

Sam Spade, a resident of Providence, Rhode Island, and a licensed private investigator in the State of Rhode Island and Massachusetts, was retained by the Acme Mall Corporation, Seekonk, Massachusetts, to conduct a surveillance of its property in the early morning hours in view of the fact that there had been repeated breaking and entering thefts from stores located in the mall. Spade undertook a nightly surveillance commencing at 11:00 p.m. and ending at 5:00 a.m.

On the third night of his surveillance, Spade appeared as light snow flurries were falling. During the course of the night, the snow intensified and by 3:00 a.m., the owners of the mall had dispatched plow trucks to clear the area. By the time that Spade left the mall parking lot at 5:00 a.m., the plows had come and gone and an accumulation of snow was on the ground.

While entering his automobile to leave the premises at 5:00 a.m., Spade fell and severely injured his legs and hips.

He had now filed a lawsuit in Providence County Superior Court alleging that Acme is negligent. Acme has filed a motion for summary judgment based on the comparative negligence law of the Commonwealth of Massachusetts.

You are the law clerk for the judge hearing the motion in Providence County Superior Court. Kindly advise the judge on what disposition to make of the motion.