

# Slip & FAULT

Protect your retail company from the blame game of slip-and-fall litigation by preventing floor accidents in the first place.

BY KENNETH FISHER

Entering the new decade of 2010 is presenting challenges for almost every retailer conducting business across the U.S. The fragile economy is the topic of the day and maintaining customer loyalty is as important to every retailer as life and breath. These challenges have underscored the importance of making the customer's experience a positive one. In order to make a difference, and to help retain a satisfied customer base, retailers may need to think outside the box and initiate some changes that the customer will notice.

One way that customers can be coddled and nurtured by retailers is by taking a more active role in highlighting safety for their customers. Safety has always been a great way to show the consumer you care. While visiting a large retailer recently during a downpour it was a welcome sight to have a store greeter offer me a plastic bag to place my

wet umbrella into as I walked into the store. He smiled and said, "This will help keep water off the floor so someone won't be injured from a slip and fall." I immediately thought to myself, "Smart company." Not only did it make sense, but the greeter actually had me smiling — reflecting that this small but safe preventative step was a way of showing me that someone cared enough to take time to warn me of a possible hazard.

Letting the consumer know that you don't want them to slip in their store is a message that needs to be heard loud and clear in the coming years. Every day in the U.S., more than 10,000 baby boomers are reaching 60 years of age. And those in this age group are slipping and falling and subsequently filing insurance claims that are rising faster than any time in the past.

## THE PERFECT STORM HAS BEEN FORMING FOR YEARS

**Fact:** I am a baby boomer.

**Fact:** Most baby boomers are more educated than previous generations and, if the truth be told, they are not interested in being reminded that they are aging.

**Fact:** The baby boomer generation is more litigious than any other generation.

**Fact:** The baby boomer generation expects companies to provide a safe place for them to shop, exercise, dine and party. And if they get injured, they are not shy about holding companies responsible for damages and any costs associated with being injured while visiting their favorite retailer — even if the injury was a result of poor judgment on the part of the injured party.

What does this mean for retailers? It means the perfect storm is brewing on the horizon when it comes to general liability costs, and slip-and-fall litigation is leading the pack and is going to continue to heat up.

Lawyers that are advertising they will represent anyone that has been injured as a result of a slip-and-fall can be found on almost every corner. The real estate and financial markets have shed thousands of legal eagles that are hungry to generate a living doing whatever they have to do. Just look at late night television or, for those not electronically savvy, look at the local telephone directory. The phrase "we don't get paid unless you do" is intertwined throughout several advertisements that you see on billboards and in newspapers across the country.

The economic downturn had contributed to an undercurrent of questionable slip-and-fall lawsuits. Insurance companies have reported seeing a 77% increase in possible fraudulent slip-and-fall claims in the first quarter of 2009. Until tort reform and other State legislated changes take place, retailers must be on the offensive when it comes to addressing the ever present claim that a customer slipped and fell because the retailer did not provide a safe walkway surface while visiting their store. What can a retailer do? Simply put: *Prevent and defend.*



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- Store Closings
- Storefront cleaning/ Power washing



## PREVENTATIVE PROGRAMS

Retailers need to implement a strategy that focuses on preventative programs that lessen the likelihood that a customer will slip and fall while shopping at their facility. This may require certain preventative steps be put in place that may change the current status quo. The example of a greeter offering plastic bags for umbrellas on a rainy day as customers enter a facility sends a clear message to the consumer: This retailer cares about my safety.

Retailers need to have schedules for walking the aisles of their stores to make sure spills are cleaned up quickly and that safety in the walkway is something that is on the radar screen. Walk logs are frequently used to provide tangible proof that this is being done on a regular basis. Unfortunately, the attention to this detail has not been adhered to by many retailers due to a reduction in man hours. The cleaning logs are one of the first requests made by the plaintiff's lawyer to see if retailers are being responsible and paying attention to safety for the public.

Here are several steps that can be implemented to help prevent — and then defend — a slip-and-fall at your facility.

1. Understand what the slip resistance of your current floor surface is by having the coefficient of friction (COF: the slip value both wet and dry for a surface) tested by an outside specialist.
2. Provide extra walk-off mats during inclement weather.
3. Post floor safety directives in prominent locations throughout the areas to which your employees have access.
4. Make floor safety a topic of regular conversation with your staff, which may require readjusting the current culture when it comes to picking up hangers that fall from the racks and cleaning up a spill, even if it is not in their job description.
5. Use high traction floor cleaning products that improve floor friction, even when the floor is wet and contaminated.

tion, even when the floor is wet and contaminated.

6. Review procedures that your staff may reference in the event someone does slip and fall during their shift. When someone falls it can be quite embarrassing and traumatic at the same time, so when a staff member helps an individual that has taken a tumble, the injured party will not forget the kindness that was extended at this rather awkward moment.

7. Keep store walk logs filled out and up to date at all times.

8. Make sure your facility is well lit and has proper lighting.

9. Have "Caution: Wet Floor" signs readily available to put over and around a wet floor, which can be placed throughout the facility in spill stations.

10. Make sure that any changes in elevation are clearly marked to avoid a trip fall.

## DEFEND YOUR POSITION

When a retailer has taken all the necessary steps to create a safe environment for their customer they must be aggressive in defending the preventative steps they have implemented, should someone slip and fall and claim negligence. Don't simply pay off a claim — that's what some lawyers want you to do. Defend how walkway safety is a priority in your facility and stand up against settling quickly.

Safety is important in all our lives and when we make extra efforts to provide a safer environment for our customers, they will demonstrate this by returning, again and again. **RFB**

Kenneth Fisher is COO and vice president of Walton, Kentucky-based Nu-Safe Floor Solutions, Inc. In addition, Fisher has been certified as a Walkway Specialist by the National Floor Safety Institute (NFSI).

## greening news |

### MELINK'S HEADQUARTERS RECEIVES LEED® PLATINUM CERTIFICATION FOR EXISTING BUILDINGS

Milford, Ohio-based Melink Corporation has received notice from the U.S. Green Building Council that its energy-efficient headquarters has earned the LEED Platinum Certification for Existing Buildings. LEED stands for "Leadership in Energy and Environmental Design." Platinum is the highest rating that can be achieved, and there are only 24 LEED Platinum Existing Buildings in the world. Melink is a provider of building commissioning services, ventilation controls and renewable energy products for commercial building owners, including national retail, restaurant and supermarket chains.

### REGENCY CENTERS RECEIVES LEED® GOLD CERTIFICATION AT JEFFERSON SQUARE

Regency Centers, a national



Regency Center's Jefferson Square shopping center in La Quinta, Calif., has achieved LEED Gold certification from the USGBC.

owner, operator and developer of grocery-anchored and community shopping centers, has a shopping center that recently received LEED for Core and Shell Gold certification by the U.S. Green Building Council (USGBC). Jefferson Square shopping center is the first LEED certified project in La Quinta, Calif. The center, which was designed by KTG Group, Inc., is anchored by Fresh & Easy Neighborhood

Market and CVS/pharmacy. Regency has six other shopping center projects currently seeking LEED certification.

### JOHNSON CONTROLS REACHES GOAL OF 800 LEED® CREDENTIALLED PROFESSIONALS

Johnson Controls, Inc., a global leader in energy efficiency and sustainability, has achieved the goal it set a year ago to have 800 LEED® credentialed employees worldwide. Under the Johnson Controls umbrella is Johnson Controls Global Workplace Solutions, the world's largest global real estate and facilities management business. LEED stands for "Leadership in Energy and Environmental Design" and is a program of the U.S. Green Building Council.

### REGENCY CENTERS SELECTED TO DEVELOP USGBC'S NEW "GREEN RETAIL GUIDE"

Jacksonville, Fla.-based Regen-

cy Centers, a national owner, operator and developer of grocery-anchored and community shopping centers, has been selected as a project consultant to create the new "Green Retail Guide: Integrating LEED® into your Leasing Process" by the U.S. Green Building Council (USGBC). The new resource will support USGBC's strategic work in the retail sector and will complement the LEED for Retail rating system by providing a practical resource that helps integrate green thinking into the way that retail space is selected, leased, built-out and occupied. Regency Centers has partnered with Green Building Services, Inc., a sustainable development consulting firm, and Ecoxera, a green business strategies and communications firm, to assist with the project. The guide is scheduled for publication in mid-2010 and will be available for sale at [www.usgbc.org/publications](http://www.usgbc.org/publications).