

# Slip and Fall Accidents: Proving Fault

**If you slip and fall on someone else's property, the property owner may be liable for your injuries.**

Who is responsible for an injury resulting from a slip and fall accident? Many thousands of people are injured each year -- some very seriously -- when they slip or trip and fall on a dangerous floor, a flight of stairs, or a rough patch of ground. Sometimes the property owner is responsible for the accident, and sometimes he or she is not.

If you have been injured in this way, first consider that it is a normal part of living for things to fall on or to drip onto a floor or the ground, and for smooth surfaces to become uneven. Also, some things put in the ground -- drainage grates, for example -- serve a useful purpose there. So a property owner (or occupier) cannot always be held responsible for immediately picking up or cleaning every slippery substance on a floor. Nor is a property owner always responsible for someone slipping or tripping on something that an ordinary person should expect to find there or should see and avoid. We all have an obligation to watch where we're going.

However, property owners do need to be careful in keeping up their property. While there is no precise way to determine when someone else is legally responsible for something on which you slip or trip, cases turn on whether the property owner acted carefully so that slipping or tripping was not likely to happen -- and whether you were careless in not seeing or avoiding the thing you fell on. Here are some general rules to help you decide whether someone else was at fault for your slip or trip and fall injury.

## Determining Liability

To be legally responsible for the injuries you suffered from slipping or tripping and falling on someone else's property, one of the following must be true:

- The owner of the premises or an employee must have caused the spill, worn or torn spot, or other slippery or dangerous surface or item to be underfoot.
- The owner of the premises or an employee must have known of the dangerous surface but done nothing about it.
- The owner of the premises or an employee should have known of the dangerous surface because a "reasonable" person taking care of the property would have discovered and removed or repaired it.

The third situation is the most common, but is also less clear-cut than the first two because of those pesky words "should have known." Liability in these cases is often decided by common sense. Judges and juries determine whether the owner or occupier of property was careful by deciding if the steps the owner or occupier took to keep the property safe were reasonable.

## What Is "Reasonable"?

In determining a property owner's "reasonableness," the law concentrates on whether the owner makes regular and thorough efforts to keep the property safe and clean. Here are some initial questions you can ask to determine whether a property or business owner may be liable for your slip or trip and fall injuries:

- If you tripped over a torn, broken, or bulging area of carpet, floor, or ground, or slipped on a wet or loose area, had the dangerous spot been there long enough that the owner should have known about it?
- Does the property owner have a regular procedure for examining and cleaning or repairing the premises? If so, what proof does the owner have of this regular maintenance?
- If you tripped over or slipped on an object someone had placed or left on or in the floor or ground, was there a legitimate reason for the object to be there?
- If there once had been a good reason for the object to be there but that reason no longer exists, could the object have been removed or covered or otherwise made safe?
- Was there a safer place the object could have been located, or could it have been placed in a safer manner, without much greater inconvenience or expense to the property owner or operator?
- Could a simple barrier have been created or a warning been given to prevent people from slipping or tripping?
- Did poor or broken lighting contribute to the accident?

If the answers to one or more of these questions come out in your favor, you may have a good claim for compensation. However, you must still think about whether your own carelessness contributed in any significant way to your accident.

### **Your Own Carelessness**

In almost every slip or trip and fall case, you must decide whether your carelessness contributed to the accident. The rules of "comparative negligence" help measure your own reasonableness in going where you did, in the way you did, just before the accident happened. There are some questions you should ask yourself about your own conduct -- an insurance adjuster will almost certainly ask them after you file your claim.

- Did you have a legitimate reason -- a reason the owner should have anticipated -- for being where the dangerous area was?
- Would a careful person have noticed the dangerous spot and avoided it, or walked carefully enough not to slip or trip?
- Were there any warnings that the spot might be dangerous?
- Were you doing anything that distracted you from paying attention to where you were going, or were you running, jumping, or fooling around in a way that made falling more likely?

You don't have to "prove" to an insurance adjuster that you were careful, but think about what you were doing and describe it clearly so that an insurance adjuster will understand that you were not careless.

To learn more about how your carelessness will affect the outcome of your claim, see "How Your Own Carelessness Affects Your Claim" in *Proving Fault in Personal Injury Accidents: General Rules*.

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