

Premises Liability – Slip and Fall

SERVICES

Premises Liability

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Attorneys Laura Devine and Thomas J. Fay received a defense verdict in Essex County Superior Court (Massachusetts) after a multi-day jury trial. The case involved a store patron who slipped and fell inside a store on water. The Plaintiff alleged that the water was there because of an unknown customer's prior purchase of self-serve bagged ice.

The Plaintiff filed a negligence action against the store and alleged that as a result of the accident he suffered an exacerbation of a pre-existing wrist injury requiring further treatment, including three separate surgeries. Plaintiff alleged \$160K in special damages related to the accident. Challenges for the defense in this case included rulings in favor of Plaintiff, over the objection of the defense, on a number of issues on the eve of trial including the identification and a destruction of evidence instruction in the jury charge. Although pending in Massachusetts, the fall occurred in New Hampshire and New Hampshire law applied substantively. New Hampshire law does not recognize the mode of operation theory in premises liability cases.

After a five-day trial which included testimony of five witnesses, two experts, evidence which included the surveillance video, medical records and bills, the jury returned a defense verdict.