



Jeffrey D. Kirby of GOLDLAW. Courtesy photo

COMMENTARY

Slip and Falls: What You Need to Know

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By Jeffrey D. Kirby | February 27, 2024 at 09:44 AM

The Statistics

Slip and falls can cause devastating injuries and sometimes even death. Oftentimes, the pain from a slip and fall can be mild initially even though serious and permanent injuries have occurred. Therefore, it is critical that you know what to do if you fall even though your pain and injuries are mild at first.

According to the National Floor Safety Institute, slip-and-fall incidents account for about 13% of the eight million injuries and deaths that occur in the United States each year. In addition, fall injuries are the primary cause of occupational injuries among older adults over the age of 55. The elderly also suffer significantly more slip and falls as compared to the rest of the population and are at a much higher risk, depending upon the severity of the injury to require the use of assistive devices including canes, walkers and wheelchairs for the remainder of their lives.

There are a number of factors that cause slip-and-fall incidents. According to the Centers for Disease Control and Prevention (CDC), the most common causes of falls include spills, snow/ice, rain, loose flooring including mats/rugs, step ladders, poor lighting and clutter/debris on walkways.

The most common injuries include cuts/bruises, bone fractures (especially hips in older adults), internal/soft tissue injuries, spinal injuries and traumatic brain injuries. Studies by the CDC indicate that one in five falls causes serious injury, three million people are treated in emergency rooms for fall injuries and 800,000 patients are hospitalized each year due to a fall.

Potential Liability

If you, a friend or a loved one slips and falls, it may well be a property owner's or business owner's fault or the fault of those in possession of the area of the fall, if the fall was caused by a dangerous condition that the property owner or business owner actually knew existed or reasonably should have known existed and they were negligent in failing to correct the dangerous condition and warn about the dangerous condition.

The dangerous condition can be a defective curb, a change in elevation between two slabs of concrete, a hole in the grass or along a sidewalk area, a broken wheel stop in a parking lot, an abnormal change of elevation that does not comply with building codes, an area of repaired asphalt that was not repaired properly creating a trip hazard, holes, drops or defects in concrete surfaces, liquid substances, food substances or any items or substances on the ground that should not be on the ground where people commonly walk, and any other hazards to walking including ones that cannot be perceived due to poor lighting conditions at night.

Unfortunately, the most common reaction when someone falls is to be embarrassed. This causes the person to want to "get up and scurry away" if they are able to do so. In doing so, the faller is essentially walking away from determining whether their fall was or was not the fault of a property owner or possessor. Further, in a fall event where someone is significantly hurt, they do not focus on "why they fell." They are focused on their injuries and pain. These two instincts absolutely result in injury and even death cases against property owners or possessors that are either very weak or

worse, that do not have the evidence and proof of notice requirements necessary to even file a lawsuit.

Guideline of What to Do in the Event of a Slip and Fall at Someone Else's Property

Go with your instinct. Your first reaction might be embarrassment but your first thought after your fall will almost always be, "what caused me to fall?" Look at the ground around you. Is there a substance on the floor? Is there a change in elevation causing a trip hazard? If you find something that caused your fall, look closely to see if there are features of the condition that suggest that the trip hazard has existed for a while. For liquid and food substances, try to identify the type of substance so that you can describe it later. Check for other footsteps or tracks through the substance suggesting others had walked through it before. If liquid, check to see if there is a trail from one location to another location and if there are any dirt, debris or shoe prints in the substance. For all other trip hazards, you will likely have confronted a design defect of some sort or more likely some type of change in the elevation of the walking surface/floor. Identify the type of change such as a broken stair or curb, a space between two sections of flooring that caught your foot, or other features of the trip hazard.

If you are physically able to do so, take photos with your smartphone. Photos of the condition and photos of any persons cleaning up or restricting access to the condition. If there are witnesses, especially to the condition or hazard that caused you to fall, get their names and phone numbers into your phone or write them down. These photos and witnesses can make a critical difference in your ability to prove that your fall and resulting injuries were caused by the Defendant failing to correct a dangerous condition. More importantly, these photos and witnesses can help you establish either that the property owner/possessor had actual notice of the condition that caused your fall or, that features of the condition itself show that the condition existed for long enough that the property owner/possessor reasonably should have discovered the condition and could have corrected it or warned you about it before your fall.

If you are not able to take photos or get witness names due to your injuries, hand your phone off to a witness, if one exists, that does not work for the property owner/possessor to take the photos you need and to obtain the names and numbers of any witnesses.

The landowner or possessor, especially if it is a commercial business, will immediately begin to gather evidence to try and defeat your potential injury case. You should not fill out or sign any forms. You should only give them your name and phone number. At most, only give a simple explanation of why you fell in the fewest words possible and never let anyone take a recorded statement of you.

If your injuries are even somewhat serious, call EMS or get to either an urgent care clinic or emergency room on the day of or the day following your fall to document your injuries.

Finally, if you feel that you have a case because of what caused your fall, call a personal injury attorney or firm right away because the property owner or possessor has notified its liability insurance carrier of your fall and injuries and the insurance carrier is well underway with its efforts to aggressively gather evidence and witness information to either limit the value of your case or more likely establish that you have no case.

Jeffrey D. Kirby is a civil trial personal injury attorney at GOLDLAW. Kirby has had success litigating cases across the personal injury spectrum. He has secured many outstanding results, especially in cases involving motor vehicle and commercial truck crashes, premises liability, medical malpractice, nursing home abuse, negligent security and defective products.