

MICHIGAN'S OPEN AND OBVIOUS RULE

Slip/trip and fall cases are very difficult to bring in the State of Michigan. Property owners have the "open and obvious" defense to them. If a court believes the hazard was out in the "open" and should have been "obvious" upon casual inspection, then the court will dismiss the case.

There are a variety of factors that affect the open and obviousness of the hazard. Courts have declined to dismiss cases if the lighting was poor, the hazard was camouflaged, if a liquid was clear, by way of example.

A recent Michigan Appeals Court opinion recently reinstated a case that was dismissed by the trial court. Initially, the trial court held that a wet piece of cardboard was "open and obvious" when the plaintiff slipped on it in the entrance of a convenience store. However, the appeals court held that a reasonable person upon casual inspection would not have realized it was a danger.

Recently, the Michigan Supreme Court have agreed to review a number of cases regarding the "open and obvious" defense. The court may relax this onerous standard in the future.

If you have any questions on the law or other areas of personal injury, please contact our office.

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