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SLIP AND FALL..... NOT JUST AN ACCIDENT

The owner or occupier of property owes third parties the duty to keep their property in a reasonably safe condition, free from defects and safety hazards.

An accident as defined by Webster's dictionary is "an event occurring by chance or unintentionally". We must all remember that accidents happen, and that alone does not make the property owner responsible.

The law provides that an owner or occupier of property is responsible when he fails to correct a defect of which he has knowledge and for which there has been a sufficient lapse of time to allow him to correct the defect.

The burden of proof is rarely clear cut because it must be proven that the defect existed for an unreasonable length of time.

Know what to do just in case it happens to you!

Always take photos, make diagrams, ask questions, notify the person in charge *immediately*, fill out an incident report and, most importantly, make sure you know what caused you to fall.

1. Likely causes are foreign substances such as oil, grease, water, and food products.
2. Actual defects such as potholes and cracked walkways.
3. Equipment or merchandise left unattended in a retail establishment which creates a hazard.
4. Snow and ice which has formed or accumulated in an artificial manner.
5. Lack of lighting as long as there is a basic defect or cause for your fall that would have been seen and avoided with proper lighting.

FOREIGN SUBSTANCES

When a slip and fall occurs due to a foreign substance, it must be proven that the owner or occupier of the property or its agent either saw or should have seen the foreign substance and removed it.

There are three important interrelated elements in substantiating a slip and fall:

1. Location of the foreign substance; and
2. Time within which the owner, occupier or its agent should have with reasonable diligence noticed and removed the foreign substance.

DEFECTIVE EQUIPMENT

Defective seats, chairs, ladders and scaffolding would also come under the general category of "slip and fall". In these cases, the owner or occupier has a duty to make reasonable inspections to insure that hidden defects which may be potentially hazardous are discovered and corrected before someone is injured.

SNOW AND ICE

When a slip and fall occurs due to snow and/or ice, it is your responsibility to prove that it occurred due to an artificial accumulation of snow or ice. The key word is "artificial" which means it cannot be caused by an un-shoveled or un-sanded sidewalk or driveway after a snow or ice storm. Conversely, if the slip and

fall was caused by ice that formed from, as an example, a broken downspout on a house or snow which has been trampled resulting in an icy, uneven, and dangerous condition, that's a different story.

What it comes down to is it must be proven that the snow or ice was not formed by natural causes, but by "man-made" causes. That is why it is so important to be aware of all details in this type of slip and fall accident. No detail is too small. What you think might not be important may just make or break your case.

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