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Christian's practice areas consist of Appellate advocacy, retail and hospitality liability defense, complex litigation, premises liability, food adulteration claims, white-collar criminal defense, motions work, and state healthcare regulatory issues.

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## Hospitality Liability Report: A Basic Primer on Property Owner Liability in South Carolina

Our firm represents many businesses throughout South Carolina in the retail and hospitality sectors. A frequent question posed to us by our clients is: "What is our duty to protect people who come onto our property from hazards on the premises?" I imagine you may have the same question. Accordingly, the following is a basic primer on the law of property owner liability in South Carolina.

The first component of the analysis involves a determination of what type of person is coming onto a property. South Carolina recognizes four general classifications of persons who enter a property, such as a convenience store, hotel, or restaur-

ant. These classifications include:

- adult trespassers;
- invitees;
- licensees, and
- children.

Different standards of care apply depending on whether the visitor is considered an "invitee," i.e., an invited business guest; a "licensee," i.e., a person not invited, but whose presence is suffered; a "trespasser," i.e., a person whose presence is neither invited nor suffered; or a child.

In premises liability cases, the invitee is offered the utmost duty of care by the business owner and a trespasser is generally offered

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the least.

An invitee is a person who enters onto the property of another at the express or implied invitation of the property owner. Invitees are limited to those persons who enter or remain on land upon an invitation. This invitation may be express or implied. This invitation carries with it an implied representation, assurance, or understanding that reasonable care has been used to prepare the premises, and make them safe for their reception.

The visitor is considered an invitee if: he or she enters by express or implied invitation; his or her entry is connected with the owner's business or with an activity the owner conducts or permits to be conducted on his land, and there is a mutuality of benefit or a benefit to the owner.

Invitees include:

- patrons of stores or restaurants;
- persons visiting a filling station or convenience store to use the restroom or vending machine or to ask directions, and
- workers or tradesmen invited to work on the premises.

A property owner owes an invitee the duty of exercising reasonable or ordinary care for his safety and is liable for injuries resulting from the breach of such duty.

As a general rule, the property owner has a duty to warn an invitee only of latent or hidden dangers of which the property owner has knowledge or should have knowledge. The degree of care required is companion with the particular circumstances involved, including the age and capacity of the invitee.

This duty is an active or affirmative duty. It includes refraining from any act that may make the invitee's use of the premises dangerous or result in injury to him.

The touchstone of negligence is foreseeability. However, in premises hazard cases, it is not necessary that the precise manner in which the injuries were sustained be foreseeable. Rather, it is sufficient that there is a reasonable generalized gamut of greater than ordinary dangers of injury and that the sustaining of the injury was within this range.

Note: This primer is based upon *Sims v. Giles*, 343 S.C. 708, 541 S.E.2d 857 (Ct. App. 2001), a leading case on the law of landowner liability.

