

NEW MEXICO INJURY ATTORNEY BLOG

PUBLISHED BY
COLLINS & COLLINS, P.C.
ATTORNEYS AT LAW

August 4, 2010

Comparative Negligence in New Mexico Slip and Fall Claims

Slip and fall accidents are fairly common. Those injured in a slip and fall accident often have unrealistic expectations of financial recovery and often assume that there is liability simply by virtue of the accident. In doing so, they may fail to recognize their shared responsibility for the accident and the injuries. Premises liability is not absolute. New Mexico follows principles of comparative negligence which may and often does greatly diminish or destroy a slip and fall claim.

In New Mexico, every person has a duty to exercise reasonable care to protect themselves from harm. This includes protecting themselves from slip and fall accidents on the premises of another, whether on business or personal property. As a result, individuals are imputed knowledge of obvious dangers and failure to avoid those dangers may be considered the sole or partial cause of the slip and fall accident.

This issue comes up frequently in cases of ice and snow. Falling on fresh ice or snow is a far different matter than falling on ice that is unexpected and not apparent to the eye. For example, falling in a parking lot on ice immediately following a snow storm will likely be found to be the sole responsibility of the injured person due to the assumption of risk in knowingly walking on ice and snow. In addition, property owners will not be held responsible for those conditions that they cannot control. On the other hand, if a person falls several days after a snow storm and the property owner had time to remove the ice and snow and should have known of the danger, then it is far less likely that the injured person would be attributed comparative negligence. In other words, the liability and fault would fall strictly on the property owner.

These principles carry across a wide array of slip and fall accidents. Comparative negligence and the duty of reasonable care will often completely destroy a slip and fall claim. When someone has suffered serious injuries, this is a difficult conversation to have with the injured person. Unfortunately, all accidents are not compensable in personal injury litigation. Sometimes accidents just happen and there is no liability or fault on which to bring a claim.

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