

No Ownership, No Control, No Causation

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In *Abbey Postlewait v Storage Group, LLC*, unpublished opinion of the Michigan Court of Appeals, issued August 11, 2026 (Docket No. 376473), the Court of Appeals affirmed summary disposition for Defendant in a premises-liability action arising from a bicycle accident on a public sidewalk. The Court held that Defendant, as the owner of property adjoining the public sidewalk, did not owe Plaintiff a duty because Defendant did not own or possess the sidewalk, did not physically intrude upon it, and did not create or increase the alleged hazard. The Court further held that Plaintiff failed to establish that political signs placed on Defendant's fence caused or contributed to her injuries.

Defendant owned a storage facility located at the corner of East Pontaluna Road and North Third Avenue in Fruitport Charter Township. A chain-link fence surrounded the perimeter. The public sidewalks adjoining Defendant's property narrowed significantly at the corner near Defendant's lot. On July 20, 2021, Plaintiff was riding her bicycle on the sidewalk. She attempted to turn around the narrow corner. Plaintiff's bicycle handlebars clipped Defendant's fence, causing her to lose control of the bicycle and fall. Plaintiff sustained injuries requiring medical treatment.

Plaintiff subsequently filed a premises-liability action, alleging that Defendant negligently maintained its fence in a manner that made the adjoining public sidewalk "unreasonably and unlawfully narrow." Plaintiff's expert measured the public sidewalk abutting Defendant's property at approximately 102 inches wide, then it narrowed to approximately 21 inches at the corner before widening again. The expert opined that the sidewalk configuration violated various statutes, ordinances, and building codes. Defendant moved for summary disposition, arguing that it did not owe Plaintiff a duty concerning the condition of the public sidewalk. The trial court granted Defendant's motion to dismiss, which was affirmed on appeal.

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Postlewait illustrates the importance of identifying ownership, control, and causation when evaluating claims arising from an accident on a public sidewalk adjoining private property. An abutting landowner is not automatically responsible for every condition existing on a public sidewalk. A plaintiff must establish a legal basis for imposing a duty, including evidence that the landowner physically intruded into the public way or created or increased the alleged hazard.

Postlewait also demonstrates that evidence of an alleged code or ordinance violation does not, standing alone, establish liability. Even assuming a landowner violated an applicable ordinance, a claimant must still establish that the defendant owed a duty and that the alleged violation was a proximate cause of the claimant's injuries. *Postlewait* reinforces that causation cannot rest on speculation. Where the evidence does not establish that an alleged condition caused or contributed to an accident, a plaintiff may be unable to establish a genuine issue of material fact sufficient to survive summary disposition.

The Court held that because Defendant did not own or possess the public sidewalk adjoining its property, a premises-liability theory of negligence did not apply to Plaintiff's claim against Defendant. The Court reaffirmed the rule that there is no duty of an abutting owner as to the condition of the sidewalk or public way unless the landowner has physically intruded upon the area or increased or created a new hazard.

There was no dispute that Defendant's fence did not physically intrude upon the public sidewalk. Defendant also did not modify the fence after purchasing the property in 2006. Importantly, Plaintiff's own expert attributed the alleged sidewalk defect to the Village of Fruitport and the Michigan Department of Transportation, which had demolished and replaced the sidewalks and curb cuts in 2020. Defendant's fence remained in the same location before and after the sidewalk reconstruction. The Court concluded that Defendant did not create or increase the alleged hazard.

Plaintiff also argued that Defendant created a new hazard by placing large political signs on the fence which obstructed her view around the corner and prevented her from appreciating the potential hazards ahead. The Court rejected this argument as insufficient to establish causation. The Court noted that Plaintiff's own counsel acknowledged that a typical bicycle's handlebars were likely wider than the sidewalk at its narrowest point. Thus, Plaintiff would have collided with the fence regardless of whether the political signs were present.

The Court held Defendant did not owe Plaintiff a duty to warn or protect her against the hazardous condition of the public sidewalk and the signage on the fence did not cause Plaintiff's injuries. Therefore, the Court affirmed the trial court's order granting Defendant summary disposition.

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