



**Kalish
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What Is Negligence?

When it comes to personal injury cases, negligence is almost always a factor. Negligence, when it comes to the law, means that a person failed to act with reasonable care. To win a negligence lawsuit, a plaintiff must prove the defendant was responsible for an accident or injury, and further prove that the accident caused harm. The defendant also must have had a duty to the plaintiff and failed in that duty in such a way that it caused an accident or directly led to circumstances that resulted in injury.

There are several types of negligence:

Comparative Negligence

Comparative negligence considers if the plaintiff is partly responsible for their injuries and is used in settlement to determine the value of a claim. If damages are \$10,000 and the plaintiff is 10 percent at fault, they could only recover \$9,000—90 percent of the damages.

Contributory Negligence

Like comparative negligence, contributory negligence recognizes any fault the plaintiff may have had in the accident. In jurisdictions that recognize contributory negligence, a victim who is found at fault, no matter how much or little, cannot collect damages.

Combination Comparative and Contributory Negligence

Like the name suggests, this is a combination of comparative and contributory negligence. In this scenario, the plaintiff is still entitled to the percentage at which the other party was at fault but cannot recover damages at all if they are 50 percent or more at fault for the accident.

Gross negligence

Gross negligence means that someone didn't just breach the duty of reasonable care, but acted in a dangerous and incompetent manner. A punitive damages claim, which compensates above and beyond actual damages, may be part of a case involving gross negligence.



TO SWERVE, OR NOT TO SWERVE

Almost every driver has had something—be it a ball, debris, animal, person, or vehicle—appear suddenly in front of them. When you swerve and lose control of your vehicle, you are in danger of running off the road and crashing, hitting an object on the side of the road, or even running into another vehicle. If you swerve to avoid an unexpected obstacle, are you liable if you cause an accident or damage? How will insurance handle your claim?

Proving your case can be difficult, especially if what caused you to swerve is no longer there, like a vehicle that cut you off or veered out of its lane. If you find yourself in this situation, be sure to call the police to file an accident report. Try to record everything you can remember about the car and the person driving it. Get the name and number of anyone who may have witnessed what happened. If a witness can verify that another driver was at fault, you may be able to file a claim using uninsured motorist coverage (a good reason to purchase the extra coverage). In the absence of witnesses, you may find that you must use your collision coverage to pay for damage caused by the crash.

What if a deer jumps out in front of you? Unfortunately, if you swerve to avoid the deer and cause an accident, you will likely be at fault. If you hit the deer, damages would be covered under comprehensive auto insurance. Likewise, if you are struck with flying or falling debris, comprehensive insurance should cover damages; however, if you hit debris that is already on the road, you will likely be at fault.



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PRACTICE AREAS

- Personal injury
- Auto and truck accidents
- Workers' compensation
- Wrongful death
- Medical malpractice
- Nursing home negligence
- Motorcycle accidents
- Railroad and boat accidents
- Premises liability

*We take your
family's safety and
security personally.*

Reconstructing the Scene

Disputes about what happened and why in the cases of car accidents are common. Accidents happen in a split second and are traumatic, even if you aren't badly injured, and people remember the same incident differently. An accident reconstructionist can create a crash simulation using photos from the scene, police reports, witness statements, and, if available, information gathered from data recorders.

A crash reconstructionist may be able to determine how a crash happened, who was at fault, and specific factors that contributed to the accident (e.g., speed, weather conditions, improper road signage, etc.). An auto accident attorney can determine whether an accident reconstructionist would benefit your case.

Workers' compensation What To Do if an Insurer Denies Your Claim

Employers and insurers want to deny workers' compensation claims because worksite injuries cost them money.

Common reasons they reject claims include filing too late, completing forms incorrectly, declaring an injury was pre-existing, and citing lack of injury seriousness.

An experienced workers' compensation attorney can help an injured worker, using a six-step strategy:

- 1) Examine a claim to discover why it was denied.
- 2) Review claims details with the employer.
- 3) Collect appropriate and adequate medical evidence to document a case.
- 4) Locate accident witnesses.
- 5) Have a medical expert testify to support a claim, if needed.
- 6) Utilize a vocational expert to contend an employer's opinion about alternate work an employee can do.

Time frames set by state law limit appeals, so if your claim is denied, contact an attorney right away.



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REFERRALS

Thanks to all of you who have recommended our firm to your relatives, friends, and neighbors. We appreciate your vote of confidence and pledge to care for these "VIPs" as well as we care for you.

Determining Liability in a Slip and Fall Accident

Most of us have fallen down and likely only suffered a bruise and embarrassment (or both!), but slip and fall accidents can cause serious injury and be deadly. According to the National Safety Council, in 2017, 35,500 people in the United States died from falls in their homes and communities, and many more were injured.

If you slip and fall because a person or business didn't provide a reasonably safe environment for guests or customers, you may have a valid premises liability claim. If you slip on a wet floor in the supermarket or trip over uneven concrete on a sidewalk, how do you know when the owner of the property is legally responsible?



The owner or manager of a property could be held liable if they caused the condition that led to a fall, if they knew of the danger but did not correct it or provide warning in a timely manner, or if they reasonably should have known about the condition.

This doesn't mean that they will be held completely or even partially responsible. Everybody has a responsibility to watch where they are walking. For example, if you were looking at your phone and tripped over a curb, you likely don't have a case. Even if the curb was damaged, you weren't paying attention.

If you've been injured in a slip and fall accident, call our office for a confidential consultation.