

Proving One Reasonable Theory is Sufficient in Negligence Cases

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Keep your construction work areas free of debris, otherwise an injured worker can file a slip-and-fall claim without having to prove every possible theory the evidence could support, as long as the theory is reasonable under the circumstances.

In *Adamczyk v Garrison Co.* (Court of Appeals of Michigan, December 6, 2005), the plaintiff was injured when installing ceiling grids. As he began working after his break, the plaintiff first checked the floor for hazards and saw none. While working on the ceiling, he saw an electrician with a cart of supplies walk past him. Shortly after the electrician passed, the plaintiff, who was on stilts at the time, slipped and fell. After his fall, his supervisor and the project superintendent picked up a piece of electrical conduit in the area where he fell.

The plaintiff brought a negligence action against, among others, the electrical contractor for its failure to keep the work area free from debris.

Deposition testimony brought out the fact that each contractor was responsible for cleaning up its materials, that the cleanup was to be ongoing, and that it was common knowledge within the trades that the areas where people were working on stilts had to be kept clear of debris.

In support of his claim, the plaintiff presented evidence that one of the electrical contractor's employees negligently dropped and left a piece of electrical conduit in the area where the plaintiff was performing his work with the assistance of stilts.

The court concluded that the plaintiff presented sufficient evidence to avoid summary disposition and, therefore, could present to the jury the issue of whether the electrician, who was responsible for leaving the conduit in the plaintiff's work area, was an employee of the defendant electrical contractor.

The defendant contractor unsuccessfully argued that the plaintiff's claim should fail because it was merely speculative due to the fact that it was unable to rebut other possible theories that the evidence could support. Nonetheless, the court held that "if there is evidence pointing to one theory of causation indicating a logical sequence of cause and effect, it does not matter if the evidence can support other plausible theories."

The *Adamczyk* case allows a plaintiff to speculate as to the cause of his/her injury as long as the theory is reasonable under the circumstances. The court will not dispose of the case as a matter of law if a reasonable theory exists and is supported by the evidence. Rather, the case will be allowed to proceed to the jury, which will ultimately determine if the plaintiff can recover for his/her injuries.

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