



landowners' alert

DEFENSE STRATEGIES FOR PROPERTY OWNERS AND MANAGERS

12.14.04

Tips to Avoid Lawsuits

By Michael D. Crow

When an injury occurs on commercial property, many property owners have the same reaction . . . here comes the lawsuit! Unless the injured individual is predisposed to litigation, however, her decision to file a lawsuit is often driven by events following, not preceding, the accident. If the owner immediately attempts to blame the injured person for her inattention or stupidity, she will likely become hostile and assume an “I’ll show you” attitude, which often results in litigation.

Many lawsuits can be avoided by treating the person injured on your premises with care and kindness. The following tips may help commercial property owners avoid litigation.

I. TEND FIRST TO THE PERSON’S MEDICAL NEEDS

The main priority after an accident occurs is to determine the nature and extent of the person’s injuries. Make the person comfortable, inquire into her needs and offer to call an ambulance. This is not the time to conduct an investigation with cameras or tape measures. The first priority should always be the injured person’s medical needs.

II. THE FOLLOW-UP CALL

A commercial property owner should place a follow-up call expressing concern for the injured individual’s recovery. An injured person should not feel dismissed simply because she is no longer on the floor writhing in pain.

III. THE APOLOGY

In today’s litigious society, people frequently fear saying, “I’m sorry.” An apology, however, is a powerful tool in avoiding litigation. Properly worded, an apology is not an admission of fault or guilt. If the property owner expresses sympathy for an unfortunate injury, he or she simply recognizes the injured person’s misfortune without jeopardizing any potential legal defenses. In fact, an apology may encourage an injured person to acknowledge that the accident was her fault.

IV. SEND FLOWERS OR A GIFT CERTIFICATE

Don’t lose a valued customer over one unfortunate incident. Sending “get well” flowers or providing a “see you soon” gift certificate will recognize the incident and could prevent feelings of frustration or anger from taking root. It will also encourage the injured person to return as a valued customer.

V. POLICY CHANGES

After an accident, if conditions on the property can be changed to make it safer, implement the changes. Post-remedial actions are generally not admissible as evidence against a landowner. In making these corrections, solicit advice from the injured person, making her feel that her opinion is valued.

CONTINUED...

VI. DO NOT FORGET

Generally speaking, a person can file a lawsuit up to three years after an accident. Maintaining good will, therefore, is important in avoiding a lawsuit. Continue to inquire into the person's recovery, letting her know that this unfortunate incident has not been forgotten.

Hopefully, these tips will help avoid future lawsuits. Indeed, these tips may help turn a victim of an unfortunate incident into a long-term, loyal customer.

CONTACT US

Farmington Hills

30903 Northwestern Highway, P.O. Box 3040
Farmington Hills, MI 48333-3040
Tel: 248-851-9500 Fax: 248-851-2158

Mt. Clemens

94 Macomb Place, Mt. Clemens, MI 48043-5651
Tel: 586-465-7180 Fax: 586-465-0673

Lansing

6639 Centurion Drive, Ste. 130, Lansing, MI 48917
Tel: 517-886-1224 Fax: 517-886-9284

Grand Rapids

1550 East Beltline, S.E., Ste. 305, Grand Rapids, MI 49506-4361
Tel: 616-285-0143 Fax: 616-285-0145

Champaign, IL

2919 Crossing Court, Ste. 11, Champaign, IL 61822-6183
Tel: 217-378-8002 Fax: 217-378-8003

www.secrestwardle.com

SECRET
SW
WARDLE

Copyright 2004 Secrest, Wardle, Lynch, Hampton,
Truex and Morley, P.C.

This newsletter is published for the purpose of providing information and does not constitute legal advice and should not be considered as such. This newsletter or any portion of this newsletter is not to be distributed or copied without the express written consent of Secrest Wardle.

CONTRIBUTORS

Premises Liability Practice Group Chair

Mark F. Masters

Senior Editor

Michael D. Crow

Editor

Carina Carlesimo

We welcome your questions and comments.

OTHER MATERIALS

If you would like to be on the distribution list for Landowners' Alert, or for newsletters pertaining to any of our other practice groups, please contact Secrest Wardle Marketing at ccarlesimo@secrestwardle.com, or 248-539-2850.

Other newsletters include:

Blueprints – Mapping legal solutions for the construction industry
Industry Line – Managing the hazards of environmental toxic and tort litigation
No-Fault Newslite – A road map for motor vehicle insurers and owners
On the Job – Tracking developments in employment law
On the Beat – Responding to litigation affecting law enforcement
Community Watch – Breaking developments in governmental litigation
Boundaries – A guide for property owners and insurers in a litigious society
State of the Art – Exploring the changing face of product liability
Fair Use – Protecting ideas in a competitive world
In the Margin – Charting legal trends affecting businesses
Standards – A guide to avoiding risk for professionals