

The Dangers of Hosting the Holidays: Slip & Fall Liability this Holiday Season

The Pinnacle

By Paul Rovella

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It is your turn to host the entire extended family for the holiday dinner this year. You are starting to feel the stress of coming up with the dinner menu, determining who makes the cut for the invite list, and making overnight accommodations for the out of town guests. As you prepare your list of things to do, don't forget about all those little home repair items that you have been meaning to do but never got around to, because it just may save you some money this season that can be better spent on all of those lengthy holiday wish lists.

When we invite family and friends over to share the holidays, we increase the amount of foot traffic over, under, and around the social areas of our homes. With this increased foot traffic comes an increased risk of a slip or fall caused by that cracked tile in the hallway, or that carpet tear in the living room. The host family usually knows to avoid those locations because of the known dangerous condition and the potential injury. But for someone who is not familiar with the environs, these conditions are unknown and may not be avoidable.

Most of us have some form of insurance that may cover medical costs to address the types of injuries that may be sustained while at a holiday party, such as homeowners or renters insurance. However, simply carrying this type of insurance does not mean there is no liability or financial impacts to the landowner. The dangerous condition may be excluded from coverage. Or you may be forced to pay higher insurance premiums as a result of one or more incidents caused by the dangerous condition. For these reasons, it is important to understand landowner liability for injuries sustained by guests while on your property.

Historically, California law imposed on landowners a duty of care to protect business invitees (customers) from injury only. This meant that the landowner was not liable in negligence for injuries to a relative, friend, or other social guest or to someone trespassing on their property. The general "duty of care" is that a landowner is liable for injuries to another sustained as a result of the host's failure to use ordinary skill or care in the management of his or her property.

However, in 1968 the California Supreme Court changed this rule and found that landowners may also owe a duty of care to any guests, business or social, invited or uninvited. The injured party's status was one of a multitude of factors to be considered when deciding if a landowner is negligent for injuries caused by a third party while on the landowner's property. These factors include: the foreseeability of harm, actual injury, the closeness of the connection between the landowner's actions and the injury suffered, the policy of preventing future harm, the extent of the burden on the landowner, and the availability of insurance for the risk involved.

What this means to a landowner hosting a holiday party is that you may want to survey your home for dangerous conditions and make any repairs necessary before guests arrive. If necessary, you may also want to notify guests about any unrepaired dangers. When second cousin Jimmy shows up uninvited and trips and breaks his arm on the loose porch step that has been broken for 2 years, the landowner can no longer avoid liability by claiming that second cousin Jimmy was a trespasser. A court will look at facts involving foreseeability, causation, public policy, and insurance coverage when imposing liability for injuries to holiday party guests.

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