TRAUB LIEBERMAN

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Traub Lieberman Partner Greg Pennington Wins Summary Judgment in Favor of Property Owner

Related Attorneys: Gregory S. Pennington

In a case brought before the Superior Court of New Jersey, Traub Lieberman Partner Greg Pennington won a motion for summary judgment in favor of their client, the owner of a residential property ("Property Owner") in Atlantic City, New Jersey. The Property Owner had retained a Construction Company ("Construction Company" or "Contractor") to perform renovations to the residence, which included building a new staircase. The Plaintiff alleged that while walking down a set of temporary wooden steps on the property, the third step broke, which caused him to fall and resulted in the alleged injuries. The Plaintiff brought suit against the Property Owner and Construction Company for personal injuries as a result of the alleged fall.

In the contract between the Property Owner and the Construction Company, it is stated that "[the Contractor] shall be solely responsible for all construction methods and materials and for coordinating all portions of the Work….The Contractor warrants to [the Property Owner] that all materials and equipment incorporated are new and that all work shall be of good quality and free of defects or faults." The contract continues to state that the Construction Company shall indemnify and hold harmless the Property Owner against all claims, which includes damages, losses, expenses, legal fees and other costs that might arise from the Construction Company's performance of the work under the contract.

The Property owner did not assist in the construction of the temporary stairs, provide any materials for their construction, and was also not responsible for their inspection. The Construction Company maintained complete control over the construction of the staircase. In addition, the Property Owner—having hired the Construction Company for previous work which had been performed satisfactorily—had no reason to believe that the Contractor was not competent. In review of these facts, the Court found that no reasonable jury could hold the Property Owner responsible for the negligent acts of the Construction Company in its construction of the staircase.

The Property Owner's motion for summary judgment was granted and the complaint and any cross-claims against the Property Owner were dismissed, with prejudice. The Construction Company was ordered to provide the Property Owner with defense and indemnity, including defense costs and insurance coverage in accordance with the terms of their contact.

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