

Protecting New Jersey Workers Against Slips, Trips, and Falls

Employers need to take responsibility for worker safety

Fall down injuries may sometimes be thought of as minor incidents, but they're serious business. Nationally, falls are among the leading causes of injury-related deaths, behind motor vehicle accidents. In some industries, they are the leading cause of on-the-job deaths. Fall down accidents can cause very serious injuries which are often permanent. Our firm has represented many people who have suffered fall down accidents, and we have seen various injuries from these accidents ranging from traumatic brain injury (TBI) to broken bones, ligament damage, and spine injuries. These accidents often result in the injured worker missing time from their job, and across New Jersey, fall down accidents account for thousands of lost days of work every year.

In short, employers need to make fall prevention a top workplace safety priority – and injured workers need to know their rights if they're hurt in an accident on the job.

When you are seriously hurt or become ill due to workplace conditions that are maintained by a third party, you may be eligible for both workers' compensation benefits *and* damages through a civil lawsuit. Workers' compensation pays for your medical treatment, temporary disability, and additional compensation for any permanent disability. A third-party lawsuit includes damages not available through a workers' compensation claim, such as pain and suffering or diminished earning potential.

Our team of experienced workers' compensation and personal injury lawyers is perfectly suited to help you file a workers' compensation claim and a civil lawsuit when the situation calls for both. With several Certified Trial Attorneys here at Shebell & Shebell, our firm offers unique legal representation to all our clients so that you receive all the benefits you are entitled to.

Legal options for New Jersey workers injured in slip, trip, and falls

Workers' compensation for on-the-job falls

When an employee falls on the job, they can file for [workers' compensation](#) benefits to pay for their medical treatment, temporary disability through the workers' compensation insurance plan for your job, and additional compensation for any partial or total disability. Injured workers are entitled to workers' compensation benefits, and employers are required by law to carry workers' compensation insurance for their employees. Workers' compensation insurance provides medical and wage benefits to people injured at work, regardless of whose fault the accident was. Workers' compensation also provides benefits for any percentage of disability associated with the injured body part from the compensable accident.

Workers' comp is a no-fault system, which means there is no need to prove liability on the part of the employer to get compensation. It doesn't matter whether the cause of the accident was poor maintenance and cleaning by the employer or just the worker tripping over their own feet;

the injury is covered either way so long as it arises out of the course and scope of the person's employment. This is a legal determination that our attorneys can explain if you have had a workplace injury.

To get workers' compensation benefits, the injured worker needs to report the injury to their employer promptly – sometimes within 48 hours depending on the applicable injury or laws – and get prompt medical attention from an authorized medical provider. The employer (or the workers' compensation insurance carrier) must file a First Report of Injury with the New Jersey Division of Workers' Compensation within 21 days. If the claim is approved, workers' comp will pay for the full cost of the authorized reasonable and necessary medical care for the injuries sustained, plus 70% of the worker's average weekly wage (AWW) up to the State maximum, for the time they are out of work due to the injury.

The injured worker is also eligible for additional payments for compensation of any partial or total disability to any injured body part. This compensation is based on the percentage of disability that applies to the body part from this accident. The percentage, either agreed upon during settlement or by a Judge after trial, is then put into the workers' compensation disability chart for the year of the accident to determine the amount of compensation that must be paid.

Some injured workers also have legal recourse beyond workers' compensation when their fall was the result of a third party's negligence. In those instances, our firm pursues both workers' compensation benefits and third-party compensation to maximize your recovery.

Third-party personal injury claims

Sometimes, slips, trips, and falls are caused by the negligence of a company or organization other than the injured worker's direct employer. When the injury was caused by the negligence of a third party, such as another company responsible for maintenance of the property where the injury occurred, the injured worker can file a third-party claim against any other person or organization that caused the injury through negligence.

These "third-party" claims typically arise when someone who is not a co-employee negligently causes the injury. A "third party" that is liable for a slip and fall or trip and fall at work is typically another company that is also involved with the work. There are strict limits on someone's ability to sue their own employer for pain and suffering in New Jersey, but if the injury was caused by someone not also employed by the injured worker's company, a lawsuit against that "third party" may be an option.

For instance, suppose a worker falls due to hazardous conditions created by a contractor or vendor, while on another company's or customer's premises. Another scenario we have seen come up is defective safety equipment or machinery modifications done by a third party. In these scenarios, the third parties who may be liable are the outside vendor, property owner, or possibly even a defective parts manufacturer.

While workers' compensation immunity typically prevents employees from suing *their direct employer* for an injury, there are rare situations that give rise to the ability to actually sue the employer. These could arise from employment law violations, or situations involving intentional infliction of harm, or knowledge with substantial certainty that an injury would occur by requiring the employee to perform a certain task.

To recover compensation in a [personal injury](#) claim, the injured worker needs to prove that the at-fault party owed them a *duty of care*; that is, a legal responsibility for their safety, and that the third party's negligent action or inaction caused or contributed to the accident. For instance, if a third party was responsible for cleaning or maintenance of the work environment, and that third party's negligence created a slip and fall hazard that caused a worker to be injured, the worker can pursue compensation from that third party. A common example is a cleaning company hired to maintain hallways or cafeterias that negligently fails to keep the hallway or cafeteria safe from spills or other hazardous conditions.

When employees slip and fall on premises owned or managed by someone other than their employer (for instance, at an off-site meeting or house call), their claims fall under [premises liability](#) law. Premises liability law concerns the responsibility of property or business owners for people on their property. This is a complicated area of the law that our firm excels in. Someone who is on the premises for work purposes is generally considered an "invitee," meaning they are owed the highest duty of care under premises liability law. There are many possible scenarios in these types of cases, which our team is uniquely qualified to assist you with no matter what the circumstances of your injury.

Based on our firm's years of experience in proving negligence of these third parties, we can explain the added requirements needed to obtain that additional compensation. Because we have to prove negligence on the part of the third party, there are additional proofs required that are typically not required in just a standard workers' compensation claim. In most workers' compensation claims, no proof of negligence is required, only proof that the injury occurred in the course and scope of the person's job when the accident happened. However, a third-party claim can provide compensation for losses not covered by workers' comp, such as pain and suffering, excess wage loss, loss of consortium, and loss of quality and enjoyment of life. You should not use a firm that only handles workers' compensation claims for these types of cases, as you may be foregoing significant additional compensation.

Key slip, trip, and fall hazards in New Jersey workplaces

While some work environments are more dangerous than others, the risk of slips, trips, and falls is real in any workplace. Property owners need to be aware of these key hazards and take proactive measures to protect workers.

Slippery substances on the floor

Water, grease, oil, food, and other slippery materials can pose a hazard to workers in any setting. The risk of slip hazards is particularly high in food service areas (such as kitchens and cafeterias), restrooms, and near drinking fountains, as well as industrial settings that use liquid materials or wet equipment. During inclement weather, building entrances can also become slip and fall hazards as rain and snow are tracked in from outside, or hazardous conditions can exist outside the building itself. Our firm has handled many similar cases, including the Appellate Division decision of *Walker v. Shop-rite*, dealing with injuries that occur in parking lots.

To prevent such hazards from occurring, employers should create written policies and programs to ensure that employees immediately know what to do about a spill. Workers should be required to report and address spills or other hazardous conditions immediately. In areas where spills are anticipated, preventive measures like paper towel holders, spill pads, and wet floor signs should be stored nearby, and employees who work in those areas should wear slip-resistant shoes. Our firm has tremendous experience in these “mode of operation” cases, and Thomas F. Shebell, III, has given various lectures on this topic.

Another common issue in many work environments is a lack of drainage. A clogged drain or improperly designed drainage can cause water to back up onto the floor or parking lot. Other examples of hazardous conditions our firm has successfully obtained compensation for our clients include poorly maintained roofs leading to leaks; improperly maintained sidewalks; damaged or improperly aligned pipes causing liquid to spill onto the floor; and many others. The devastating injuries sustained in trip and fall or slip and fall accidents are one of the many reasons it’s so important for workplaces to be properly and proactively maintained.

These types of incidents may involve third-party liability if there is another company responsible for the maintenance or cleaning of the premises.

Uneven walking surfaces and trip hazards

When flooring becomes damaged, warped, buckled, or uneven, workers are at risk of trips and falls. Often, uneven flooring is a result of a maintenance problem – loose or buckled carpeting, cracks in the floor surface, indented or blistered tile, and so on.

Tripping hazards need to be eliminated to maintain a safe work environment. Cracks should be patched or filled in, sidewalks should be made level, and trash, debris, and clutter need to be promptly removed from walking surfaces as well. Our firm has successfully handled claims for our clients for all of these issues.

If the property owner or maintenance company is aware of uneven walking surfaces, such as near entrances to buildings or curbs, those hazards should be highlighted with visual cues such as yellow paint or other warnings so people are aware of the potentially hazardous condition. Yellow warning paint and appropriate signage can warn workers of the trip hazard and prevent incidents. The surface of these hazardous floors can also be treated with non-slip textures or

rubber mats to prevent slipping. Likewise, cords need to be bundled, taped to the floor, or covered with protective covers. Anything that *needs* to be on the floor should be placed as out of the way as possible, such as in corners or under desks. Unfortunately, unkept wires or cords have caused injuries to many of our clients.

Any person who works in settings outside their direct employer's control may have a third-party claim against the owner of those premises if that third party's negligence created a tripping hazard. For example, home health care workers who get injured in a client's home by falling due to a loose railing or tripping on an uneven floor may be able to file third-party injury claims.

Ice and snow

During the winter months, snow and ice are a fact of life in New Jersey, and employers need to be prepared to protect workers from slip and fall hazards. This means putting a plan in place to promptly remove ice and snow from sidewalks, parking lots, and other outdoor areas near the workplace. Even the federal government requires, under the ADA (Americans with Disabilities Act), prompt and reasonable maintenance of premises to make the location safe for customers. Various issues arise in the winter months, creating hazardous conditions. Our firm has successfully handled numerous slip or trip and fall cases involving injuries resulting from a number of different types of issues. Just a few examples include: a business owner's failure to salt icy conditions; melting snow dripping off a roof onto a walkway making it slippery; or improper mats placed near doorways creating tripping hazards.

Planning for slippery conditions also includes the decision of whether to require employees to come to the office in inclement weather at all. In many workplaces, this is unavoidable, and employers, as well as property owners, are required to safely maintain their premises so that these essential workers can safely do their jobs.

Proper lighting

Dim lighting significantly increases the risk of a slip and fall or trip and fall, especially among older or disabled workers. Workers, regardless of their age or health status, need to be able to see their surroundings in order to navigate around potential hazards. Workers' compensation insurance is there to protect workers who are injured, but employers should work to prevent these injuries from even happening.

Employers need to take stock of poorly lit areas, often including hallways, stairwells, and storage areas, and ensure that all light bulbs have appropriate brightness. This responsibility may also fall on a third party who is responsible for maintaining the lighting or electrical system.

When improper lighting is the result of a third party's negligence, our firm will pursue both workers' compensation benefits, as well as other damages from the third party to maximize your recovery. Our firm has successfully handled cases involving dim lighting, and we are able to advise you on these issues.

Stairs, ladders, and scaffolding

When workers have to move vertically, not just horizontally, the risk of a fall increases. Stairs need to be properly maintained and marked with appropriate visual cues in various situations. Various construction codes apply to the height of risers of the stairs and require the presence of railings in various circumstances. Stairs also need to be kept free of slippery substances, such as water. All handrails need to be an appropriate height above the stepping surface and kept properly maintained for safety. Our firm has successfully handled claims involving negligently installed or maintained handrails and stairs.

Likewise, stepstools scaffolding and ladders used to work from heights need to be set up, maintained, and used appropriately. Training for employees on proper usage should be provided. These essential tools need to be placed on level surfaces and fully secured before climbing. Employees who use ladders, stepstools, and scaffolding need to be protected by their employers and by third parties that are often involved with the ownership or setup of the scaffolding. Our firm has witnessed devastating injuries to our clients when the proper safety procedures are not followed by the employer or third party who sets up these ladders or scaffolding. We have successfully handled both workers' compensation and third-party claims when injuries occur from these situations.

Stair, ladder, and scaffolding accidents are unfortunately common at construction and similar worksites where workers are using large, heavy equipment in a fast-paced environment. In just about every building project, numerous contractors are coordinating simultaneously to get the job done. The manufacturer or installers of ladders, stairs, scaffolding, and other similar equipment may be liable for a fall if a defect in the equipment caused the fall or contributed to the injuries sustained.

This means there is a good chance that any given accident was, at least in part, caused by a different company than your employer. Our team of experienced and knowledgeable attorneys can help identify who is at fault in your accident and can advise you as to how best to pursue compensation.

An experienced attorney can guide you through the process

Employees injured in slip and falls at work have a legal right to compensation and are required by law to use workers' compensation for injuries arising out of their employment. Injured workers often tell us they don't want to sue their employer, **but a workers' compensation claim is not a lawsuit against your company.** A workers' compensation case is a request for benefits that you are required to pursue under the law. You are not allowed to use your own health insurance for an injury on the job. Once the injury on the job occurs, a claim number with the employer's workers' compensation insurance carrier is opened. You are entitled to benefits through that claim, and the law requires you to use the workers' compensation insurance.

Exercising that right to workers' compensation benefits can be tricky – especially if a third party is involved. The insurance companies look for every excuse to downplay injuries and deny legitimate claims. The insurance companies will often pressure you to return to work and will often pressure the doctor's offices to provide just the minimum amount of treatment to get you back to work. Insurance companies do everything they can to protect their own bottom line. You are not their priority, as they typically care more about their investors than the people they are supposed to be helping. The insurance companies understand the seriousness of falls because a serious injury threatens their bottom line. An injured worker needs their own advocate to stand up for their interests.

If you've been hurt in a slip and fall or trip and fall at work, we strongly encourage you to contact [Shebell & Shebell, LLC](#) immediately for a free consultation. We will discuss your legal options, advise you of your rights, and tirelessly advocate for your interests throughout the process. Schedule your free and confidential consultation today.