

boundaries

A GUIDE FOR PROPERTY OWNERS AND INSURERS IN A LITIGIOUS SOCIETY

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A Loose Carpet Loop Was Not Open and Obvious To a Social Guest

By Cleo N. Fekaris

In *Faten Yousif v Walled Mona*, unpublished decision of the Court of Appeals, Plaintiff fell down the stairway while at Defendant's home for a family function. Plaintiff allegedly caught her heel on a loose carpet thread loop on the landing at the top of the stairway.

Prior to determining the duty owed to a plaintiff, a court must first examine the type of visitor a plaintiff is in relation to the landowner. That is, whether a plaintiff is an invitee, licensee, or trespasser. An invitee is one who visits the premises for a commercial purpose. Unlike an invitee, a licensee is not present on the premises for any commercial purpose, but rather on the premises as a social guest. In this case, Defendant's home was not held open for a commercial purpose. Plaintiff was present at Defendant's home for a family function; therefore, Plaintiff was a licensee.

As to licensees, a landowner owes a lesser duty of care. Specifically, a landowner owes a licensee a duty to warn of any hidden dangers that he knows of or has reason to know of, if the hidden danger involves an unreasonable risk of harm and the licensee does

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Plaintiff's relationship with a defendant determines the types of duties owed to a plaintiff by a defendant. It is necessary to determine a plaintiff's purpose for being present on the premises as it is necessary to properly classify a plaintiff and determine the duty owed by defendant. The highest duties are owed to invitees, people on the property for a business purpose or to confer some sort of benefit to the defendant. Licensees are social guests of the defendant, and are owed less significant duties. Trespassers are people who are not supposed to be on the property, and defendants only have a duty not to knowingly injure them.

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not know or have reason to know of the hidden danger or the risk involved. Absent special aspects, a landowner has no obligation to take any steps to safeguard a licensee from conditions that are open and obvious.

The trial court dismissed the case based on Defendant's motion for summary disposition based on the open and obvious defense. Plaintiff appealed arguing that there was a genuine issue of material fact as to whether the loose carpet loop on the landing of a stairway created an unreasonable risk of harm of which Defendant was aware or should have been aware and of which Plaintiff was not aware. The Court of Appeals agreed with the Plaintiff, reversed the trial court's dismissal, and remanded the case for trial.

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