



PREMISES LIABILITY LAWSUIT **GUIDE**

Navigating Your Premises Liability Claim

(800) 863-5312 | zdfirm.com



Accidents that result in personal injury happen on a daily basis. Whether it's on the road, in a public place or at work, when people are injured, knowing what to do next very important.

Due to the fact that all personal injury cases will vary and each state has its own laws as to when and how you can pursue compensation, this guidebook is a great first step in understanding what to do next.

In this FREE guide, you will learn more about types of claims, do's and don'ts when you've been in an accident, the process of filing a claim, and much more.

If you have any additional questions or would like to set up your FREE consultation with a personal injury attorney, please feel free to contact us at (800) 863-5312 or visit the Zinda Law Group website at www.zdfirm.com.

Sincerely,

Jack Zinda

Zinda Law Group Founder

TABLE OF CONTENTS

Overview of Premises Liability Lawsuits	3
How Does A Premises Liability Lawsuit Work?	5
Compensation for a Premises Liability Claim	6
Common Types of Premises Liability Cases	7
Common Causes of Slip and Fall Accidents	8
What Should I Do After a Slip and Fall Accident?	10
What is Comparative Negligence And How Will it Affect My Case?	11
How Do I File a Premises Liability Lawsuit?	12
Do I Need An Attorney to File A Claim?	13
How Do I Find a Premises Liability Lawyer?	14
About Zinda Law Group PLLC	15

Overview of Premises Liability Lawsuits

Each year, thousands of individuals are harmed while shopping for groceries, working diligently, running errands around town, returning home after a long day, or spending time at their local pool or water park. While some of these injuries are simply accidents, many may have been avoided had the property owner ensured proper maintenance and security of their establishment.

Premises liability is the legal concept that property owners must ensure that guests or others on their property are not knowingly exposed to hazardous conditions that could harm them. If an unsafe or potentially hazardous condition does exist, the property owner has a duty to remedy the condition, or if unable to immediately do so, provide proper warnings.

After an accident on someone else's property, an injured victim may be able to file a premises liability lawsuit to hold the responsible party liable, and recover damages to help relieve the financial burden of their injuries. Types of premises liability cases include slip-and-fall accidents, improper construction, inadequate security measures, or poorly maintained grounds.

Because the laws for premises liability claims differ state by state, and each case is unique, navigating this type of claim can be a difficult process. Zinda Law Group can help you determine how to move forward after sustaining serious injuries due to an accident on someone else's property, and to pursue the compensation you may be entitled to.

How Does a Premises Liability Lawsuit Work?

Proving Fault in a Premises Liability Claim

If you decide to file a claim to seek compensation for your injuries, you need to show that someone else was at fault. Often, this someone is the owner of the property where you were injured. However, in a premises liability case, unlike other personal injury cases, you cannot simply just sue the property owner by claiming he or she was negligent. There are aspects that must be proven:

1. Duty of Care

Although you must show some type of negligence, it must also be shown that the property owner owed a duty of care towards you. A duty of care means that the property owner was expected to not act in a way that would endanger you while you were on their property. Whether you were owed a duty depends on what kind of status you held when you were on the property.

There are generally three types of visitors: licensees, invitees, and trespassers.

Licensee

If you were a licensee when you were on the property, this means that you were on the property for your own benefit rather than for the benefit of the property owner. For instance, if you went to a friend's house for a party, you would be considered a licensee.

Invitee

On the other hand, if you were an invitee, then you were on the property for the property owner's benefit. There are two types of invitees: business and public. An example of a public invitee is someone who goes to a public place like a library. An example of a business invitee is someone who goes to a store to buy merchandise. However, if you went to the store simply to ask for directions or use the restroom, you will likely be considered a licensee rather than an invitee.

Trespasser

If you trespass on another person's property without their knowledge or consent and you injure yourself, you may not be entitled to make a claim for compensation. The reason being that the property owner was not obliged to keep a safe environment for you.

How Does a Premises Liability Lawsuit Work?

The reason why you need to distinguish these three similar roles is important. The status you held while you were on the property, at the time you were injured, will determine the extent to which the property owner owed a duty to you.

Invitees are owed the most protection because they are on the property for the property owner's benefit. Therefore, property owners must take more steps to provide a safe place for them. However, even if you are a licensee, the property owner must inform you of any dangerous conditions on the property.

However, if you are a licensee, a property owner does not have to rectify the dangerous condition as he or she would have to do for an invitee. To give an example, if you were at a friend's house and your friend knows that his or her bathroom's floor is slippery as ice, your friend must tell you that the bathroom's floor is slippery as ice. However, he or she does not have a duty to actually make it less slippery.

On the other hand, if you were at a grocery store, and the grocery store also has a bathroom with a slippery floor, the grocery store management must place signs and place barriers or the like to prevent people from using the bathroom. Otherwise, the grocery store will likely be found at fault for an accident.

2. Breach of Duty of Care

Once you have established that the property owner owed you a duty, it must be shown that the property owner breached the duty. Thus, using the above examples, if your friend knew of the slippery floor and did not tell you, then your friend will likely be found to have breached their duty. If the grocery store knew of the slippery floor and had warnings placed near the bathroom, but did not place barriers to prevent you from using the bathroom, then the grocery store will likely be found to have breached their duty.

3. Causation

Once you have shown that the property owner breached his or her duty, you must then establish that the breach of the duty caused your injury. In the above scenarios, for example, you must show that the failure of the friend or the grocery store to tell you or protect you from the slippery floor caused you to injure your back.

4. Injury

Finally, you must show that that you actually suffered an injury. This is generally done by presenting medical records that show your injury and confirm that it is an injury from a past accident. Your lawyer can obtain and assemble these medical records to prove whether your injuries were caused by the accident.

Compensation for a Premises Liability Case

In a premises liability case, you may be able to claim both economic and non-economic damages, while the amount recoverable for these damages may differ depending on whether the victim is an adult or child.

Economic Damages

Medical Costs

You may be entitled to compensation for your medical expenses. This includes diagnosis, treatments, visits to specialists, and medications. If you have a chronic injury or injury that will require further treatments in the future, you may also be able to claim compensation for future medical care.

Loss of Earnings

If you are unable to work because of your injuries, you may be entitled to be compensated for lost wages for the time you have missed.

Loss of Earning Potential

If you are unable to return to work due to your injuries preventing you from performing your normal duties, or if a loved one has died as a result of the accident, you may be able to claim compensation for loss of earning potential.

Non-Economic Damages

Physical Pain and Suffering

You may be able to claim compensation for the physical pain and anguish suffered as a result of your injuries.

Mental Anguish

In addition to the physical pain you suffered from an injury, you may have suffered mental or emotional harm as well. Mental anguish can include emotional pain from embarrassment, anger, trauma, anxiety, and depression you have suffered due to this incident. You may be able to argue for a greater amount of compensation if you have been diagnosed with a mental health condition related to the injury.

Common Types of Premises Liability Cases

Slip and Fall Injuries

Slip and fall injuries are one of the most common types of premises liability cases, and also one of the most easily prevented. Trips, missteps, and stumbles that result in a fall are part of this category too.

There are countless hazards that can result in a slip, trip, or fall incident. Spilled grease, puddles of water, dropped food, debris on the floor, and unkempt walkways are some of the most common. In colder regions, ice and snow present other unsafe conditions. In all of these settings, the property owner is responsible for noticing these hazards, rectifying them in a timely manner, or at the very least putting up warnings to alert visitors of them.

Lack of, or Improper, Maintenance

Property owners must take care to prevent the harm of their visitors. With owning a property comes the responsibility to conduct consistent property inspections, respond to maintenance requests and to make repairs in a reasonable amount of time. If the property owner is unable to fix a problem immediately, they are also responsible for notifying their visitors of the hazard, such as by placing signs or blocking the area off from being accessed.

Workplace Injuries

Many of us spend many hours at our place of work every single day, so it is important that the environment is safe, secure, and properly maintained. This is critically important at construction and industrial sites, which can be quite dangerous even with proper maintenance. There are many rules and regulations in place to keep these sites as safe as possible. If an injury were to occur due to not complying with these rules, a premises liability claim could be pursued against the site owners.

Inadequate Security

A vital way that property owners can protect their visitors is to ensure that they are properly and sufficiently protected. Some ways of doing this, for example, is by having active patrols, installing cameras throughout the premises, and making sure that all gates and locks are properly installed and in working order.

In the event of a violent crime, the criminal will ultimately be responsible for the incident. However, the property owner could also be held partially responsible. This may be possible if it can be proven that the violent act could have been prevented had the property owner had acted in another way.

Common Causes of Slip and Fall Accidents

Slip and fall accidents often happen at places such as gas stations or grocery stores, and they can have a variety of causes, including:

Slippery Surfaces

Surfaces can often become slippery due to spilled substances, cleaning and maintenance, and inclement weather. Other surfaces are naturally slippery, such as worn or polished stone. These conditions can easily cause a person to slip and fall, potentially causing injury. For example, if the floors in a 7/11 gas station have been freshly mopped, or a container has leaked, spilling liquid onto the floor, the floor could become slippery, and customers walking through this area may slip and fall.

Debris and Cluttered Walkways

Sometimes a walkway may become difficult to navigate due to debris, such as misplaced merchandise, pallets, dropped food, or other items. Items may be placed in walkways intentionally, such as boxes, containers, cords, or tools. These can all make walkways dangerous and cause an accident. If you are in a grocery store like Walmart, and there are pallets or other obstacles in the aisles, these can pose a danger, and they could cause a person to potentially trip over one of the containers and fall.

Staircases and Ramps

Stairways and ramps can often cause falls, especially if not properly constructed and maintained. Loose or broken handrails, uneven risers, and loose boards are frequently the cause in these accidents. For example, if you are climbing a set of stairs that have uneven risers, meaning the height of the individual stairs is uneven, you could stumble and fall, causing injury.

Uneven or Unstable Surfaces

Walking over torn or crumpled carpets, loose or uneven floor tiles, potholes, and uneven or broken masonry can cause falls that result in injury. For example, if you are in a store and step on a broken floor tile, this can cause you to slip and fall.

Common Causes of Slip and Fall Accidents

Occupational Slip and Fall Accidents

Slip and fall accidents not only occur in public and commercial spaces but can also occur on the job. Some of the common slip-and-fall accidents that can occur in the workplace include:

Slippery, Cluttered, or Unstable Walking/Working Conditions

Workplaces are often busy places, and spills, leaks, tools and materials may litter the walkways, or walkways may have been hastily constructed or poorly supported, causing them to be unstable. For example, a machine that is leaking oil onto the floor can cause an employee to slip and fall.

Unprotected Edges

Some workplaces may require employees to perform duties on elevated platforms or unfinished areas. If the edges of these areas do not have proper guards to prevent falls, an accident may occur that causes injury.

Floor Holes and Wall Openings

Some occupations present unique dangers, such as holes in flooring or openings in walls. While the nature of the work being done may make the presence of these hazards necessary, proper precautions and warnings are still required to prevent injury causing accidents from occurring.

Unsafely Positioned Ladders

Ladders that are not properly positioned, such as those placed on an uneven surface can cause accidents resulting in injury.

Misused Fall Protection

Even when fall protection is provided, accidents resulting in injury can still occur if the protective equipment is not properly utilized.

What Should I Do After a Slip and Fall Accident?

If you have been involved in a slip and fall accident, you should:

1. Seek Medical Attention

After an accident, the most important thing to do is seek medical care to address any injuries. Even if an injury is not readily apparent after an accident, you may still be injured. It is important to seek immediate treatment after an accident, as it maximizes your potential for recovery. Medical documentation will also help your lawyer prove your injuries and their extent.

2. Report the Accident

After an accident occurs on someone else's property, you should always report the incident, either to a manager, the property owner, or if it occurs at work, to your supervisor, manager, or owner. Be sure to ask for a written report to be filed, as well as for a copy for your own records.

3. Document Evidence

You should gather as much evidence of the accident as possible. Make sure you obtain the contact information of any witnesses that may have been present. Take photos of the site of the accident, being sure to include any details that may have contributed to your accident. You should also preserve the clothes and footwear you were wearing at the time of the accident, as they may be useful as evidence.

4. Do Not Give Statements

After an accident, it is important to not give out any more details than required to fill out the initial report of the accident. You should not place or admit any blame or fault. You should consult your lawyer before discussing anything about the accident.

5. Consult an Attorney

Premise liability cases can be difficult to prove and may often involve dealing with large corporations or insurance companies. An experienced attorney may help you to investigate and prove your case, as well as navigate the intricacies of the law involved in these matters. The sooner you hire an attorney, the sooner they can begin to help you obtain a potential settlement.

What is Comparative Negligence and How Will it Affect My Case?

When determining whether a person or entity is at fault for an accident, many states also consider the proportion of fault that can be attributed to the injured party. This theory is known as comparative negligence.

States that follow a doctrine of comparative negligence will attempt to apportion fault between all parties, and the injured party's awards may be decreased by the amount of fault that has been attributed to him or her. For example, if you are shopping in a grocery store and you slip on a puddle of water with no warning signs that has accumulated on the floor due to a leaky, unfixed pipe, you may be found partly at fault for the accident if you were looking down at your phone when it happened.

A majority of states, such as Texas, follow a doctrine called **modified comparative fault**. This doctrine means that the plaintiff can only recover if they are found, by a jury, less than 51% responsible for their injuries, or the incident in general. Moreover, a jury's award will be decreased by the amount of fault apportioned to the plaintiff.

For example, if the jury awards \$100,000.00 to the plaintiff, but finds the plaintiff 40% negligent, then the plaintiff will be permitted to recover, but the most they will recover is \$60,000. No matter the amount of damages the jury finds in a case, if a plaintiff is 51% or greater negligent, then they recover nothing.

Only four states, including Alabama and Maryland, employ a different rule called **pure contributory negligence**. This doctrine states that the injured party cannot recover any damages if they are found even 1% at fault. Under this rule, a plaintiff that is found 5% at fault will recover nothing, even though the defendant is 95% at fault.

The remaining states recognize the **pure comparative fault rule**, which allows the plaintiff to recover even if it is determined to be 99% at fault, although his or her recovery is still reduced by their degree of fault.

If you are unsure what rule is followed where you live, an experienced lawyer may be able to help you navigate the intricacies of comparative negligence for a premises liability case in your state.

How Do I File a Premises Liability Lawsuit?

1. Talk to a Premises Liability Attorney

If you are thinking about making a claim, an attorney is the best place to start as they can help you establish fault, build the strongest case possible for you, and calculate the amount of compensation you may be entitled to.

2. Investigation

Your attorney will then begin investigating your claim with the aim to build the strongest case possible for you. At this point, your lawyer may ask you for information about your case, request receipts of expenses, details of lost income, and more to help evaluate your claim.

3. Negotiation

Once your case has been built, your attorney will then issue a demand letter to the other side, and begin negotiating a settlement on your behalf. Your attorney should discuss every settlement offer with you before accepting or rejecting it.

4. Settlement

If an agreement is met at the negotiation stage, then your case will be settled, and your attorney will walk you through the steps of receiving your settlement. Most personal injury cases are settled before ever having to step foot into a courtroom. If your case is not settled at this stage, then your case will proceed to litigation. This means your attorney will file a lawsuit on your behalf. Your attorney and legal team should be right there beside you every step of the way, if this happens.

Do I Need An Attorney to File a Claim?

Trying to pursue a lawsuit for the injuries you sustained on someone else's property on your own can often lead to frustration, overwhelming paperwork, as well as a strong likelihood that your case may not get very far in front of a judge. Because of this, many victims choose to seek the counsel of an experienced attorney to help file a lawsuit on their behalf.

There are many ways that an attorney can help you through the legal process, including:

Investigation and Preservation of Evidence

In all premises liability cases, you will be expected to prove that the property owner's negligence was a factor in your accident by providing evidence that satisfies the four elements of fault: duty of care, breach of duty, causation, and damages. The amount of evidence you provide is less important than the quality and credibility of the evidence you provide.

An attorney can help identify and compile the evidence that may prove vital to your premises liability case, such as witness testimonies, accident reports, medical paperwork, and history of the defendant.

Knowledge and Experience

An experienced attorney will be well aware of any deadlines that may pertain to your case, such as the statute of limitations, and will know all the necessary paperwork that must be filed for you to secure financial support during your recovery. An attorney will also have experience with the unique laws of your state that will determine how your case can be pursued.

Financial Support

There are many expenses associated with filing a premises liability lawsuit. The fees to file papers with the Court can cost upwards of \$500, and you may miss out on many days of work, and thus income, due to filing paperwork, investigating and compiling evidence, and negotiating with insurance companies.

An attorney can cover all legal costs so you do not have to make any upfront payments, and they can handle all the other work so you can focus on your recovery. Furthermore, many law firms offer a No Win, No Fee Guarantee, so you only have to pay for their services if your case is won.

Litigation and Trial Experience

Should you not reach a settlement, your case may go to trial. In a trial, a judge or jury will examine the evidence to determine whether you have met the "burden of proof" necessary to prove the property owner's fault or negligence. An attorney with litigation experience may argue on your behalf at trial, examine and cross-examine witnesses, and present your case to a judge or jury to seek maximum compensation.

How Do I Find a Premises Liability Lawyer?

When considering a premises liability claim, it is important to obtain the right legal representation. With that in mind, there are several items to consider when choosing an attorney to represent you, such as:

- Proper accreditation and good standing with the state licensing agency
- Specialty areas
- Years of experience
- Timeliness, responsiveness, and accessibility
- Client testimonials and reviews
- Case outcomes
- Industry awards
- Helpfulness and professional presentation
- Your comfort level

Today, the easiest way to search for a personal injury attorney is through the Internet. Using a search engine like Google or Bing will reveal many lawyers who have experience with premises liability cases. It is important to take the time to review a variety of attorneys.

In addition to the above considerations, you can refer to online legal directories, such as FindLaw, Nolo, Justia, and Avvo, to obtain reviews on a particular attorney or law firm. You can also utilize reviews offered on other platforms, including Google, Yelp, and social media websites. Another effective method is to solicit recommendations from family and friends.

After doing your research and identifying qualified attorneys, contact the various law offices to arrange a free consultation. If an attorney or firm does not offer a free consultation, consider this a red flag.

At your consultation, be prepared to ask questions such as:

- Can you explain the process of a premises liability case?
- How much experience do you or your firm have dealing with premises liability cases?
- Who will I be working with on this case?
- What is my job throughout the course of this case?

The answers to these questions and others should help you determine whether you are comfortable with the attorney and the firm. However, if you still feel uneasy after speaking with the attorney, continue comparing your options until you find the right fit. Be patient with the process of finding an attorney, as finding the right representation will save you time, frustration, and stress later on.

About Zinda Law Group, PLLC

Representing All Types of Clients in Premises Liability Cases

The lawyers of Zinda Law Group, PLLC represent individuals who have been injured due to the negligent actions of another individual or entity. We know firsthand that the injuries suffered from an accident can be severe and life-altering for both the victim and their family.

How Can Zinda Law Group Help?

If you have been injured in an accident, the attorneys at Zinda Law Group may be able to provide the representation you need to seek a full recovery. Our firm offers experienced, knowledgeable, and compassionate representation to injury accident victims across the United States.

Our firm also believes you should never have to worry about being able to afford superior legal representation. We offer free consultations, and as one of our clients, you will pay absolutely nothing unless we win your case. That's our No Fee Guarantee.

Call Zinda Law Group at (855) 629-4898 for a free consultation with one of our attorneys so we can start fighting for you!