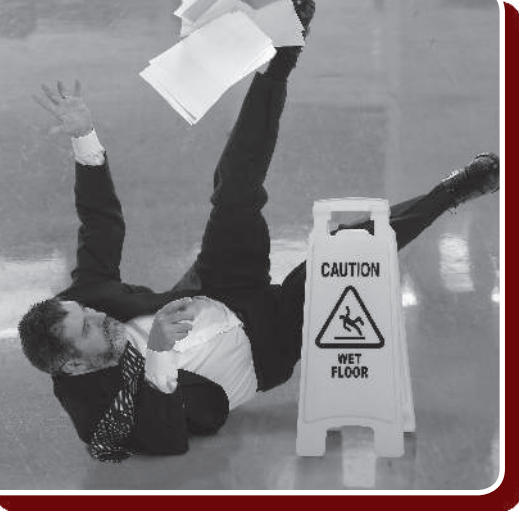


VENTURA  
SLIP AND  
FALL  
INJURY  
GUIDE

ATTORNEY CRAIG MURPHY



Think about the last time you were out running errands. Maybe you went to a convenience store to get something to drink. Or perhaps you were out grocery shopping. Whatever you were doing, did you pay close attention to the ground you walked on? Did you make absolutely sure the ground was perfect, with no standing water, ice, cracks or other imperfections in the surface? Probably not, and if you did, it's doubtful you paid this much attention to where you were walking every single moment you were completing your errand.

So imagine your surprise when you are walking to your car, down a store aisle or out the door when the next thing you know you are airborne and fall hard onto your back or side. You're in serious pain and might have even broken something as a result of you slipping on standing water on the floor all because the owner of an establishment failed to take reasonable steps to ensure the premises was safe for customers.

So what now? What you thought was a 30 minute trip is now an overnight stay in a hospital's emergency room. Now your mind is racing about the things that you need to get done, but can't because you're injured. Will you be able to complete that project at work by the deadline? Who will be able to take care of your family while you're healing from your injuries? What about paying for your medical bills? Even with medical insurance, your deductible could be thousands of dollars and you don't have that kind of cash sitting around in a bank account.

The good news is that California law provides legal relief for these types of situations. The bad news is that getting legal compensation isn't easy, especially when business owners and insurance companies try to play hardball. That's where a slip and fall lawyer can be extremely helpful in getting you the compensation you are entitled to.

# SLIP AND FALL LAW IN CALIFORNIA

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Like many other states, California's slip and fall liability law is based on the theory of negligence. The theory of negligence imposes legal liability when:

- » A duty exists
- » There is a breach of the duty
- » There are damages
- » There is a causal connection between the damages and the breach of the duty

Applying the above hypothetical to these elements of negligence:

- » There was a duty for the premises to be kept safe for customers
- » This duty was breached when there was standing water left on the store floor
- » You were injured and have incurred medical bills, lost wages or other damages
- » Your injuries were caused by the failure to clean up the standing water

If you are the plaintiff, you will have the burden of proving all of these things in court. At any one of these steps, you could encounter arguments from the defendant, such as:

- » They didn't own, possess or control the premises where you were hurt, so therefore they had no duty to clean up the floor
- » Your injuries weren't caused by the fall
- » You were partially responsible for the fall

This last defense is highly likely because California is a comparative negligence state.

# HOW COMPARATIVE NEGLIGENCE WORKS IN CALIFORNIA

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The basic idea of comparative negligence is that everyone involved in an accident should only be responsible for their particular level of fault. There are different versions of comparative negligence, but California is a pure comparative negligence state. This means that a plaintiff's monetary recovery in a lawsuit will be reduced by their level of fault.



For example, if you suffered \$100,000 in damages as a result of your slip and fall on the pool of water while running your errands, but a court concludes you were 40% at fault because you were looking at your phone when you fell, then you would only recover \$60,000. This is because your \$100,000 award would be reduced by your level of fault which is 40%.

## DAMAGES FOR A SLIP AND FALL

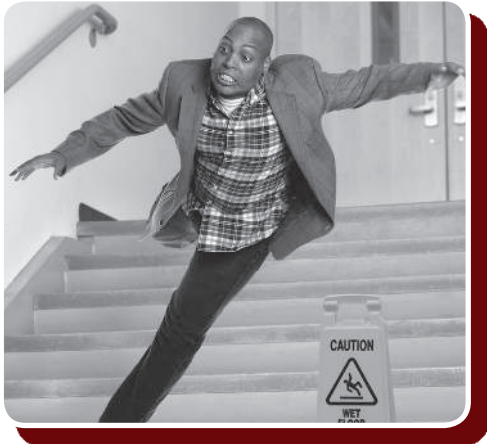
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If you were injured as a result of a slip and fall accident, you can recover a variety of damages that are the result of the negligence of the defendant. These damages can include things such as:

- » Lost income
- » Medical bills
- » Pain and suffering
- » Punitive damages

Punitive damages are fairly rare in a slip and fall case and are usually reserved for situations where the court feels that the defendant should be

punished for his or her conduct. For instance, if the store owner deliberately left the water on the floor because he thought it would be funny to see a customer fall on it, then that might warrant imposing punitive damages on him.



## DEADLINE TO BRING A SLIP AND FALL LAWSUIT

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Slip and fall lawsuits are personal injury legal actions, which means under California law, you would have two years from the date you were injured to bring the lawsuit. If you suffered property damage in addition to personal injuries, you would have three years to file a lawsuit, but only in regard to recovering compensation for property damage.

These deadlines are commonly referred to as statutes of limitations. When a lawsuit is brought after the applicable statute of limitations deadline has passed, it's really hard to continue your lawsuit. Luckily, there are a few exceptions, but these are hard to successfully argue and usually require the services of an attorney.

## FREQUENTLY ASKED VENTURA SLIP AND FALL QUESTIONS

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### *What Are the Steps in a Slip and Fall Claim?*

If you've been involved in a slip and fall in California, you need to know what it is that caused you to slip, fall and be injured. Was it a liquid or slippery substance that was on the floor? Where did it come from? How long had it been there? These are all very important questions and information that you need to know.

The other thing that you need to do that is critically important is fill out an incident report. You need to be able to establish that not only were you there, but that you fell and that you were injured. That property or business needs to investigate and figure out what it was that caused the injury. If you don't fill out an incident report, you will not have the evidence that's required for you to meet your burden of proof, and you may not be able to receive any type of compensation. You've got to let that business owner know that you fell and were injured, and that they are on notice of that.

The other thing that you need to do is get appropriate medical care and attention. Don't wait around thinking your pain is probably going to get better. You need to go either to the ER or to a quick care or to your regular family physician and get checked out and get the appropriate treatment. You need to tell all your doctors about every injury, all the pain, and all of the complaints that you have from head to toe. If you don't document that from the beginning, the insurance company may not take it into consideration. Make sure that you fully inform your healthcare providers of all your injuries.



## *How Do I Choose a Slip and Fall Attorney?*

If you have been injured and have significant injuries due to a fall, here in Ventura County, how do you go about picking the best attorney? Most of the time, most people have never had to deal with an attorney before, and they really don't know what the best way to pick an attorney for their case would be. These are

legitimate questions because the lawyer that you choose is one of the most important decisions that you will make about your case.

The insurance companies keep track of all of the lawyers. They will know who's a trial lawyer and who's not; who has the ability to bring a claim and build a case and who doesn't. If you get an attorney they've never heard of before, that doesn't practice in personal injury on a regular basis, they're

going to know that and that is going to affect their valuation of your claim. There are two things you need to do in order to pick the best attorney for your case.

Number one, ask the attorney, “What is your level of skill and experience in dealing with these kinds of cases? What is your track record?” Make them tell you and show you that they have a proven track record of success. The next important thing that you need to do is make sure that this attorney is going to be responsive to you, and that you can have a close, working, professional relationship on your case. Your case could take a number of months or a number of years to resolve, and if you don’t have a close, working relationship with that attorney, or the confidence and trust in that attorney, then there’s a problem.

The only way that you can do that is call and interview a number of attorneys. Find out what firms require you to talk to an intake person and that you don’t get to talk to the attorney. Find out what attorney will spend the time and give you the information and answer your questions so that you’re comfortable and confident going forward. Once you have called a number of firms and talked to a number of people, you will know who you feel best about. You will know who will have your best interests at heart and who will be your best attorney.

## *What Happens if I Slip and Fall at a Residential Property?*

If you were hurt at someone’s house, that is a very specific type of slip and fall case that requires you to obtain some information.

If you are at someone’s house and they are a friend or relative, you may need to ask them how long this conditions been like that. What happened that caused you to fall? Was there a defect in their property that they knew about and that defect caused your fall? Perhaps they knew about it, yet they didn’t fix it or tell you about it. If you don’t get that type of information or if you’re uncomfortable getting it, and you don’t hire an attorney to go out and get that

information, the insurance company quite likely could deny your claim, and you might not get any compensation for your injuries and damages.

## *How Do I Prove I Wasn't at Fault for My Accident?*

If you have had a slip and fall injury here in California, and you've had any dealings with an insurance adjuster or a risk management department, more likely than not they have told you that, "We're sorry you fell and were hurt, but we think it's your fault." What can you do if that happens to you? What if maybe you were partially at fault, and you're willing to admit that?



If the property owner has some degree of fault, they are also responsible. Don't just take the denial from the insurance adjuster or the risk manager when they say it's your fault, too bad, go away. When you're told that, the first thing that you need to do is call an attorney who has years of experience in dealing with these types of injury claims.

I will be glad to meet with you. We will do what we need to do to investigate your situation, put the business or insurance company on notice that we represent you, and we will go about making sure that they accept the percentage of responsibility that they bear for your fall. You may be some degree at fault, but if they are at some degree of fault also, they bear some portion of the responsibility.

## *What If I Fall Because of a Faulty Step?*

If you have been injured because you fell on some stairs that you feel were defective or faulty, this will be important to you to know. If these stairs are faulty, hazardous, or dangerous, the property owner could very well be held responsible for your injuries and damages.



The way to know whether the stairs are faulty, hazardous, or dangerous, and that you're entitled to compensation really involves some investigation. We will need to get somebody out there to conduct an inspection of those stairs. We will need to put the property owner on notice that we are claiming those stairs to be faulty or hazardous, and that they cannot make any changes or modifications to them until we have the opportunity to get an expert out there to do measurements and conduct experiments.

If you have been injured due to a fall down some stairs that you feel are faulty or defective, you need to call an attorney right away because it is very important that you take immediate action on your case.

## *What Should I Do if I was Hurt Because of a Faulty Handrail?*

Unfortunately, faulty handrails often lead to very serious injuries. These types of claims are much more common than what people would expect. There are a few things that you need to do if you have been seriously injured because of a faulty handrail.

First, take care of yourself. Make sure that you get to the ER or to a quick care or to your regular family doctor and get fully examined to determine what the full extent of your injuries are, so that you can get the appropriate and proper medical care and treatment that you require. Second, you're going to need to document the fact that the handrail was loose and faulty.

If you have fallen and you're injured, you could be taken away by an ambulance to the ER. What you need to do is get a friend or a family member on the phone and get them to get over to that property right away and document the condition of that handrail. You or your friend or family member need to put the owner or operator of that property on notice of your fall and the fact that it is related to that faulty handrail. You must contact an attorney right away because that attorney is going to have to get out there and document and investigate that faulty handrail as well. More likely than not, that

property owner is going to replace or repair that handrail, and if you don't have the evidence of the condition that it was in before the repairs, you may have lost all the evidence that you need to protect yourself.

You have the burden of proof. That means you must prove that that handrail was faulty and dangerous. You can't just say it was faulty and dangerous and have that opinion; you must have some proof. It is your responsibility to get that one way or the other. The best way to do it is do not delay in contacting an attorney.

## *Does a Warning Sign Affect My Slip and Fall Claim?*

Here is a typical question for someone in California who's been injured as a result of a slip and fall incident. What is the effect of a warning sign? Does that mean that the business is not responsible for your fall and my injuries? The answer is somewhat complicated and complex because the real concern is how effective that warning sign was. Did it actually put you on notice that there was a dangerous or slippery condition there on the property?

For example, there is somebody who is mopping the floor, and they have a mop bucket that says 'CAUTION,' or 'WARNING: SLIPPERY WHEN WET,' and it's a big yellow mop bucket. However, they're down the hall and left a streak of water across the floor. You come walking in the door on the other end of the hall and you slip and fall and break your hip. That mop bucket down the hall did not provide you any warning or any notice. It's completely ineffectual.

What if there is a cone that is right by you? It's right where something slippery is, and you trip over the cone or slip on what's slippery right next to the cone. Did that provide you adequate notice of that slippery condition? Just because it was there, it may not answer the complete question. What if there is a display of products and you're looking at the products, and that cone was right out in the middle where everybody was going to walk?

There are a lot of variations. There are numerous facts that need to be investigated to determine whether or not that warning was sufficient or whether it was insufficient. Here's what you need to do: take pictures, take video, document the way that the cone was, or the warning sign was and where the hazard was. You have the burden of proof; you have to prove they were negligent. The way to do it is to gather evidence right from the beginning by taking pictures, taking video, asking anybody there who saw what happened what they have to say and what they saw, and maybe recording it all on your phone.

## *What Should I Know About Tripping Hazard Injuries?*

Unfortunately, tripping and falling because of hazards happen on a very frequent basis, and people have questions about it. Here is what you need to know, and what is important in a tripping hazard case.

Did the property owner know about the hazard? Say, for example, you're going down a walkway at a business and the sidewalk is raised two inches on one side because a tree root grew under it. Well, we know that root didn't grow there overnight and that has probably been uneven for a long time, and that that property owner didn't do anything about it. They didn't come out and spray it orange and they don't have any caution signs there. They didn't do anything to even it out. In a situation like that, it's quite likely that they could be held responsible.

The bottom line on these tripping hazard cases is that they are very fact-specific. Somebody is going to have to look at what the facts were, what it was that specifically caused you to fall, and what the property owner's knowledge was on that hazard, and whether or not they did anything about it. The only way that you're really going to be able to protect yourself is to make sure that you get an attorney who is skilled and experienced in dealing with these tripping hazard cases and that they get involved very early on, so that they

can conduct an investigation to make sure that they get all of the evidence that is required to prove your case.

## *Can I Sue a City or Municipality?*

What happens if you have been injured because you tripped and fell due to a cracked sidewalk or a defective curb? Can you sue the city or the county? It is quite possible, but it is going to take an investigation.

Number one, we have to figure out what the extent of the defect was. Let's suppose that it's very apparent that there is a significant defect in the sidewalk or the curb. That is critically important. The next thing we have to determine is whether the city had any notice, or they should have been on notice of that defect. It really depends on whether someone has pointed it out to them, or whether that defect has existed for such a length of time that, in the exercise of regular and ordinary care, they should have spotted it and they should have come and taken care of it.

Obviously, this is going to take some degree of investigation. It is critical that the evidence surrounding the defect be preserved as close in time to your fall as it can be. You should not delay in contacting an attorney. If you have been injured due to a fall, defective sidewalk or a curb, and you believe that the city or county is responsible, you need to call an attorney right away. Not only do you have to gather the evidence, but the time frame for bringing a claim against a governmental entity is very short. There are very specific requirements and you cannot delay, or you could lose your right to be compensated for your injuries and damages.

## *How Long Will My Case Last?*

How long it typically takes a slip and fall case to be resolved here in Ventura County really depends on several facts. First, how badly were you hurt? If you have injuries that take many months for you to get treatment and to get better, we cannot even make your claim until we know that you have fully recovered and that you're all better. If you have injuries that are so severe that may require treatment and care for the rest of your life, we need to

know that. That is going to impact how long your case, or your claim is going to take. It's very fact-specific. It depends on the facts of your case, the nature of your injuries, and how much treatment that you're going to require.

## *What Are the Statute of Limitations for Slip and Fall Injuries?*

You have two years in California in which you can either settle your slip and fall claim or bring a lawsuit. Within that two-year period of time, you either settle it or you file your lawsuit. If the two year anniversary date passes and you haven't settled it, or you have not yet filed a lawsuit, then you have essentially lost all your chances to get compensated for your injuries and damages from that slip and fall.

If you have been involved in a slip and fall, you should contact an attorney immediately. You shouldn't wait until you start to approach that two-year deadline because oftentimes there is critical information that the property owner may have regarding your slip and fall and what caused it. You need an attorney right away to put them on notice and to make them preserve any evidence they have about what happened in your slip and fall. If that evidence is not preserved, you may lose the basis that you have to prove your case.

In any slip and fall case here in California, you have the burden of proof. You have to prove that the property owner was negligent, and their negligence caused you to fall and be injured. Say, for example, there's video tape. That video tape may be able to prove your case, but if the video tape is on a loop, eventually it will record over itself and then reuse it. You need your attorney to put them on notification and tell them to save and preserve that evidence.

If you've been injured, do not wait. Contact an attorney right away. Get that attorney to get involved in your case, put the right parties on notice, so that you can preserve the evidence and protect your health and safety into the future.



## ABOUT THE AUTHOR

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Craig has been licensed to practice law in California since 1990. From the beginning of his legal career in California, Craig has been a trial lawyer. He was in court the first day after being sworn in to practice law in California and has continually litigated court cases since that day.

Craig is a Board Certified Personal Injury Specialist by the State Bar of California and the California Justice Association. Craig has gone to trial and obtained jury verdicts in virtually all types of personal injury cases, including complex spinal cord injuries, car crashes, slip and falls, uninsured/underinsured first party practices, medical malpractice, and property owner liability.

Before devoting his career to exclusively representing injury victims, Craig represented doctors in medical malpractice cases, and major Ventura hotel/casinos in premises liability cases. He represented insureds on behalf of Allstate Insurance Company, Farmers Insurance Company, State Farm Insurance Company, Progressive Insurance Company, Geico Insurance Company, Hertz Rent-A-Car Company, and Avis Rent-A-Car Company. Craig has taken his insider's knowledge and now exclusively represents seriously injured people and their families against the major insurance companies and corporations who are responsible for his clients' injuries.

Craig was born and raised in Lima, Ohio. He earned a Bachelor of Science degree in communication at Ohio University. Craig attended law school at Ohio Northern University where he was awarded Dean's scholarship. During law school, Craig earned a number of American Jurisprudence awards for academic excellence. He earned the student-attorney of the year award during his third year of law school as a practicing student lawyer. Craig was an editor of the law review and graduated with distinction. Due to his academic achievements, Craig was admitted into the honorary Willis Society at Ohio Northern University.

Craig is committed to his family, church, and the legal community. Craig has been a church Elder and volunteers as a Sunday school teacher. He is a member of the prestigious Million Dollar Advocates Forum, an honor bestowed on less than 1% of all attorneys. The American Trial Lawyers Association has named him as one of the top 100 trial lawyers in California. Other lawyers recognize Craig as a leader in the legal community and elected him to serve as one of the Board of Governors of the California Trial Lawyers Association and the California Justice Association. He served as a Judge Pro-Tem for the Eighth Judicial District Court short trial program and as a District Court appointed arbitrator.

Craig's practice is dedicated to the protection of injury victims and their families. He prides himself on the level of personal service that he gives to his clients. Craig is committed to pursuing justice one case at a time. If a full and fair settlement cannot be obtained, Craig has the experience, skill, and conviction of character to take his clients' cases to trial.

