

Whoops! I Slipped And Fell: Do I Automatically Win If I File A Lawsuit

November 17, 2011 | by Thomas F. Dorn, Jr

If you have ever had the embarrassing experience of falling in a store or in a parking lot there is a belief that you can file a negligence case against the store or commercial property owner and automatically receive a money settlement. However, the law in New Jersey says not so fast.

Most people have either seen a family member or friend slip or trip and fall or have fallen themselves. Although your initial reaction might be to laugh to see someone fall or be embarrassed if you fell, many times a fall can result in severe injuries with long lasting effects on a person's life and work.

For example assume that you were holiday shopping inside a big name department store and you slipped and fell on some kind of liquid on the floor. Obviously you would not have fallen had you seen the liquid before you fell so your initial reaction will be that the store was at fault and that you can sue the store's insurance company.

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 let's say that the liquid on the floor was from a bottle of water that another customer brought into the store and accidentally spilled it ten seconds before you fell. If a slip and fall negligence case is filed in court, the store will argue that they did not cause the water spill that caused you to fall and they did not have a reasonable amount of time to clean up the spill or have a reasonable amount of time to inspect their floors to find the spill. Under this set of facts, even if your injuries were life changing, the judge assigned to the case would dismiss your case against the store because the store did not have enough notice or time to clean up the spill. As unfair as this may seem, the store is entitled to legal protection from the courts under these facts.

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 if no employee from the store came into your aisle for the half hour that you were in the aisle that the store was negligent in failing to inspect their floors within a reasonable period of time. The same argument would apply if you fell in a hole in the store parking lot. Holes develop over a period of time so the store cannot argue that they were not aware the hole was there. The store has a duty to inspect and repair the hole.

In another example if the liquid spill came from a leaking refrigerator inside the store, 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. In these types of cases you do automatically have a right to file a slip and fall negligence case.

What should you do if you fall?

You should report your accident to a store manager. If available, you should use your cell phone to take pictures of the area where you fell to preserve the condition that caused you to fall or to show that there were no warning cones in the area and/or that the area had not been properly maintained. You can also write down what happened because your memory can fade over time. Be very specific about what you fell on or how big an area the spill was.

For snow and ice cases, you have to prove that the condition was there for a period of time and that it was not salted or sanded or otherwise plowed/cleared. Your attorney can obtain weather reports showing the weather conditions at the time of your fall and can obtain information from the store as to inspection schedules or salting/sanding procedures set by the store.

If you slip and fall while you are working you have the right to file a workers' compensation case and may have the right to file a negligence case against the owner of the property where you fell if a negligent condition caused you to fall.

As in everything there are exceptions in slip and fall cases. If you fall on residential property your rights are limited. If you fall on publicly owned property such as a public school or a municipal building or parking lot or if you fall on church property then there is extra and substantial protection that the public entity or religious institution receives under the law.

If you have had the unfortunate experience of slipping or tripping and falling you have to right to consult with a [personal injury](#) attorney to explore any rights that you may have.