

dantly sustained—even by evidence adduced by plaintiff himself. Whatever might have been the condition of the sidewalk through the winter, there was such intervention by the freezing of the night before the accident as to make the alleged default or neglect of defendants too remotely connected with the damage.

There is an able discussion of the legal effect of the emergency which sometimes arises in “our uncertain and inclement climate,” and of intervening and concurring causes of damage, in *O’Keeffe v. Mayor, etc.*, of New York, 29 N. Y. App. Div. 524.

Appeal dismissed with costs.

CARTWRIGHT, MASTER.

OCTOBER 19TH, 1904.

CHAMBERS.

SHEPPARD PUBLISHING CO. v. HARKINS.

*Discovery—Examination of Defendant—Scope of—Contract
—Breach—Denial—Damages.*

Motion by plaintiffs to compel defendant to answer certain questions put to him on his examination for discovery.

W. J. Elliott, for plaintiffs.

J. G. O’Donoghue, for defendant.

THE MASTER.—The statement of claim alleges (1) an agreement by defendant to devote his whole time to the service of plaintiffs from 1889 to August, 1903; and (2) breach of said agreement “by carrying on business on his own behalf both alone and in partnership with others.” Plaintiffs ask an account of such dealings, and resulting profits, and damages for breach of contract.

The statement of defence denies any such agreement, and says that, if defendant was to devote his whole time to