

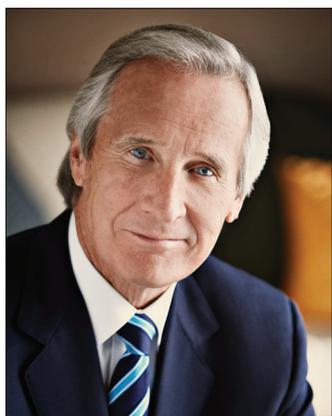
# Missouri Lawyers

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## WEEKLY

## Settlement agreed to in slip-and-fall case

*Plaintiff suffered injuries from fall on icy driveway*



Donald L. Schlappizzi



Linda C. Powers

A retired physician who slipped and fell on his icy driveway settled for \$1.7 million with his condo association, property management company and the snow- and ice-removal contractor.

The plaintiff fell in December 2008 after rain froze on his driveway. The driveway had appeared only wet, not icy, the plaintiff claimed, and the temperature outside was in the mid-30s. The driveway's surface temperature was below freezing, however, which caused the rain to freeze into ice.

The management company argued it was not responsible for ice and snow removal, said plaintiff's attorney Donald Schlappizzi, and the contractor claimed it had been told not to clear driveways unless

snow had accumulated more than 2 inches and had been on the ground more than 24 hours. The plaintiff claimed the contractor's given instructions con-tradicted its contract requiring pretreatment.

Plaintiff's attorney Linda C. Powers presented a PowerPoint presentation during arbitration, which included a televised weather forecast predicting freezing rain on the day of the plaintiff's fall. Such forecasts are used by contractors when deciding whether or not to pretreat driveways, Schlappizzi said.

Because of the fall, the plaintiff suffered subdural hematomas that required two surgeries. Other injuries that required surgery included vocal cord paralysis and loss of bladder control, Schlappizzi

said, and the plaintiff still has some minor brain damage. Schlappizzi said medical expenses totaled about \$700,000.

The condo association's insurer paid out \$1 million, while the association's excess carrier and the snow removal company's insurer each paid \$350,000.

Schlappizzi said the defendants' arguments were "flimsy" and that one defense expert claimed there was no ice on the ground the night of the fall, even though another condo owner had slipped and fallen the same evening.

"Anytime there are multiple defendants, any one could be found solely responsible," Schlappizzi said. He said the possibility of being stuck with the entire liability encouraged the defendants to settle.

### \$1.7 million Settlement

#### PREMISE LIABILITY

■ **Court:** St. Louis County Circuit Court

■ **Case Number/Date:** Confidential, 8/9/2010

■ **Mediator:** Michael B. Calvin

■ **Special Damages:** \$700,000 in medical

■ **Plaintiff's Expert:** John A. Allin (Snow and Ice) Erie, Pennsylvania

■ **Defendant's Expert:** Patrick Market, Dr. (Meteorology) Columbia, Missouri

■ **Caption:** Confidential v. Confidential

■ **Plaintiffs' Attorneys:** : Donald L. Schlappizzi, Linda C. Powers The Schlappizzi Law Firm (St. Louis, Missouri)

■ **Defendants' Attorney:** Confidential