

Construction Site Accident – Ladder Fall

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Construction Litigation

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Peter L. Bosse

August 24, 2018

Shareholder Peter L. Bosse recently obtained a defense verdict in a negligence case in the Middlesex Superior Court in Woburn. The matter arose out of a construction site accident where the employee of the contractor retained by the defendant, fell from a ladder at the job site while tearing siding off a house 20 feet off the ground, and allegedly sustained significant injuries including bilateral elbow fractures, concussion and recurrent shoulder dislocations. The defendant, a non-resident, property owner secured a building permit by executing an application in which he was listed as the “resident homeowner” as he was informed by the contractor that the job would be less expensive if he did so. Arguably, at least a portion of the job not accounted for on the permit, required the expertise of a licensed construction supervisor. Unbeknownst to the owner, the contractor he retained was not licensed as either a construction supervisor or a home improvement contractor in the state, was uninsured, and admittedly possessed little construction experience with no knowledge of the building code. Unfortunately, the owner took the contractor at his word, and did not check on the contractor’s credentials or experience.

The employee of the contractor sued the property owner alleging that the typical insulation from liability did not exist where the owner had retained an incompetent, unlicensed contractor to perform work with risk of physical harm to third parties, if done improperly. Further, the plaintiff argued that as the property owner was not a residential homeowner, pulling the permit as the owner subjected him to liability for violations of various provisions of the state building code and OSHA pertaining to worksite safety.

The evidence developed during discovery and at trial was that the employee was an experienced roofer and siding installer, who was knowledgeable in the use and securing of ladders, and admittedly did not need either the property owner, or contractor to tell him how to do so. Further, twenty minutes prior to the accident, the employee became concerned about increasing winds while alone on the job site, thought about getting down, or further securing the ladder, but continued to work. Thereafter, while leaning to his right, with one hand and one foot on the ladder, a gust of wind blew the ladder causing him to fall to the ground.

The jury found that although the property owner was negligent, the negligence was not a substantial contributing factor to the happening of the accident.