

I slipped and fell in a local supermarket, what do I do?

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Dear Ask the Attorney:

I was food shopping at our local (name removed) supermarket and I slipped on some sort of liquid and fell and hurt my back and neck. What should I do?

CW

Our guest blogger is Thomas F. Dorn, Jr., Esq. Mr. Dorn is Counsel to Einhorn Barbarito and was the first attorney in New Jersey to be certified by the Supreme Court of New Jersey as both a Workers' Compensation and Civil Trial Attorney. He concentrates his practice in Personal Injury and Workers' Compensation issues.

Dear C.W.:

Your question raises several potential issues depending on the circumstances of your fall inside your local supermarket. The first thing you should do after you fall is report your accident to a store employee so an incident report can be made describing what type of liquid you fell on and where inside the store your fall happened. Depending on the severity of your injury the store may contact an ambulance for you or you may want to seek medical attention yourself if your neck and back injuries do not improve.

In general, you may have the right to pursue a negligence case against the supermarket for your neck and back injuries because commercial property owners have a duty to maintain their property in a safe and clean condition. Your initial reaction to falling was probably that the store must be at fault because you did not see the liquid in the aisle. However, just as you have the right to sue, the store has rights established by New Jersey law as well.

Specifically, the store has a duty to inspect their premises and floors but has a reasonable amount of time to do so. In our example suppose the liquid on the store floor was from a customer's water bottle that the customer brought into the store and accidentally spilled it a minute before you fell. If a slip and fall negligence case is filed in court, the store will argue several things:

1. they did not cause the water spill that caused you to fall,
2. they did not have a reasonable amount of time to inspect their floors to find the spill, and
3. they did not have a reasonable amount of time to clean up the spill.

In light of the facts in your question above, even if your neck and back injuries are permanent and life changing, the judge assigned to the case could dismiss your case against the store because the store did not have enough notice or time to find or clean up the spill. As unfair as this seems, judges have ruled in similar cases in New Jersey that the store is entitled to legal protection under these facts.

However, if the spill happened one hour before you entered the store and you were shopping in the aisle of the spill for a half hour or so and then you slipped and fell, the store cannot argue that they did not know about the spill because they have a duty to clean up the spill within a reasonable time based upon their duty to inspect their floors. You can make the argument that the store was negligent in failing to inspect their floors within a reasonable time period if no employee from the store came into your aisle for the half hour that you were in the aisle. Under these same circumstances you can also argue that there were no cones or warning signs to warn you of the spill in the aisle. Also, if the weather was rainy or snowy and you fell near the entrance to the supermarket then the store should have had mats or warning cones/signs to prevent water from accumulating in the entrance aisle area.

In another example if the liquid spill came from a leaking refrigerator or produce bin inside the store then the store cannot claim that they did not know about the spill or did not have time to clean it up because the store created the condition that caused you to fall

Because the answer to your question depends on the facts you should consult with a personal injury attorney to help you determine your rights and determine what type of case to pursue.

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facts of each case is different, therefore you should seek competent legal representation.