

NEW MEXICO INJURY ATTORNEY BLOG

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Slip and Fall Accidents Do Not Always Lead to New Mexico Personal Injury Claims

Among the most common cause of New Mexico slip and fall injuries are spills. Customers are often injured as a result of slipping and falling on these spills. Many assume that the simple act of slipping and falling is enough for a personal injury claim. It is not.

The owner or occupier of a building or business has a duty protect customers and visitors from all foreseeable harm. Spills are certainly a foreseeable harm. So it would stand to reason that a slip and fall on a spill particularly in a grocery store where these occur often provides a clear personal injury claim.

However, New Mexico premises liability law requires a little bit more than that. First, the owner must know or should have known that the spill was present. In other words, the accident must have been avoidable. If the accident was unavoidable then a slip and fall personal injury claim could be difficult.

This raises some immediate and sometimes difficult evidentiary issues. For instance, if the spill just occurred and the injured person immediately slipped on the spill then there would be no knowledge or opportunity for the owner to address the dangerous situation. As such, liability might be a problem unless other circumstances are present.

It is important to show that the spill had been present for some period of time and the store or business should have been aware of the spill. In the alternative, it might be shown that the spill itself was negligent with or without the knowledge of its presence.

In the case of a spill that was left unattended for some period of time, the standard for imputed knowledge will vary depending on the circumstances but there is most definitely a duty on the business owner to discover these conditions in a timely manner. In other words, simply ignoring the problem or more commonly not having some standardized procedures in place for maintaining the safety of the facility is not a defense.

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Thus, if the spill has been present for a period of time then there is a duty on the business owner to both discover the spill and take corrective action to protect its customers. As a result, it is extremely important that someone injured in a case like this document the accident carefully. This would include pictures and/or video of the area, statements from witnesses, and at a minimum an incident report with the business.

Due to nature of the evidence in a case like this, waiting to document the accident may prove fatal to a claim. Once the area is cleaned up there is simply no remaining physical evidence. Store clerks, employees, and witnesses move on. In the absence of documentary evidence or witness accounts, it will be exceedingly difficult to establish the elements necessary for a premises liability claim.

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