

**PBPA Podcast Transcript**  
**Slip and Fall Incidents in Nonprofit Facilities:**  
**Best Practices and Response Strategies**  
**(23:37 minutes)**



Sireesha ([00:03](#)):

Today we're tackling an issue that every nonprofit, no matter its size or mission, needs to be vigilant about: managing and mitigating the risks of slip and fall accidents at your facility. Slip and fall accidents might seem like a minor concern, but they can lead to serious injuries, costly legal battles, and significant disruptions to your nonprofit's mission. Today, Kendra Tally and Holly Hempel with Nelson Mullins will be talking about strategies to mitigate slip and fall risks at your nonprofit facility. Whether you're a nonprofit leader, a facilities manager, or a concerned volunteer, stay tuned.

Sireesha ([00:51](#)):

Hello and welcome to the PBPA Podcast. In each episode of the PBPA Podcast, we explore legal questions relevant to Georgia nonprofits. I'm your host Sireesha Ghanta, Counsel and Education Director at the Pro Bono Partnership of Atlanta. PBPA strengthens our community by engaging volunteer attorneys to provide nonprofits with free business legal services. We provide numerous free resources via our website, including articles and webcasts specific to Georgia nonprofits and their business legal concerns. We also provide direct legal services to our clients. For more information on client eligibility requirements, to apply to be a client or to access our vast learning center, visit our website at [pbpatl.org](http://pbpatl.org). Before we jump into this episode's topic, keep in mind that this podcast is general information, not legal counsel, contact your attorney for guidance on your nonprofits' specific situation.

Sireesha ([02:02](#)):

Holly Hempel is a partner with Nelson Mullins, where she practices and nationally manages civil litigation across the US, including premises liability. By the way, premises liability is the legal term used for "slip and fall", but I'll let our experts speak more about that later. And Kendra Talley is an associate with Nelson Mullins where she practices in litigation. Also including premises liability and insurance defense. I'm thrilled to have two knowledgeable experts to share with us today. Thanks for being here, Kendra and Holly.

Kendra & Holly ([02:40](#)):

Thanks for having us.

Sireesha ([02:42](#)):

So to start off with, let's talk about some examples and when is a nonprofit liable for slip and fall? Kendra, let's start with you.

Kendra ([02:52](#)):

So there are a couple times when a nonprofit could be liable for a slip and fall. And some more common scenarios would be if there is a volunteer or a paid staff member of the nonprofit who sustains a serious

injury in a slip and fall accident that occurred on the organization's property or elsewhere during an event that was connected to the organization in any way. It could also be where an individual who is visiting the nonprofits property or who is attending an event associated with the organization, sustained a serious injury in a slip and fall accident. And it could also be when a recipients of funds or services or goods from the nonprofit organization sustains an injury in a slip and fall accident that was caused in some way by the organization or a member or of their staff.

Sireesha ([03:48](#)):

And Holly, do you have some examples?

Holly ([03:50](#)):

Sure. Thank you. I tried to think of some examples of premises liability that might be beyond a traditional slip and fall. And so I was thinking about ways that someone who was injured could try and hold the nonprofit organization liable for injuries that sustained either on their premises or, or something related to the work they [the visitor] were doing with the organization. So a couple examples are, one would be, you know, someone is working with paperwork and shuffling paperwork, and one of the pieces of paper in an envelope accidentally cuts someone in the eye. And then the damages sought would be, you know, LASIK surgery or something related to eye medical treatment that could be quite extensive. Some other examples would be, you know, someone drinks water that they claim is contaminated and it causes serious intestinal issues. There could be claims about, you know, whether the water was safe at the facility or the nonprofits organization. And the last example, that's a completely different than a slip and fall, but, you know, could lead to premises liability would be a volunteer or a third party has an expensive bag with a computer and other items inside. And it was stolen, despite having a security guard or despite having a locked door. And that volunteer could claim that, you know, there was negligent security or a lack of proper,, you know, care taken to protect their things. And that could lead to a claim to replace the full cost of the bag and its contents.

Sireesha ([05:24](#)):

Wow. So those are a lot of possibilities there, but now I'm wondering, does it make a difference if a nonprofit is in a space that they rent versus one that they own?

Holly ([05:36](#)):

Yeah, that's a good question. The law says it's owner or operator or who controls the property. So you don't necessarily have to own the property to have a claim for premises liability against you. If you, as the nonprofit are in control of the property, if you rent it or you're leasing it, you could still have premises liability claims for you. So the rules really are anyone who exercises control over the property and the conditions where the incident occurred can be held legally responsible for the incident. So again, that could be the owner, the manager, or someone who leases the property. And, you know, related to that, we always say in most of these situations, if you're in control of the property, meaning you're there and you see that something is wrong, whether it's a loose tile or a leaking pipe, you know, fix it. And if you're not the person who's able to fix it, call your landlord or call the manager of the property and have them fix it. And if things aren't happening as quickly as you would like, then make sure you warn. Because if you can't fix the problem, at least you warn about it to prevent accidents occurring as a result of whatever you see that needs attention.

Sireesha ([06:50](#)):

Those are some great examples. You gave us some ideas for what nonprofits can do to mitigate risks. Um, do you have any other suggestions, what are some other ideas for nonprofits to help them mitigate the risk of slip and fall?

Kendra ([07:05](#)):

Uh, yes. So I think what Holly was saying is really good. You know, try to get it fixed as soon as possible and if you can't fix, you know, born to try and prevent those falls from happening. But also try to identify like the common areas where hazards are likely to gather, such as like water, leaves and ice. Those are a lot of the common culprits that cause slip and falls. So any areas where those are likely to gather: entrances, hallways, exits, that would be a good idea to try and clean up and keep a close eye on. Any areas with stairs, sidewalks, windows and ceilings are also good areas where hazards can gather. And then another tip is also to try and provide adequate lighting in all areas where you can. Specifically in stairwells and walkways and just a lot of the, any of the high traffic areas.

Kendra ([08:09](#)):

Another tip would be to just use handrails where appropriate, going up the stairs, down the stairs, whether that be, um, a long set of stairs or just the stairs in the entrance. Handrails are also always a good idea and to try and identify and clearly mark areas where there is any elevation change that the average person might not realize or someone not as familiar with the premises would be unlikely to consider. And then also encourage employees and directors of the organization to identify and eliminate the hazards as they're noticed. So just pick up debris when spotted, whether it's in the parking lot or any common areas. Conduct regular checks of high traffic areas, the lobbies, the entrances, hallways such as that, just to see if there's anything off there.

Kendra ([09:04](#)):

And then another thing to help keep the organization from dealing with slips and falls would be to create a reasonable inspection program so that they're able to timely identify potential hazards and can mitigate the risk of falls. Um, so that could be having an employee in charge of, you know, making a sweep of the property every hour or maybe that looks different when there are actually events taking place, just to be mindful of any hazards that could have popped up. Because Georgia courts have routinely ruled that places with a reasonable inspection procedure in place are not liable when slip and falls occur. So that's something to be mindful of.

Sireesha ([09:56](#)):

Okay. So it sounds like conducting regular inspections to identify potential hazards can go a long way to mitigate the risk for the nonprofit. So what should an organization do once they have identified those potential risks. If and when they identify potential risks?

Holly ([10:15](#)):

Good question. I think Kendra addressed a lot of those, and I really think the number one key is taking reasonable care. And that is kind of left open to interpretation, but a lot of that is common sense. So if

you see something, you know, act on it. If you see something is wrong or there's debris that someone could trip on, you know, make sure you clean it. So for example, a classic case is some spilled water or something, a soft drink on the floor. If you can't clean it up immediately, you know, put down a sign that warns people that there's wet floors. And then even once you clean it up, still keep the sign until your cleaning residue is clear on the floor so there's no longer a hazard.

Holly ([10:55](#)):

Kendra also alluded to, you know, having these reasonable inspections. And again, I think a lot of that is common sense, but it might not be something that you have written out as a standard operating procedure, but it is something to consider. So for example, you know how often you change your air filters, you know, if someone claimed that there was some kind of mold in one of your buildings, if you had a procedure that indicated that you changed your air filters every two months, you know, something like that would help prove that you were reasonable. So that's always the test reasonableness. So I think having, um, an employee checklist or standard operating procedures that fit within your organization is a good way to help you, um, mitigate potential risk if you're aware of them. And again, just always warning about any risks that you know of, whether it's uneven pavement or you know, a missing tile on a staircase or anything like that, just warn if you can't fix.

Sireesha ([11:53](#)):

So identifying and fixing or reducing those risks is one important step and another important factor is good insurance. Um, tell me how does a general liability insurance policy play into this, Holly?

Holly ([12:10](#)):

Yeah, so it, it plays into part your general liability policy will provide coverage for legal claims for personal injury or for property damage that occur on your property. And so that can help insulate the organization from financial hardship after a slip and fall or another premises liability claim if there's an accident or an injury as a result of something that happened on your property. But it's, it's kind of a complicated subject. So I think one idea that I have is to work with a broker who could maybe guide you on how much insurance you need and what your deductibles should be and how that fits within the organization that you have. So, you know, there are lots of different options about how much coverage you could have, and then there's options for excess or umbrella policies. But I really think the key is to meet with someone within your organization or at an insurance company or a brokerage that can help you figure out, you know, what you need.

Holly ([13:12](#)):

And another key is, not only does insurance coverage help pay for what the outcome of litigation might be, the insurance companies themselves have "panel counsel". So they have attorneys that are hired by them and are approved to be on a panel of counsel that can help defend claims. So your insurance company could also provide defense counsel to you and pay for that. Um, there are some exceptions to where general liability policy, what it would cover. So that's something you could always look into and it's case-specific. But I really think the key is to have general liability coverage that best suits your needs.

Sireesha ([13:36](#)):

And the third part of risk mitigation here that we're gonna talk about are waivers of liability at PBPA we tell all our nonprofit clients that they should have waivers of liability signed by their volunteers or client participants. If a nonprofit has a waiver signed by their volunteers and participants, are they still responsible for any slip and falls that might occur at their facility?

Kendra ([14:20](#)):

It depends <laugh>. Um, so waivers are not a complete, necessarily complete release of liability. But I agree you're advised to advise all the nonprofits to include them and engage their volunteers and participants with them because it's a mitigating factor to some of the risk of like a slip and fall incurring occurring on the premises. It's something important to note that, sorry, waivers that are signed by volunteers and participants, um, only protect the nonprofits by claims that are made by the volunteers and participants. But it wouldn't necessarily prevent a claim made by a third party. But still good to have. I believe that it's good to have for any organizations that routinely or regularly engage volunteers in tasks that potentially result in slip and falls and bodily injuries, whether that is, carrying heavy objects or any sorts of construction. I think that would be good to have. High areas of physical labor.

Kendra ([15:29](#)):

And then even if the risk of injury is small or seems minute in the grand scheme of things, just having a sign waiver by volunteers and participants could help prevent, prevent the organization from being held liable in the future. And it's also known as a release, and it's just a written statement in which the volunteer agrees to assume the risk of injury inherent in the volunteer activity, and it just releases the organization of any liability that the volunteers or participants may sustain. And while it may discourage the lawsuits, it does not necessarily prevent all lawsuits from occurring. You can't stop someone really from suing, but it can go a long way in protecting your organization, especially if this were to go to trial. It would provide some insulation showing that the volunteers and participants were aware of the inherent risk and understood what they were undertaking heading into the activity.

Holly ([16:33](#)):

You mentioned something that's a really great point, which is the waivers can't prevent all lawsuits, but they really can discourage them. And so one thing that we also suggest is that, that the nonprofits perhaps hold an orientation with the volunteers or participants either with new volunteers or at the beginning of an event. And it serves a lot of purposes, but one of the big ones is that it hopefully will prevent accidents from happening. So at that orientation, it allows the nonprofit to provide any safety training or to specifically call out any things that you want to warn about or inherit risk in the activity. But on top of that, it's a great way for the nonprofit to educate the volunteers about the organization itself. And, you know, in a nice neutral meeting. It also helps orient the volunteers about the nonprofits operating procedures and their programs. And lastly, when you have that meeting, it's a great way to obtain the waiver. So if you haven't already sent the waivers out and received them before the event or before the training, you can get the signatures collected on those waiver forms at that meeting. So we always encourage that orientation.

Sireesha ([17:42](#)):

Now, Kendra, let's say that nonprofit has taken all the steps that we've talked about today. Um, they've done inspections, they work to minimize risks, they have insurance lined up and they have had their

volunteers and clients sign the waivers and the volunteers have attended an orientation. But you know, accidents happen. What should a nonprofit do if and when a slip and fall incident occurs on their premises?

Kendra ([18:11](#)):

Yeah, that's so true. Accidents do happen. You know, unfortunately it's not a perfect world, so we still have to deal with slip and falls. But the important thing for organization to do if an accident were to occur on the property is just make sure that they take the steps to document the incidents as thoroughly as possible, only in a factual way. You know, try to refrain from using any opinions or providing any kind of editorializing just because it's important to remember that incident reports are discoverable. So in the event that there is a lawsuit, all of this would be available to the other side. And so that brings me to like what an incident report should include, just the facts of the incident, just a record of what occurred. So just the typical "who, what, when, where, how". You can include any statements either from the victim or any witnesses. But again, just make sure that you're including their factual statements, not including whether or not you think they're honest, whether or not you believe them or anything like that.

Kendra ([19:21](#)):

So for example, if you have someone who falls on the stairs while they're at your property and you know, she says that she was on the phone and not paying attention to where she was walking, that's okay to include because that's something that the victim said. Um, you didn't put words in her mouth, you didn't give an opinion on that. You can include her direct statement. And even if the witness were to, if a witness were to tell you right before the woman fell, I saw her on her phone because she was texting and not paying attention. That's also something that you would be able to include because that's something that the witness told you. You're not including your opinion that, you know, the woman wasn't paying attention. That's just a statement that a third party said to you. But you wouldn't be able to say, I think this woman fell because I think she was on her phone. That's not a fact. That's your opinion. That's you providing a reason as to why the accident occurred, and it's just not helpful. So try to refrain from including any, um, opinionated statements.

Kendra ([20:26](#)):

And another thing, just make sure you take pictures of the hazard or hazard or the hazardous condition that caused the fall. So if, I think this is important because Georgia law says it's not enough just to fall. You have to kind of provide a reason for the fall, whether there was like a liquid on the floor or an uneven step so that could help protect the organization. If there was no hazard, then that's something that you could provide. You know, this is what the stairs were like at the time of the incident, there's nothing uneven or anything like that.

Kendra ([21:06](#)):

And then also just take steps to preserve any other evidence that you may have. So whether that's surveillance footage or witness testimony, so many times we've had witness contact information, just like a first and a last name and maybe a statement, but we don't have any way to get in contact with them, any number, any email to follow up with them. So just try to preserve as much witness testimony or witness contact information that you can, so we can go and get that testimony in the event that, you know, there's a lawsuit or, you know, this goes to trial.

Kendra ([21:44](#)):

You know, try to, it's, it's important to try to remain human, um, in the midst of all of this. So offer medical assistance, you know, offer to call an ambulance, provide them with a chair or something like that, because that a kind gesture, you know, we don't have to immediately just think, okay, like, let's preserve everything for the lawsuit. You know, try to remain human there.

Kendra ([22:08](#)):

And then then, Holly was saying earlier, you may need to like reach out to your insurance carrier, just to let them know of the incidents. Advise them what could be coming down the pipe, put them on notice. Um, and a lot of insurance companies require that. In fact, your representation could be at stake if you don't timely notify them of any incidents.

Sireesha ([22:33](#)):

Yes, accidents happen, but with this guidance, we hope nonprofits are able to use risk identification, waivers and insurance to minimize those risks to visitors, to their facilities and to the organization. Kendra, Holly, thanks for sharing your insight and guidance with us today.

Holly ([22:52](#)):

Thank you.

Kendra ([22:53](#)):

Thank you for having us.

Sireesha ([22:55](#)):

We hope that you found this episode of the PBPA Podcast to be informative and helpful. We add new episodes every month with short conversations about general, yet important legal information for Georgia nonprofits. Remember that this is not legal counsel. Talk to your attorney about your organization's specific concerns. Thanks for tuning into the PBPA Podcast. And to all nonprofits listening out there, thank you for all the good work you continue to do in our community.