

NEW MEXICO INJURY ATTORNEY BLOG

PUBLISHED BY
COLLINS & COLLINS, P.C.
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January 10, 2011

Possible Premises Liability Even In Cases of Obvious Hazards

Customer or invitee slip and fall accidents are a common occurrence for businesses of all types. Sometimes, they are unavoidable. On occasion, customers/invitees simply fall at no fault of the business owner. There are also occasions where customers fall strictly due to their own negligence.

If the accident was unavoidable by the business owner, then typically the business will not be held liable for the damages resulting from the accident. There are many times when the actions of both the business and the customer/invitee combine to cause the accident. The question of liability is more complicated in these cases.

Many business owners believe that if the customer/invitee is aware of the hazards and is injured anyway, then the business will escape liability for any and all personal injuries suffered by the customer. This is not the case in New Mexico.

There are states that apply contributory negligence principles to personal injury lawsuits. Under contributory negligence, if the customer (or injured party in any other personal injury matter) is even a little at fault, then his or her claims are barred completely. Contributory negligence rules have extremely harsh consequences for injured persons since it could be argued that there is some small level of fault on the injured party in almost every personal injury case.

Recognizing the harshness of contributory negligence, New Mexico follows the more equitable comparative negligence rule. Under this rule, fault is apportioned between the parties. The apportionment will result in a pro rata reduction in liability for the business owner. In other words, if the business owner is only 50% at fault, then the business owner is liable for only 50% of the damages.

Comparative negligence goes further than the 50/50 split. Even if the business owner is only 10% responsible, then the business will be held responsible for its portion of the fault. In cases of serious personal injury or wrongful death, 10% can amount to significant liability.

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The principles of comparative negligence are most striking in cases such as construction or repair. For instance, it is well established that even though a customer/invitee is well aware of the hazards of construction, remodeling or repairs such as debris left around the construction site, the business is not totally relieved of liability for the customer/invitee's injuries if the business was also negligent. Just as in any other personal injury case, the liability will be apportioned according to the negligence of each party.

A business owner is well advised to avoid any negligence and to keep the business premises free of possible hazards. Even hazards that should be obvious to the public, if negligently created or allowed, may result in liability in case of an accident.

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