

Personal Injury Focus: Premises Liability

Every year people get hurt when they slip and fall on someone's premises. Most people believe that, if they are injured on someone's property, they can receive compensation for their medical bills, lost wages, suffering and more. Many are surprised to learn that the general rule in Illinois is quite the opposite. Property owners are not liable just because someone is injured on their property. Instead, property owners are only liable when they cause a hazardous or defective condition on their property, or permit that condition to exist when they know or should know the hazard or defect is present.

One common occurrence, especially during the winter, is an injury due to a slip and fall on snow or ice. Under Illinois law, the issue is whether or not the snow or ice is a natural or unnatural accumulation. If the snow or ice accumulates naturally, then the owner is not liable. But if the snow or ice accumulates because of an unnatural reason, such as a hole in the sidewalk or a leaking gutter or drainpipe, then the owner becomes liable for the hazard—and the expenses and disability of the injured person.

Another common occurrence is an injury inside a building, due to a slip and fall on liquid or debris, a worn carpet, or a damaged step on a stairway. Property owners are liable when they or their employees cause a hazardous condition. For example, if they spill liquid or drop debris and fail to clean it up, property owners may be held liable. They may also be liable when they did not directly cause the hazardous condition—if it can be shown that the unsafe condition was there long enough for the property owner to reasonably know it creates a hazard.

Under all circumstances, the injured person also has responsibility to be cautious. It is always important to know why the hazard or defect could not be recognized and avoided.

When you fall, it is important to follow these steps at the scene:

- 1. Immediately Determine What Caused You to Fall**—Observe the area around you when you are down or after you have stood up and determine exactly what made you fall. You must be able to state exactly what caused you to fall. Look at it closely so you can describe its shape, color and substance.
- 2. Report Your Fall to the Property Owner or Store Manager**—Falling in the middle of a store in front of strangers can be embarrassing. But be sure to let the owner know you did. Even if the manager discourages you from filing an accident report, do so. Major retailers all have accident forms. Fill one out and get a copy of the form for yourself, along with the name of who you spoke to.
- 3. Medical Attention**—If you need immediate medical attention, have the property owner call an ambulance for you or see your own doctor promptly. Be sure to give your doctor a complete history of how you fell.
- 4. Call your attorney at Adler & Adler, P.C.**—With more than 40 years of combined experience in personal injury matters, we can help determine whether or not a property owner is responsible for your injury and help you receive full compensation for your injuries.

For more information on Premises Liability, visit our website, www.adlerandadlerlaw.com.



Select Case Results

\$180,000 Verdict—Auto Accident

Adler & Adler obtained a jury verdict in Grundy County in December 2008 for the victim of an auto collision. Our client sustained soft tissue injuries and the disputed loss of function of his kidney. Offer before trial was \$20,000.

\$45,000 Settlement—Dog Bite

Adler & Adler settled a dog-bite case in Will County on behalf of a child who received a puncture wound to his stomach when a Rottweiler got away from the girl who was walking it. The dog's owners paid with their entire \$25,000 insurance liability limit. The remainder was paid by the homeowners insurance policy of the girl walking the dog.

\$72,500 Settlement—Dental Malpractice

The treating dentist failed to properly prepare and place crowns on our client's four front teeth, requiring extensive dental work to repair the damage to her teeth and gums. The settlement was paid by the dentist and the owner of the dental practice.



Insurance Essentials: **Uninsured & Underinsured Motorist Coverages**

IF YOU ARE IN A CAR ACCIDENT AND THE OTHER DRIVER IS UNINSURED, WILL YOU BE COVERED? If you have Uninsured Motorist (UM) and Underinsured Motorist (UIM) coverage, you can help guarantee that you, your loved ones and your passengers receive full compensation for injuries, due to the negligence of another driver.

Like many, you may believe that because Illinois requires drivers to carry liability insurance that the other driver will be insured. But according to the Insurance Research Council, more than 25% of drivers are uninsured. **In Illinois, there are an estimated 25 million uninsured drivers.** Even if the other driver has liability insurance, he or she may be underinsured. An underinsured motorist has liability insurance that meets the state-required minimum but is not enough to pay for total damages. In Illinois, that minimum is only \$20,000.

Why Would I Want UM/UIM?

When you elect UM/UIM coverage, you are protecting yourself, your family, and your passengers from the risk that the driver who causes an accident does not have adequate insurance to compensate you.

UM/UIM coverage is relatively inexpensive to add to your existing auto policy. Your UM/UIM coverage should equal your Bodily Injury liability limits. Depending on your insurer, you may be able to add UM/UIM coverage for as little as \$3-\$4 per month for \$100,000/\$300,000 per person/per accident. Making a claim for benefits will not increase your insurance rates, because you are not at fault for the accident.

Adler & Adler recently obtained a \$57,000 settlement for a client from his own insurance company. His case is a good example of how UM/UIM coverage protects you against the possibility of being injured by someone without insurance or with inadequate insurance.

In February 2006, Defendant A, an uninsured teenage driver took a joyride in the car of Defendant B, who had minimum policy limits of \$20,000. Our client was walking in a Chicago park, when the teen lost control of the car and ran into him. He suffered an injury to his right shoulder, causing him to lose time from work and to undergo extensive medical treatment and rehabilitation, costing over \$9000. Adler & Adler obtained a default judgment against the teenager, but she had no assets or insurance to pay the judgment. Defendant B's insurance carrier denied the claim

because his car had been stolen. Like most policies, the insurance did not cover a driver who used the car without permission. Our client carried full coverage on his own vehicle, including UM/UIM coverage in the amount of \$100,000. His insurance carrier paid the settlement under the UM coverage. Without this coverage, our client could not have obtained any compensation for his injuries.

This case also illustrates other important points. UM/UIM coverage protects you when you are injured by an uninsured or underinsured driver, even if you are not in your car when you are injured. In the case described above, if Defendant B's insurance policy had applied, our client could have collected \$20,000 from the Defendant. Our client's insurance company would have paid the remaining balance of \$37,000. Without UIM coverage, only \$20,000 could be collected.

Do I need a lawyer for a UM/UIM claim?

You need an attorney to protect your legal rights and pursue a full recovery in a UM/UIM claim. Your insurance policy specifies rules for when, how, and if a claim can be made. Failure to comply with those rules can invalidate your coverage and defeat your claim.

If you, a family member or a passenger is injured, call your attorneys at Adler & Adler, P.C. at 312-443-1488 to learn your legal rights and responsibilities.



TEEN DRIVING GDL SYSTEM TURNS ONE

January 1 marks the one-year anniversary of the new Illinois Graduated Driver License system, which increased the hours behind the wheel required in order to apply for a Initial Drivers License.

Parents with teens approaching driving age need to understand the new laws, which are more complex—yet produce better drivers—than the system of 20 years ago.

TRAFFIC ACCIDENTS ARE THE LEADING CAUSE OF DEATH FOR YOUNG ADULTS AGES 15-20 YEARS OF AGE. MORE THAN 12% OF ALL FATAL CRASHES INVOLVE DRIVERS IN THIS AGE GROUP—YET YOUNG ADULTS MAKE UP ONLY 6% OF DRIVERS NATIONWIDE.

With new permit-phase requirements, the the goal of the new Graduated Driver License (GDL) system is to produce better-skilled, more experienced, 16-year-old drivers. **The AAA Foundation for Traffic Safety estimates that our GDL system will reduce fatal crashes involving 16-year-old drivers by almost 40%.**

Instruction Permit, Age 15

- Parent/Guardian consent is required to obtain a permit.
- Driver must be enrolled in an approved driver ed course and must pass vision and written exams.
- Permit must be held for a 9-month minimum.
- Students must practice driving a minimum of 50 hours, including 10 hours of nighttime driving, supervised by a parent or adult age 21 or older with a valid driver's license.
- The student driver must not acquire any driving convictions during the 9-month permit period.
- The number of passengers riding with a student driver is limited to one in the front

seat and one for each safety belt in the back seat.

- All occupants under 19 must wear seat belts.
- Student drivers may not driver during the following hours: Sunday-Thursday, 10 pm to 6 am; Friday-Saturday, 11pm-6 am. Local curfews may differ from state night restrictions.
- Cell phone use while driving is prohibited except in the case of emergencies to contact law enforcement, health care providers or emergency services.
- Permit is valid for up to two years.

Initial Licensing Phase, Age 16-17

- Parent/Guardian must certify that a minimum of 50 hours of practice driving, including 10 hours of nighttime driving, has been completed.
- Parent/Guardian must accompany teen to provide written consent to obtain a driver's license, OR complete and notarize an Affidavit/Consent For Minor to Drive form.
- The driver must have completed a state-approved driver education course.

- Nighttime driving is not allowed for Sunday-Thursday, 10 p.m-6 a.m.; Friday-Saturday, 11 p.m.-6 a.m.
- The new driver must maintain a conviction-free driving record for 6 months before moving to the Full Licensing Phase. A traffic conviction during the initial licensing period may extend restrictions beyond age 18.
- All occupants under age 19 must wear safety belts.
- For the first year of licensing, or until the driver is age 18, whichever occurs first, the number of passengers is limited to one person under age 20, unless the additional passenger(s) is a sibling, step-sibling, child, or step-child of the driver.
- Cell phone use while driving is prohibited except in the case of emergencies to contact law enforcement, health care providers or emergency services.

Full Licensing Phase, Age 18-20

Cell phone use while driving for persons under age 19 is prohibited except in the case of an emergency to contact a law enforcement agency, health care provider or emergency services agency.

NEW DRIVER IN THE HOUSE?

Your teenager has his or her license and is ready to go. But before you hand over the keys for that first solo drive, make sure that your new driver is a named insured driver on your insurance policy.

Most policies exclude teen drivers—even though they are members of your household—unless they are specifically “rated” and named. Insuring them can be expensive, but unknowingly leaving them uninsured by not adding them to your policy, can be much

more costly.

Many insurance companies offer safe driving programs for young drivers and discounts for “good students” with a B average and for teens away at college.

Inform your teen that his or her driving record will affect their own insurance costs in the future. Carefully following the rules of the road as well as adopting good study habits can help defray the cost of insurance for your teenager today and in the future.