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**DBI Commercial Real Estate – DBI Expert Witness - 2024**

## **Slip, Trip, and Fall: Navigating the Complexities of Premises Liability**



Premises liability is a relatively simple concept: landowners, lessors, and occupiers of land must keep their property safe and avoid causing harm to others. Premises liability lawsuits can arise from an array of circumstances including a slip and fall by an individual, a construction site accident, or an accident that occurs on a residential or commercial property. Accidents happen. But when injuries occur on someone else's property, determining fault can be complex. California law imposes a duty of care on property owners, requiring them to maintain reasonably safe premises. However, individuals also bear responsibility for their own safety. This delicate balance, known as premises liability, is at the heart of many personal injury cases.

### **Construction Site Accidents**

Unfortunately slip-and-falls at construction sites are mishaps that occur more frequently than one might be aware. In fact, nearly [1 in 5 workplace deaths](#) in 2022 occurred in the construction industry according to the US Bureau of Labor Statistics. It is not surprising that [38.4 percent](#) of these deaths were due to falls, slips, and trips and close to half of all fatal falls, slips, and trips ([47.4 percent](#)) occurred on construction sites. Within this industry, falls from elevation are the number one cause of death and sadly, those deaths could have been preventable. Recent statistics indicate that [395 of the 1069](#) construction fatalities recorded were due to a fall from elevation. The National Safety Council (NSC) reported that the costs of total workplace injuries exceed [\\$170 billion](#) each year.

### **Understanding Premises Liability**

All property owners, whether they own a supermarket, retail store, a private home, or a large government building, are required by law to take reasonable action to protect their guests from being injured while on their property. Property owners generally have a duty to maintain safe premises by providing adequate security, lighting, and upkeep. However, the specific level of care owed depends on the visitor's status. Not everyone who enters a property is entitled to the same degree of protection.

Premises liability cases hinge on the concept of negligence. To establish liability, an injured individual must demonstrate that the property owner failed to exercise reasonable care in managing their property, resulting in harm. It's important to note that not every injury on someone else's property equates to negligence. The mere existence of a hazardous condition doesn't automatically imply the property owner was at fault. California Civil Code 1714 codifies this principle, stating that individuals are responsible for injuries caused by their carelessness and defined as contributory negligence. Ultimately, determining negligence in premises liability cases is often complex and requires expert analysis of the specific circumstances.

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## **The Importance of Safety and Accountability**

California's building codes and safety regulations form the backbone of personal injury law. From the intricate wiring standards outlined in safety legislation of California Building Code, Title 24, Part 2 (California Building Code (CBC), Part 3 (California Electrical Code), NFPA 70, and National Electrical Code (NEC), as well as, the Americans with Disabilities Act (ADA) and Occupational Safety and Health Administration (OSHA).. These laws protect tenants and visitors but also define the legal obligations of landlords and businesses. Compliance with these regulations is crucial, as violations can lead to severe consequences, including hefty fines and lawsuits.

## **A Negligence Claim**

When an individual is injured on a property, the person harmed generally brings a lawsuit based upon a theory of negligence. Under this theory, an injured Plaintiff must prove the following in accordance with California Civil Jury Instructions 1000:

- The defendant owned, leased, occupied, or controlled the property;
- The defendant was negligent in the use or maintenance of the property;
- The plaintiff was harmed; and
- The defendant's negligence was a substantial factor in causing the plaintiff's harm.

## **Building a Strong Case: The Importance of Expert Witnesses**

In personal injury cases, the investigation process requires detailed forensic analysis. Experts in architecture, engineering, and real estate development are often retrained to provide technical opinion. The expert assesses property conditions against safety standards, identify code violations, and determines if improper modifications were made or existing conditions are in violation of safety regulations. Forensic evidence forms the foundation of expert witness testimony, educating jurors on the causes, preventable factors, and corrective actions are crucial to achieving a successful outcome.

Navigating the complexities of personal injury law requires a deep understanding of property rights, safety regulations, and contractual obligations. From preventing accidents to assigning blame and seeking compensation, the process can be complex. Expert witnesses can play a crucial role in shedding light on these intricate matters. By carefully examining accident scenes, interpreting building codes, and analyzing contractual agreements, experts can protect the rights of those who have been harmed and

assist the court in reaching informed decisions. By translating technical information into understandable terms, expert witnesses bridge the gap between specialized knowledge, the law and lay jury members in trial proceedings. Their credibility and qualifications are essential in establishing the reliability of their opinions.

## **In Conclusion: Time to Stop Cutting Corners**

The devastating impact of preventable accidents underscores the critical importance of property owner responsibility and the need for rigorous safety standards. Understanding premises liability and the potential consequences of negligence, individuals can take steps to protect themselves whether the property owner or the visitor. The prevention of accidents extends beyond individual cases. It requires a collective commitment to safety, from property owners and managers to government regulators and the broader community.

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### **About the Author**

Dr. Dick Bridy is a seasoned expert in both personal injury and commercial real estate contract disputes. His extensive hands-on experience as an owner, developer, asset manager, broker, and syndicator provide unique and comprehensive perspectives. This practical knowledge, combined with a strong academic foundation, equips him to analyze complex issues from multiple perspectives to provide compelling and persuasive expert testimony. His honed communication skills and ability to articulate complex concepts clearly presents a balanced and objective approach, to effectively address opposing viewpoints.