

Legal Bulletin

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What Responsibility Do Stores and Other Property Owners Have When Someone is Hurt? *By Michael L. Roberts*

Alabama law does not make property owners automatically responsible if someone is hurt on their property. However, there are certain occasions when the owner of the property can be held responsible for someone's injuries.

Different laws apply based on the reason for the injured person being on the property. The law classifies visitors on someone else's property as "invitees," "licensees," or "trespassers."

An invitee is someone who comes to the property for the purpose of some type of activity that will involve a "material benefit" to the property owner. A typical example would be a customer who comes to a store, because the store expects to get a monetary benefit from a purchase that the customer might make. A property owner has a duty to keep the premises "reasonably safe" for an invitee. For example, if there is a defect in the floor or a slippery substance on the floor that the store employees knew about, or should have known about, the duty to keep the premises reasonably safe may be violated, and the customer may have a successful case against the store.

However, where the visitor does not come to the property for the purpose of providing any material benefit, but he nevertheless has permission to be there, he is considered a "licensee." An example of a licensee would be a guest visiting in a friend's home for social purposes. Because a property owner owes a lower duty to a licensee, it is harder for a licensee to recover damages for an injury. Generally, the licensee must show the owner did something recklessly or wantonly that caused the injury or acted negligently after learning the visitor was in danger.

Naturally, it is very difficult under Alabama law for a trespasser to recover from a property owner.

There are also special situations where the legislature has passed statutes giving additional protections from liability, such as where land is used for "recreational" and non-commercial purposes (like a city park). Another example is a recently-passed statute that gives special protection to skateboard parks.

The rules are different where the property owner or employee "actively" does something that hurts someone. An example would be where someone spills a scalding drink on a

visitor; in this example, the “classification” as invitees or licensees would not matter, and there would be liability for negligence.

Generally, a claim for an injury on someone else’s property will be covered by business insurance or homeowner’s insurance. It is important to both the property owner and the injured person that the insurance company be notified as soon as possible. Sometimes the policy has “medical pay” coverage that may pay some amount of medical bills regardless of fault.

Michael L. Roberts has practiced law in Gadsden for twenty-five years. He is the author of the two-volume book *Alabama Tort Law*, published by LEXIS November, 2004. This book’s first edition was originally published in 1990, and it is used as a resource in law offices, law schools, and in other legal fields.

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