

Lowcountry Injury Law

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Slip & Fall Checklist – Fault Factors:

Among the following list, one should find most of the factors a jury may consider in any given slip-and-fall case for comparing and weighing the negligence of the parties to a case. The list (which is in no particular order) can also serve as a helpful case investigation and evaluation checklist, as all the factors are relevant to prosecuting or defended slip-and-fall cases.

- The nature and extent of the dangerous condition (latent or open and obvious)
- The parties' respective knowledge and appreciation of the nature and extent of the danger
- Whether the plaintiff voluntarily exposed himself to a known danger
- Whether the defendant created the hazard or allowed it to exist
- Whether the hazard was created by a third party
- Whether the alleged hazard consists of a natural condition
- The length of time the hazard has existed
- The recurring nature of the hazard, if any
- Whether the defendant had been warned of the hazard
- Whether the defendant had notice of prior accidents
- The extent of the defendant's warnings or guarding against the hazard
- The reasonableness of the defendant's precautions taken to reduce or eliminate foreseeable risks associated with the hazard (except for storekeepers as to foreign substances, for which they have no duty)
- Whether the magnitude of the burden in eliminating or reducing the risk of danger was slight or high
- The amount of pedestrian traffic expected in the area or likelihood of a visitor encountering the hazard
- The lighting conditions and who was responsible for them
- The necessity for the plaintiff reaching the destination
- The availability of alternative safer routes
- The plaintiff's familiarity with the premises and its dangers
- The plaintiff's age, experience or superior knowledge, infirmities and mental capacity

- The plaintiff's reason for being on the premises and at the particular location where the slip and fall occurred
- The benefit to the defendant of plaintiff's presence
- Whether the plaintiff was distracted by an activity or surroundings on the premises
- Whether the plaintiff knew of the hazard but momentarily forgot about it and the circumstances inducing the forgetfulness
- Whether the defendant should reasonably have anticipated harm to the plaintiff who may be distracted or forgetful of the condition after having momentarily encountered it
- Whether the defendant had reason to suspect that the entrant would proceed despite a known or obvious danger
- Whether a careful person would have noticed the hazard and avoided it
- Whether the plaintiff failed to exercise reasonable care for his or her own safety
- Whether the plaintiff's conduct contributed to the slip and fall, such as running, using a cell phone, texting, wearing improper footwear (i.e., flip-flops), not looking ahead
- Whether the danger was unexpected or unusual