

SUBSEQUENT MEDICAL NEGLIGENCE IS FORESEEABLE

Fact Pattern:

Brenda Allen slipped and fell in a puddle caused by a leaky awning on her way into her local grocery store. As a result of her fall, Mrs. Allen broke her hip, spent ten days in the hospital and was subsequently moved to a skilled nursing facility to continue her rehabilitation. While in the skilled nursing facility, she developed a decubitus ulcer on the right heel and needed to have her foot amputated. Mrs. Allen asserted that the store was negligent in allowing the entrance to contain a hazardous condition and in failing to post warning signs or take steps to correct the situation. She is suing the grocery store for damages relating to the injuries she suffered as a result of her

fall and for the subsequent life-altering injuries suffered during her stay in the skilled nursing facility.

Question:

If the defendant is responsible for an injury to the plaintiff, and as a result of that injury, the plaintiff receives further injury, will the defendant be liable for all injuries suffered? Is medical negligence foreseeable?

Rule

If the defendant is responsible for an injury to the plaintiff, who then undergoes medical treatment, the defendant will be liable for anything that happens to the plaintiff as a result of negligence in the medical treatment, infection or other by-products.

Discussion

The medical malpractice complications rule states that intervening acts of medical negligence that enhance a tort victim's original injury are foreseeable as a matter of law. This means that, when a defendant acts negligently and, as a result, the victim requires medical care, the defendant will also face liability for any enhanced injuries the victim received from subsequent medical malpractice.



California / Texas / Florida

The “eggshell skull” rule states that you take your victim as you find them. So, if the slip and fall accident described above would normally only cause a few thousand dollars’ worth of harm, but Mrs. Allen loses her foot due to negligent treatment from the skilled nursing home, or negligence of subsequent physicians and/or staff and requires hundreds of thousands of dollars’ worth of medical treatment as a result, the grocery store where the original accident occurred is liable for the full amount of the injury to make the injured person whole.

If a defendant injures the plaintiff, and as a result of that injury, the plaintiff receives further injury or an aggravation of the existing one, the plaintiff is liable for all of this. If the defendant causes the plaintiff to become sick or otherwise weakened, and this weakened state leads to a foreseeable complication, the defendant will be liable. Additionally, if the injury makes the plaintiff particularly susceptible to another accident, which occurs, the defendant will be liable.

Reckless or intentional conduction by a subsequent medical provider is not foreseeable as a matter of law so if in the above fact pattern the amputating physician amputated the extremity contralateral to the decubitus ulcer, Defendant grocery store would not be liable for harm from this reckless amputation of the unaffected extremity.