rationale of the no duty rule as follows:

Illinois law, however, is well settled that property owners as well as business operators are not liable for injuries resulting from the natural accumulation of ice, snow, or water that is tracked inside the premises from the outside. *Branson v. R & L Investment, Inc.* ... Under the natural accumulation rule, property owners and business operators do not have a duty to remove the tracks or residue left inside the building by customers who have walked through natural accumulations outside the building. (394 Ill.App.3d at 42, 914 N.E.2d at 636.)

The Appellate Court in *Reed v. Galaxy Holdings, Inc.*, 394 Ill.App.3d 39, 914 N.E.2d 632 (1st Dist. 2009), found a property owner is not liable for a fall down on water on a floor tracked in from outside as such is a natural accumulation of water for which there is no liability. The Court reasoned:

*Lohan* and *Wilson* are dispositive of the issue presented here. Plaintiff slipped and fell on a puddle of water after she stepped off a mat in the entranceway of defendant's store. Plaintiff testified both that it rained on the day of the incident and that she had noticed that the concrete leading up to the entranceway was wet. Even though it was defendant's practice to mop and towel dry the floor and place cones and two additional mats by the entranceway on rainy days, defendant did not do so on the day of plaintiff's injury. Similar to

*Lohan and Wilson*, however, the record in this case clearly establishes that the water was tracked in from the outside. Therefore, adopting the holding in *Lohan and Wilson*, defendant did not have a duty to remove the naturally accumulated water tracked into the Laundromat regardless of the prior existence of any rainy-day protocol. (394 Ill.App.3d at 46, 914 N.E.2d at 639.)

Another case which is helpful to understanding the “no liability for tracked in rainwater” rule is the *Roberson* case. (*Roberson v. J.C. Penney Co.*, 251 Ill.App.3d 523, 623 N.E.2d 364 (3rd Dist. 1993) (Store operator not liable to customer who slipped and fell as she entered store entrance and stepped off 4 ft. x 8 ft. mat onto floor on water which was tracked into store from outside by customers as water tracked in by customers is a natural accumulation of water)).

In *Roberson v. J.C. Penney Co.*, 251 Ill.App.3d 523, 623 N.E.2d 364 (3rd Dist. 1993), plaintiff Barbara Roberson slipped and fell inside defendant J.C. Penney Co. store near the entrance where customers tracked in snow and water. J.C. Penney had two mats, 4 ft. x 8 ft., at the entrance and as she stepped off a mat, she slipped and fell on water tracked in by customers.

The trial court granted summary judgment based upon the natural accumulation of water/no duty rule. The Appellate Court affirmed.

The Appellate Court held a landowner owed no duty to remove or warn of natural accumulations of water:

Finally, we find the ‘natural accumulation rule’ exonerates J.C. Penney from any duty to remove the water from its entrance, notwithstanding the presence of the mats. Generally, a landowner is not liable for injuries resulting from natural accumulations of ice, snow or water. ... A landowner also has no duty to remove water that patrons track into its building by walking through natural accumulations outside the building. (251 Ill.App.3d at 527-28, 623 N.E.2d at 367.)

Explaining water tracked in and onto mats is a “natural accumulation” and a water-soaked mat is not an aggravation of a natural accumulation, the Appellate Court reasoned:

A mat which becomes saturated in a store’s entryway due to tracked-in water does not transform the water into an

unnatural accumulation, nor does it aggravate the water’s natural accumulation. (251 Ill.App.3d at 528, 623 N.E.2d at 367.)

## Rationale for the Rule

There appear to be two reasons that a property owner or possessor is not liable for injuries caused by rainwater tracked inside from outside and those reasons are as follows:

- (1) First and foremost, the landowner or possessor did not create the wet and slippery condition. A combination of nature/weather and the visitor put the rainwater on the floor.
- (2) Secondly, when it is raining outside, it is commonly known and understood by all persons that when rainwater is tracked inside and onto the floor or rug or mat, the surface becomes slippery and care must be taken not to slip and fall.

The building or property owner or possessor does not have to be more protective of a plaintiff’s safety than the plaintiff himself or herself.

It is practically and physically impossible to keep the floor or rug or mat dry on a rainy day with people constantly coming into the premises with wet feet, umbrellas, and raincoats and hats and shaking them off as they enter the building. The law does not require people to do what is impossible.

Finally, the *Walker v. CTA* case supports this “no duty to remove or warn of rainwater tracked in from outside” rule. (*Walker v. Chicago Transit Authority*, 92 Ill.App.3d 120, 416 N.E.2d 10 (1st Dist. 1980) (CTA not liable for patron’s fall on rain water puddle at bottom of stairs in depression caused by wear and tear on rainy day as water was natural accumulation—fact CTA had actual or constructive notice of puddle of water is totally irrelevant because if there is no duty to remove natural accumulation of water, there is no duty to warn of the water puddle)).

## Conclusion

It is advisable to have a policy, procedure or internal guideline for dealing with rainwater tracked in from outside. That could include placing mats or rugs down to catch water or mopping the floor every hour or so. But, if it is not possible to keep the floor free of rainwater, there will be no liability for failing to remove it or warn of it.