

You want fries with that?



McDonald's is on the wrong side of an Massachusetts Supreme Judicial Court decision that allowed a woman's slip-and-fall lawsuit to proceed

McDonald's just got tripped up by a slip-and-fall plaintiff in a case of fast food and slow justice. Some lucky legal timing and a favorable decision Thursday by the state Supreme Judicial Court are letting a woman who slipped on an icy parking lot proceed with a lawsuit against McDonald Restaurant of Massachusetts.

Mercilla Lindor, who lives in Virginia, fell in 2007 outside a Massachusetts MacDonald's during nasty weather. She broke her foot. Lindor alleged the situation was so bad that while lying on the ground, she saw a pedestrian fall to his knees. A medical crew eventually asked McDonald's employees to salt the area — just as road crews had already done on nearby streets.

Unfortunately for Lindor, a judge dismissed her complaint at the request of MacDonald Restaurant of Massachusetts on the grounds that property owners could not be held liable for acts of nature.

The judge issued the order on July 22, 2010. A clerk recorded the order in the docket on July 28, 2010.

Had nothing changed in the interim, Lindor's claim was have been dead.

But the state Supreme Judicial Court did something during the six days between the judge's written order on the clerk's docketing of that order that changed everything.

In a July 26, 2010, ruling, the SJC turned the state's law on landlord responsibility on its head, ordering that property owners are responsible for protecting lawful guests from natural hazards. The court put a special onus on owners of commercial property to keep visitors safe.

While the court did not make the new law retroactive in any unusual manner, case law worked in Lindor's favor. In Massachusetts, a ruling does not legally occur when a judge pens it. Rather, the ruling is considered official when a clerk docketing it. In essence, the state's slip-and-fall law changed between the time Lindor lost her lower-court case in the judge's eyes and the time the clerk made the judge's finding official.

Lindor now can take the case to trial or settle.

Lindor was represented in the Supreme Judicial Court proceedings by Jonathan D. Sweet. MacDonald's Restaurant of Massachusetts