Case Study

Construction Site Accident

Owner-Builder Blames Trade Contractor for Injury

The Problem

The project was a single family home on a steep sloped lot with the garage at ground level. The entry was on the second floor of the front elevation with an exterior stair and a landing deck that were old and required replacement. The Owner was an electrical contractor who hired an engineer and several contractors to help with the renovation, including a Framing Contractor that he had worked with in the past. During demolition of the stairs & landing, the Framer explained they would barricade the entry door by screwing through the trim. Worried about damage, the Owner adamantly refused, and promised to barricade from inside the house. So, the Framer removed the deck. In a hurry to leave one morning, the Owner walked backward out the front door and fell more than 10 feet to the ground, breaking both his legs; we know this because there was gruesome security video. The Owner sued the Framer for not having barricaded the door, thereby causing his accident.

The Solution

Pete Fowler Construction was hired by the lawyer for the Framer to evaluate liability. We analyzed conflicting deposition testimony from the Plaintiff, his wife, son, and expert, as well as personnel of the Framer. The Framer's crew claimed the Owner created a barricade of chairs and hazard tape. The Owner and his expert testified that the conversation with the Framers did not happen; the plaintiff was not an "Owner-Builder"; and that it was the Framer's sole responsibility to create a barricade, regardless of a verbal request. We compiled supporting information from the contractor's license law, OSHA, and other industry standards. We refuted the expert's ten opinions one-by-one, then drew and supported the following conclusions in our Report:

1. The plaintiff was the Owner-Builder, serving as his own general contractor...
2. The Owner-Builder was responsible for the whole project, including safety.
3. The evidence and common sense lead to the conclusion that the Owner directed the trade contractor to not barricade the door... and committed to barricading... from the interior.
4. Any trade contractor who knew the Owner-Builder was a licensed contractor could rely on his expertise in managing safety...
5. It is common and within the standard of care for a trade contractor to coordinate with an... Owner-Builder to perform... requirements for safety.
6. On a small project... it is common and acceptable... to communicate... requirements verbally.
7. To barricade a door from the interior is an acceptable safety measure...
8. It was within the Owner-Builder's rights, and within the standard of care... to assume responsibility to barricade this door from the interior...
9. The Owner's human error is the cause of his injuries.
10. The Framer did not fall below the standard of care...

We testified in deposition, and soon after the matter was dismissed! The Framer's lawyer has since hired us on additional matters, because he was so pleased with our work.

