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LIABILITY FACTORS IN A FALL CASE

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HERE ARE THE FACTORS COVERED IN THIS GUIDE THAT WILL AFFECT YOUR FALL CASE:

CONDITIONS ON THE PREMISES WHEN YOU FELL

COMPLAINTS, PRIOR INCIDENTS, AND SUBSEQUENT REPAIRS

RESPONSIBLE PARTIES AND INSURANCE

WITNESSES AND REPORTS

YOUR CONDITION AND CIRCUMSTANCES



CONDITIONS ON THE PREMISES WHEN YOU FELL

- What type of surface did you fall on? Was there a defect in the surface? Was the defect obvious?
- Was the fall the result of a slippery substance? Can the substance be identified?
- Did the fall involve an uneven surface, steep grade, steep stairs, or similar defect? The actual grade, height of stairs, and other appropriate measurements must be taken.
- What was the lighting level at the time of the fall? Was lighting a factor?
- What were the weather conditions at the time of the fall? Did weather play any role?
- Were any warnings posted about the defect? Where were they posted? If none were posted, could warnings have prevented your fall?
- Did conditions on the property causing the fall violate a statute, ordinance, or other regulation?

COMPLAINTS, PRIOR INCIDENTS, AND SUBSEQUENT REPAIRS

- Had any similar incidents occurred on the property previously?
- Did anyone make complaints to the owner or other responsible party about the defective condition before your fall?
- Were warnings posted or repairs made to the area after your fall? Although evidence of repair is often not admissible in court, the repair is very compelling in prompting settlement.



RESPONSIBLE PARTIES AND INSURANCE

- Was the property occupied by the owner or tenants?
- Do any leases or agreements alter which party is responsible for maintenance of the property?
- Do the property owners/tenants have adequate liability insurance?

WITNESSES AND REPORTS

- Were there any witnesses to the incident? Will they testify that the fall was caused by the conditions on the property or that the fall was your fault?
- Can any witnesses testify as to whether the owner or responsible party knew, or should have known, about the defect that caused your fall?
- Have the defendant's representatives or employees on the premises made statements admitting fault?
- Was there an official investigation and were its results favorable or unfavorable?

YOUR CONDITION AND CIRCUMSTANCES

- Had you consumed any alcoholic beverage within eight hours before the incident? If so, what did you drink and how much? Can anyone testify as to your condition just before the fall?
- What were you doing immediately prior to the incident? Paying attention? Talking? Carrying something? Looking the other way?
- What was your mental state at the time of the incident? Could it have caused inattention or inadvertence?
- Were you wearing any clothing or footwear that could have contributed to the fall, such as a long skirt, high heels, or sandals?
- Do you still have clothes and footwear you were wearing? Can a slippery substance, such as oil or grease, be found on them?
- Do you have a physical impairment that could have contributed to your fall? A physical impairment or physical disability could increase or decrease the value of your case depending on whether the owner of the premises is on notice that people with impairments visit or use the premises.
- Did you take any medications or other drugs that could have affected your alertness, such as sleeping pills, tranquilizers, barbiturates, or illegal substances?
- Why were you on the premises? Courts in some states treat people differently depending on whether they were on the premises for social purposes, for business purposes, or as trespassers.
- Were you injured on your employer's premises while working? If so, workers' compensation may be your primary or only source of recovery.