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## Municipal Snow Removal Policies and Practices



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*By John Gescher*

On August 20, 2020, the Supreme Court of Canada granted leave to appeal in the case of *Nelson (City of) v. Marchi*, 2020 BCCA 1.

This case will be of interest to municipalities because the Court will review the principles of liability of municipalities respecting snow removal and snow removal policies.

After a heavy snowfall in January of 2015, the City plowed the main commercial street early in the morning. In doing so they created snowbanks or “windrows” along the curb and onto the sidewalk. Their priority is to clear the street for traffic and then when able they will return later to remove the windrows.

Ms. Marchi parked her car on the north side of the main commercial street. She encountered a snowbank that had been left by the City’s work crews a day and a half previously. She tried to cross the snowbank. Her right foot dropped through the snowbank, and she suffered serious injury to her leg.

She sued the City for negligence in leaving windrows along the road and leaving no space for pedestrians to cross.

The trial judge dismissed Ms. Marchi’s action in negligence. He found that there were bona fide policy decisions made and that Ms. Marchi was aware of the risk, had inappropriate footwear, and failed to test the snow as to weight bearing.

The Court of Appeal allowed the appeal. It found there were significant errors of fact and law. It set aside the judgement and ordered a new trial.

The Supreme Court will be reviewing this area of the law and will no doubt give further guidance to municipalities with respect to policy decisions and practices in snow removal.

## Questions?

Should you have any questions with respect to this bulletin, or if you would like more detailed information related to municipal litigation, please contact our [Municipal Enforcement Practice team](#).

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