

Premises Liability

Plunkett Cooney has a long history of defending owners of premises where an accident occurred. Our attorneys routinely handle cases involving slip, trip and fall lawsuits, liquor liability or “dram shop” actions, as well as numerous other claims brought against owners of public and private property.

Open and Obvious Doctrine

The Open and Obvious defense has literally become the first line of defense for premise liability cases in Michigan following the decision in *Lugo v. Ameritec Corp.* Members of the Litigation Practice Group successfully used the open and obvious doctrine, which holds that a premise possessor is not required to protect an invitee from open and obvious dangers, to successfully argue and win motions for summary disposition on behalf of their clients in premise liability cases.

Clients of the firm prevailed on motions for summary judgment with the following facts at issue:

- A parking block in a parking lot was open and obvious and no liability could be imposed upon the premise owner when a customer fell over a parking block
- When plaintiff fell on peanut shells on a floor inside a restaurant the court determined the peanut shells to be open and obvious
- Spilled pop on a supermarket floor was deemed open and obvious

Ice and Snow

Over the years, ice and snow in the State of Michigan has created numerous claims of personal injury from slips and falls on snow, ice and hidden ice under snow. The members of the Litigation Practice Group stay abreast of recent developments in premise liability law, particularly with respect to ice and snow claims.

Recent cases have resulted in rulings that ice and snow and even ice covered by snow are, in fact, open and obvious situations, which can, if properly argued, be held to be open and obvious and thus impose no liability upon the defendant premise owners.

Following a vigorous defense by Plunkett Cooney attorneys, a slip and fall on a curb hidden under a pile of snow was successfully found to be an open and obvious defect resulting in no liability. Our attorneys won a motion for summary disposition at trial predicated on the open and obvious defense and successfully appealed a Michigan Court of Appeals reversal of the trial court’s ruling to The Michigan Supreme Court. The plaintiff’s claim of serious personal injury was dismissed.

Liquor Liability

Liquor liability claims in Michigan arise under the Dram Shop Act, which is the civil liability section of Michigan Liquor Control Code. This code establishes a cause of action for persons injured as

a result of the serving of intoxicating liquor by a liquor licensee to either a minor or a visibly intoxicated person.

Plunkett Cooney attorneys are well versed in the statutory requirements of naming and retaining, as well as liquor licensees' rights to indemnification in cases involving alleged intoxicated persons.

The firm was granted a motion for summary disposition in a case against a bar where the plaintiff, after naming and retaining the alleged intoxicated person in the death case, took a default judgment as against that person. As a result, the case against the liquor licensee was dismissed because the plaintiff failed to name and retain the alleged intoxicated person.

In another case, our attorneys successfully defended one of three bars where an alleged intoxicated person was served. Since one of the other bars was shown to be the last bar to serve the person, our defendant was dismissed from the case pursuant to the rebuttable presumption in the statute that any retail licensee, other than the retail licensee who last sold, gave or furnished any liquor to the minor or to the visibly intoxicated person, has not committed any act giving rise to a cause of action.