

# Hazardous Premises

## DEFENDANT'S VERDICT

**Premises liability – Hazardous premises – Defendant landlord of seven story building allegedly facilitates decedent's employer (ground floor tavern) in building dangerous trap door leading to basement – 60-year-old decedent falls and suffers fatal skull fractures.**

### **Hudson County, NJ**

**This was a death action involving a 60-year-old cook at a tavern on the ground floor of a seven-story building owned by the defendant landlord. The plaintiff contended that eight years earlier, the landlord, who had recently purchased the property and who was performing work on several of the upper floors, consented to the tavern's request that it use the landlord's permits to construct a shed outside the kitchen with a trap door and ladder that led to the basement. The plaintiff asserted that the defendant landlord consented, and that the trap door, which would**

**not have been approved because it did not conform to OSHA requirements, including the presence of railings, was built. The plaintiff claimed that as a result of the dangerous condition, the decedent fell as he was attempting to descend the ladder from top of the trap door.**

The plaintiff asserted that although the bar/employer had the obligation under the lease for maintenance, the landlord would be liable for facilitating the building of the trap door and ladder. The owner of the bar testified that the landlord agreed to allow it to construct the shed and trap door under its permit, enabling the bar to avoid an inspection.

The defendant landlord denied any knowledge of the construction or assenting to it. The defendant landlord also maintained that if its permits were extended to include the trap door, the municipality would be informed and the inspection would still take place.

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The decedent was found in the basement, having suffered head injuries, including skull fractures. The plaintiff's biomechanical expert maintained that it was likely that the inadequately secured ladder resulted in the fall.

The defendant contended that the cause of the fall was the inebriation of the decedent. In the E.R., blood testing revealed a BAC of .228 serum. The defendant also pointed out that the decedent had no supplies in the basement or a reason to go down the ladder.

The decedent was not conscious when he was found. The plaintiff's anesthesiologist contended, however, that it was likely that the decedent experienced several minutes of conscious pain and suffering. The decedent left a wife and two adult children.

After 15 minutes of deliberations, the jury found that the defendant landlord did not facilitate the design and construction of the trap door access to the basement and a defense verdict was entered.

### **REFERENCE**

**Plaintiff's anesthesiology expert: Peter Salgo, M.D. from New York, NY. Plaintiff's biomechanical expert: David Gushue, Ph.D. from Philadelphia, PA. Plaintiff's economist expert: Kristin Kucsma from Livingston, NJ. Defendant's internal medicine expert: Angelo Scotti, M.D. from Little Silver, NJ.**

Soriano vs. 70 Hudson St Realty, LLC. Docket no. HUD-L-3856-15; Judge Isabella Joseph, 07-02-19.

**Attorney for defendant landlord: Terrence Bolan of Bolan Jahnsen Dacey in Shrewsbury, NJ.**