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**August 2024**  
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**Premises Liability - The plaintiff (picking up his load at an auto parts manufacturer) slipped in an icy parking lot and sustained a disabling L4-5 disc injury – the plaintiff blamed the manufacturer for failing salt the steps or otherwise remove the ice**

*Brown v. TG Automotive Sealing,*  
5:22-26

Plaintiff: Lauren E. Marley, Bowling Green, Preston P. Cahill, Lexington and John Smith, New Albany, IN all of *Morgan & Morgan*

Defense: Michael S. Jackson, *Boehl Stopher & Graves*, Louisville

Verdict: \$234,723 for plaintiff less 49% comparative fault

Federal: **Paducah**

Judge: Greg N. Stivers

Date: 8-9-24

Ricky Brown, then age 64, worked as a trucker for Reliable Carriers. He had a regular route picking up auto parts from TG Automotive Sealing at its Hopkinsville facility. Brown would then drive the load to the Honda plant in Lincoln, AL. He did this 650-mile round trip five times a week and was quite familiar with the TG Automotive facility.

On the morning of 2-12-21 there was a winter storm in the area. There was proof the parking lot when Brown arrived was covered by ice. Brown described it as a “virtual skating rink.” In fact the day before Brown had been at TG Automotive and it was icy then too.

Brown began his regular tasks which included parking, checking in and then waiting to be loaded. He had walked through the parking lot and was quite aware of its very icy condition. Brown even brought those icy conditions up inside the office with TG Automotive staff – he was angry the steps and parking lot were not cleared. He left the office, indignantly presaging about the conditions, “If I fall, If I fall.” Brown



*The icy site at TG Automotive where Brown fell*

was prescient.

There is an important defining characteristic about Brown that needs to be discussed. He is morbidly obese and at the time of this incident, he weighed 350 pounds. His weight would later be integral to this litigation.

That diversion aside, Brown walked outside and started down the stairs. Near the bottom of the stairs he turned and walked backwards in an effort to hold onto the rail as he stepped onto the icy parking lot. Suddenly he slipped and fell backwards where he landed on his back.

Brown initially couldn't get up. He called for help but no one came. He ultimately called 911 from the ice and was subsequently transported to a local ER. Brown was initially treated for an apparent soft-tissue low-back injury.

Brown, who reported no history of prior back pain, has since treated for disabling radiating pain from an L4-5 disc injury as confirmed by an MRI. There was proof this degenerative condition was brought into disabling

reality. Brown's orthopedist, Dr. Ryan Snowden, Nashville opined that a laminectomy repair surgery would greatly relieve Brown's pain. However following this fall, Brown has put on more weight and now tips the scales at 420 pounds. He is now too heavy for the repair surgery.

In this lawsuit (filed in Christian County) Brown alleged negligence by TG Automotive in failing to clear the parking lot of snow and ice. He noted that the company had cleared the employee parking lot but not the area where drivers traversed.

If Brown prevailed at trial he sought his medical bills of \$31,973. His lost wages (he hasn't worked since this incident) were \$487,183 as described by an economist, Alan Bartley, who is a professor at Transylvania. Brown could be awarded \$2,000,000 more for his pain and suffering.

TG Automotive first removed the case to federal court. It responded on liability that the condition of the ice was open and obvious to Brown. In fact he'd already traversed it before he fell. He was also blamed for