

## **SLIP AND FALL**

Slip and falls can lead to serious injuries that can have lasting and permanent consequences. Slips and falls can be caused by unlit stairwells, wet floors, icy and snow conditions, and construction site defects. Some important factors to take into consideration are: previous complaints about an existing hazard, determining negligence of a business property owner, and determining negligence if any of the individual injured. It's important to realize that not every slip and fall is compensable.

### **What do you need to prove?**

Plaintiff was owed some duty of care by the defendant, that duty was breached by the defendant, the plaintiff incurred damages, and the damages to the plaintiff were a result of the defendant's actions or inaction. In Massachusetts if the slip and fall case makes it to court the state's modified comparative negligence rule will be used to determine how much compensation you can receive from the property owner if you were at all negligent in connection to the accident. Modified comparative negligence states any damage award a personal injury plaintiff receives will be reduced according to the percentage of their fault. Any preservation of evidence such as surveillance video, witness statements, or any photo evidence will help the claim.

### **What type of duty is owed?**

A person/company that owns a property has an obligation to maintain the property in a reasonably safe manner.

#### **a) Customers/people invited to a property for business**

- Considered invitees under MA law
- Owed the highest duty of care
- Owners must regularly inspect property for hazards
- Hazards must be corrected or visitors warned

#### **b) Friends/acquaintances for a casual visit**

- Considered licensees under MA law
- Obligated to correct any danger they know or reasonably should know about
- Warn guests
- No requirement for regular inspections of the property

#### **c) Trespassers (people who don't have permission to be on the property)**

- Lowest duty of care

- If owner knows they are there then obligated to warn them

**Steps to take:**

1. Determine the type of duty owed to you
2. Prove how the owner fell short of this duty
3. **Methods to prove:** subpoenaing records of maintenance, presenting testimony from witnesses, taking pictures of the accident scene

**Things to consider:**

- a) Did the owner create the hazard?
- b) What was the relationship to the injured person? (guest, employee)
- c) Did owner know about the defect?

**Common places: (although it can happen anywhere)**

- Grocery store
- Shopping malls
- Icy walkway
- Workplace
- Restaurants
- Hotel
- Sidewalks

**Common injuries:**

- Broken bones (wrists, femurs, hips, and knees)
- Facial and skull fractures
- Bleeding
- Bruising

**Compensation can be for:** medical bills, future treatment, pain and suffering, and lost wages

Statute of limitations – M.G.L. c.260 § 2A → 3 years

**Snow and Ice**

Standard for snow and ice liability is the same as any other personal injury claim. The property owner has to use reasonable care to maintain the property so it's in reasonably safe condition. This new ruling came from the 2010 MA Supreme Judicial Court in Papadopoulos v. Target Corp. This ruling has helped prevent these types of accidents from occurring and property owners are no longer shielded from liability by doing nothing. Pursuant to M.G.L. c.84, § 18-20



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a person has to notify the property owner of injury or damage from snow or ice on their premises within 30 days of it happening or they forfeit the right to file the claim at all.