

7.15 NEGLIGENCE - CARE REQUIRED OF PEDESTRIAN ON SIDEWALK (Approved 5/91)

A. In General

A pedestrian using the sidewalk must act with the same amount of care for her/his own protection as a reasonably careful person would have exercised under similar circumstances. In order to determine whether or not the pedestrian acted reasonably, you must decide whether a reasonably careful person would have discovered the danger which existed in this case and would have avoided it.

Cases:

The above rule applies when the defect is in the sidewalk itself. *Milstrey v. Hackensack*, 6 N.J. 400-414 (1951); *Saco v. Hall*, 1 N.J. 377 (1949); *Kelly v. Limbeck*, 86 N.J.L. 471 (Sup. Ct. 1914); *Citro v. Stevens Institute of Technology*, 55 N.J. Super. 295 (App. Div. 1959).

NOTE TO JUDGE

When dealing with structures not necessarily components of sidewalks, such as drains, grates and cellar doors, the following section (B) may be found to apply where plaintiff has no prior knowledge thereof.

B. Artificially Created Conditions for Private Use

A pedestrian using the sidewalk is required to exercise reasonable care for her/his own safety, however, a pedestrian is entitled to assume that there is no dangerous impediment or pitfall on any part of the sidewalk. The law does not require that a pedestrian anticipate dangerous conditions. A pedestrian is not negligent merely because she/he does not look for dangerous conditions; however, when or if a pedestrian sees or is aware of a dangerous condition, then she/he must exercise reasonable care to avoid that condition.

[Also See *NOTE TO JUDGE* under A. above.]

Cases:

Saco v. Hall, 1 N.J. 377 (1949); *Krug v. Warner*, 28 N.J. 174, 183 (1958); *Taverna v. Hoboken*, 43 N.J. Super. 160, 164 (App. Div. 1956).