

Property Damage – Construction Site

SERVICES

Business Litigation
Premises Liability

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A real estate developer in a claim involving property damage to the photography studio of two professional photographers was successfully defended.

The defendant, a real estate developer and contractor, was performing construction work on the third floor of a building in the Leather District of Boston when a worker performing demolition work broke an overhead-sprinkler pipe. The construction project involved the conversion of the commercial space into condominiums. The construction worker had been working on scaffolding when the scaffolding shifted for unknown reasons causing him to lose his balance and fall. As he fell, he grabbed onto the end of the sprinkler pipe causing it break, discharging water from the third floor of the building through all of the floors below.

The plaintiffs were two professional photographers who had a photography studio on the first floor of the building. The water discharge caused flooding in the plaintiff's studio resulting in damage to thousands of photographic images. The plaintiff retained a nationally known photographic expert to testify that each of the plaintiffs had sustained damages of more than \$1,000,000.00 for the loss of their images.

After approximately 3 1/2 hours of deliberations, the jury returned a verdict finding that the defendant was not negligent. The primary defense was that the real estate developer had performed its work in a reasonable and professional manner and that the images had no commercial value. One of the most interesting aspects of the case was that counsel for the plaintiffs believed that liability was clear and presented limited evidence on the issue of liability and spent most of the two week trial presenting evidence on the damages.