

**FROM THE COMMITTEE ON
MODEL CIVIL JURY INSTRUCTIONS**

The Committee solicits comment on the following proposals by December 29, 2023. Comments may be sent in writing to Julie Clement, Reporter, Committee on Model Civil Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCJI@courts.mi.gov.

PROPOSED

[AMENDED] M Civ JI 19.03 Duty of Possessor of Land, Premises, or Place of Business to Invitee

A possessor of land has a duty to exercise reasonable care to protect an invitee from an unreasonable risk of harm caused by a dangerous condition of the land that was known to the possessor or that should have been known to the possessor in the exercise of ordinary care. ~~(b)~~

*(In determining whether the possessor should know of the condition, you should consider the character of the condition and whether the condition existed for a sufficient length of time that a possessor exercising ordinary care would discover the condition.)

Notes on Use

*This language should be used only if there is an issue of constructive notice or inspection. This language should *not* be used where the possessor has created the condition. *Berryman v Kmart Corp*, 193 Mich App 88, 93 (1992).

Comments

See *Kandil-Elsayed v F & E Oil, Inc*, ___ Mich ___; ___ NW2d ___ (No. 162907, July 28, 2023).

On the subject of constructive notice, see *Clark v Kmart Corp*, 465 Mich 416, 419 (2001) and *Banks v Exxon Mobil Corporation*, 477 Mich 983, 983-984; 725 NW2d 455 (2007); on the subject of inspection, *James v Alberts*, 464 Mich 12, 19-20 (2001).

On the subject of liability to invitees injured by the criminal acts of third parties,

see *MacDonald v PKT, Inc*, 464 Mich 322 (2001).

History

M Civ JI 1M Civ JI 19.03 was added January 1982. Amended January 1994, June 2003, March 2005, December 2005, [Month Year].

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The Michigan Supreme Court has delegated to the Committee on Model Civil Jury Instructions the authority to propose and adopt Model Civil Jury Instructions. MCR 2.512(D). In drafting Model Civil Jury Instructions, it is not the committee's function to create new law or anticipate rulings of the Michigan Supreme Court or Court of Appeals on substantive law. The committee's responsibility is to produce instructions that are supported by existing law.

The members of the Committee on Model Civil Jury Instructions are:

Chair: Hon. Michael F. Gadola

Reporter: Julie A. Clement

Members: Benjamin J. Aloia; Matthew Aneese; Robert L. Avers; Hilary A. Ballentine; Hon. Annette Jurkiewicz-Berry; Matthew J. Boettcher; Hon. Stephen L. Borrello; Debra A. Freid; Hon. Michael L. Jaconette; Amy M. Johnston; Hon. Hon. Charles T. LaSata; C. Thomas Ludden; Stefanie R. Reagan; Jennifer B. Salvatore; Daniel J. Schulte; Richard J. Suhrheinrich; Emily Thomas; Randy J. Wallace; Adam G. Winn; Hon. Christopher P. Yates.