OCT 2018

(908) 293-7330 | www.pmblawfirm.com

Pezzano Mickey & Bornstein, LLP
ATTORNEYS AT LAW

PMB *Perspectives*

Myths and Realities OF PERSONAL INJURY

Recently, I met with a potential client about an accident she had in a supermarket. As she turned the corner to enter one of the aisles, she slipped and fell due to what she described as a puddle of liquid on the floor. She told me the liquid was clear, so she did not notice it before she fell. She didn't see any wet floor signs in the area. After a store employee showed up to help her, it was discovered that the source of the liquid was a broken bottle that either someone had dropped or that had been knocked off of a shelf.

After she shared her story with me, I told the client that her case would hinge on whether or not the store had been given notice of the wet floor or whether enough time had passed from the time the bottle fell and broke for someone to clean it up or put warning signs in the area.

I explained to her that a court wouldn't find it was reasonable to expect a store to have someone following each customer around to wipe up after them.

You've probably seen headlines about huge verdicts against retail establishments. The McDonald's spilled coffee incident is one most people talk about — a woman spilled hot McDonald's coffee on herself after ordering it from the drive-thru window and sued the company for millions of dollars.

Well, at least that's the story we all heard. In reality, though, the incident didn't leave her sitting quite as pretty as the story paints. Ultimately, the verdict she got was reduced, so she didn't get as much as was initially reported. And the suit wasn't just an issue of inconvenience and taking advantage of a big corporation — the plaintiff was left with serious, documented injuries from the spill.

Personal injury cases aren't as cut and dry as the media might have you believe. The reality of personal injury law is that, to prevail in a case, you have to prove that someone else was liable for what happened to you, and you have to get a jury to agree. Another reality is that your case could last for several years, so if you plan to take it to court, you better be ready for the emotional investment.

A common belief is that if you fall in a store, the store is automatically responsible for what's happened to you. But the reality is the store is only responsible if they did something they shouldn't have, or if they failed to do something they should have. For example, if someone slips on a grape in the supermarket, you'd assume that the store is responsible, but that may or may not be the case. The store has to have had enough time to notice the grape upon reasonable inspection. If at 9 a.m., a grape dropped on the floor, and at 9:03 a.m., a customer slipped on the grape, there's not much of a case for the store being responsible — they didn't really have enough time to notice the grape upon reasonable inspection. If the grape fell at 9 a.m. however, and someone slipped at 3 p.m. on that same grape, the tables turn, and it might be a strong case that the store is responsible. Surely you would expect the store to conduct an inspection of the produce department in those six hours.

CONTINUED ON PAGE 2 ...