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Slip and Falls: How to Know When You're Liable



By Kristen Rodman, AccuWeather.com Staff Writer
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As winter unfolds, spills on frozen sidewalks and slippery parking lots are commencing legal battles across the nation.

"Weather-related, slip-and-fall cases are extremely common," President of the Massachusetts Bar Association Douglas Sheff said.

Notably frequent in the Northeast and Midwest due to the area's high average wintry precipitation, slips and falls can result in everything from minor injuries to serious head injuries, brain injuries and even death, according to Sheff.



See larger image below.

Each year practitioners and forensic meteorologists work on numerous slip-and-fall cases, but because the laws regarding these cases vary by state, there are significant gray areas within the legal statutes.

So how can someone know when they are liable if someone falls on their property or outside their business?



As workers salt icy sidewalks, a woman walks carefully, early Friday, Jan. 10, 2014, outside the Statehouse in Trenton, N.J. (AP Photo/Mel Evans)

"Traditionally, many states had a rule that you were able to recover for slip-and-fall injuries resulting from unnatural accumulation," Sheff said.

Unnatural accumulation includes instances in which snow and ice were crafted into a potentially hazardous situation from something other than a natural phenomenon.

For example, these cases could include dripping icicles that made a sidewalk icy or plowing that made an area dangerous, opposed to snow falling from a snowstorm.

However, due to the confusion surrounding when an instance can be considered natural versus unnatural, some states, including Massachusetts in 2010, decided to change their standard to the test for reasonableness.

It was something that everyone could understand, Sheff said.

The reasonableness standard judges an individual's actions in light of what an average reasonable person would do. If their actions fall outside this, it is considered unreasonable.

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Both businesses and personal properties have to follow the reasonableness standard, but this standard takes all factors of a circumstance into consideration, especially the weather conditions at the time of the instance in question.

It's important to figure out what the weather was doing at the time of the fall and what had been going on in the period before the fall, AccuWeather Forensic Meteorologist Steve Wistar said.

While an active storm in progress can prove, in some cases, to be a viable defense for not shoveling, leaky drain pipes or dripping rooftops that cause an icy walkway could make a business or homeowner liable.

The melting and refreezing that goes on prior to a snowstorm can also cause liability issues if walkways, driveways and parking lots are not salted in a timely manner, according to Wistar.



One of the biggest assumptions that can land a person in a courtroom for a slip-and-fall case is that their legal responsibility ends at their property line.

"Don't think that just because you are at the end of your property that you don't have some additional responsibilities," Sheff said.

In many states, even adjacent spaces can fall under the jurisdiction of the bordering owner.

Due to the legal ramifications a lawsuit can have on a homeowner or a business, the best way to protect oneself from a lawsuit is to simply be practical.

"As soon as it's practicable, go out there and clean it up," Sheff said.

For more information on how to protect yourself from this kind of lawsuit, see the tips below from the President of the Massachusetts Bar Association Douglas Sheff.

Tips for Protecting Yourself Against a Slip and Fall Lawsuit:

1. Make sure the business is well-insured, a \$1 million insurance policy won't cover a multi-million dollar injury.
2. Keep snowblowers, shovels and salt handy at all times.
3. Make sure all employees are trained and knowledgeable to act reasonably.
4. During a snowstorm that lasts for multiple hours, get out there and shovel in a lull period.
5. If shoveling isn't an option, contract with a local plow company before the storm.

Have questions, comments, or a story to share? Email Kristen Rodman at Kristen.Rodman@accuweather.com, follow her on Twitter [@Accu_Kristen](https://twitter.com/Accu_Kristen) or [Google+](https://plus.google.com/+breakingweather). Follow us [@breakingweather](https://twitter.com/breakingweather), or on [Facebook](https://www.facebook.com/breakingweather) and [Google+](https://plus.google.com/+breakingweather).

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