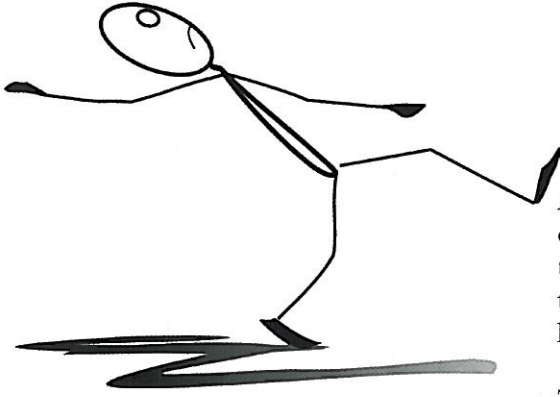


Can An Expert Help You Assess The Causes Of A Fall?

By William Henry, PhD



In many slip and fall cases there are multiple aspects of a site that contribute to the accident and resulting injury. Can an expert help you assess how the physical conditions contributed to the accident? The answer is, YES.

Consider a typical hypothetical fact situation. Let us assume that a young lady and her husband go to see a movie at the local multiplex. As she climbs the stairway to her seat her foot slips off the front edge of a step and she falls and as a result she suffers severe injury. In due course she contacts an attorney to look into a claim against the theater for damages. The attorney considers her story and decides she needs to look into the physical nature of the location of the fall.

An experienced personal injury attorney will want to conduct a very thorough investigation and should there be a chance that noncompliance with a law of some sort contributed to the injury she will look for an expert to assess the site.

Some experts provide "best practice" opinions based on industry standards. However, such opinions are just that – opinions. They are not based on objective fact. Any number of "best practices" opinions can be argued in any given case.

A better alternative is to depend on hard, objective data based on violations of law that can be easily be defined, applied to the facts, and upon which there can be little or no dispute.

The ideal expert will be someone highly experienced in architecture, design and the various codes that apply thereto. The expert will collect the pertinent data about the site including its location, its nature, the age of structures involved and the physical condition of the accident location.

Depending on the city, county and state in which the injury occurred a number of different codes might apply. Each state generally has a building code, but may also have an accessibility code based on the Americans with Disabilities Act. The Fair Housing Act or the International Building Maintenance Code may apply as well as others. The age of the structure or the date of any modifications to it will determine which version of a given code will apply, since the codes were adopted and modified at different dates and have different effective dates.

Once the expert has collected the site data and has determined which code or codes apply, all of the evidence will be applied to the codes to determine the existence of any violations of code provisions. Particular attention will be paid to violations which contributed to the injury in some way.

Using our hypothetical, one might find that there were problems with the design or construction of the stairway treads

or risers or that the lighting along the darkened theater stairway was deficient. Each issue may fall under a separate code which will be sorted out by the expert.

The expert will also determine, based on all the available information, to what extent each code deficiency may have contributed to the injury. In some situations a combination of deficiencies will come together as a whole to create the injurious condition. In others deficiencies will each contribute separately and individually. In either case the expert will determine the extent to which each deficiency contributed or in what way each combined with others to create the unsafe condition.

The sole purpose of all of this is to provide the attorney the information that will allow her to establish a strong theory upon which to base the case. Depending on the desires of the attorney the expert will convey his opinion to her orally, in a written report or sworn affidavit. The expert will also be available to testify in depositions or at trial.

There is no substitute for strong, objective evidence upon which to base a personal injury case. Your expert can provide that and substantially increase the chance of success.



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