

Premises Liability – Appeal

SERVICES

Premises Liability

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Matthew H. Greene

Matthew Greene, a Shareholder of the firm, successfully defended an appeal of a defense verdict where the jury found in favor of a commercial property owner who hired an independent contractor to remove snow from the roof of its facility. An employee of the independent contractor fell 30 feet from the roof and sustained a severe traumatic brain injury.

In the underlying case, Greene moved in limine to exclude certain OSHA regulations and bulletins, including reference to the Multi-Employer Citation Policy, as all such materials were irrelevant given that the property owner was not the plaintiff's employer and exercised no control over the means and methods of the work. The Court agreed, the materials were excluded, and the plaintiff's expert witness on standard of care was substantially restricted from testifying to the matters outlined in his disclosure. The case was tried to a conclusion and a jury found in favor of the defendant.

On appeal, the plaintiff argued that the trial court had improperly excluded documentary evidence and testimony of OSHA standards. The Massachusetts Appeals Court, after oral argument, affirmed the jury verdict. In a Rule 23.0 opinion, the Appeals Court found the OSHA materials and Multi-Employer Citation Policy doctrine to be irrelevant. Given the relative status of the parties, the doctrine could not be used to create a new duty for a property owner when hiring an independent contractor and ceding control over the means and methods of the work.

[MHG – 20P0831-SD \(B1090540xE9CA8\) \(PDF\)](#)