

June 20, 2018

**Re:** *Horatio and Beatrice Homeowner v. Bob T. Builder*

Deposition of Bob T. Builder.

**Date of Deposition:** November 1, 2017

## **SUMMARY OF DEPOSITION**

### **BACKGROUND**

Robert Theodore Builder (“Bob”) was born on January 31, 1976, just northwest of Logan, Utah. He presently resides in 1248 Hammer Avenue, Apt. B., Logan, Utah.

Bob is a self-employed building contractor and owns Bob T. Builder Inc. Bob’s company employs ten full-time construction workers, five part-time construction workers, and a part-time secretary.

Bob attended Logan High School and later attended Jackhammer Builders’ School from 1994 to 1998. Bob has worked as a building contractor since 1998; i.e., for the last 20 years.

### **INITIAL CONTACT WITH THE HOMEOWNERS**

Mr. Homeowner contacted Bob via an online request for an estimate submitted on Bob’s website. Bob provided Mr. Homeowner with the requested estimate and Mr. Homeowner hired him on the spot. Bob signed a Residential Construction Contract with Mr. Homeowner, just as he does with all of his clients.

### **CONTRACT PROVISIONS**

Bob explained that the average completion rate for a project the size of Mr. Homeowner’s house is about three years; however, there is a contract provision that states that the house would be completed in two and a half years, which is what he contracts for with every other client. Furthermore, the provision stating the contracted total cost for the project tends to be lower than the actual cost.

## **IN RE: THE CONSTRUCTION PROCESS**

Bob was working on four other houses while working on Mr. Homeowner's house.

On the day of the accident, as a consequence of the impalement, Mr. Homeowner shifted one of the construction project's footings, which would eventually result in an uneven foundation. The footings are what the foundation is constructed upon. Bob had not put rebar safety caps on the exposed rebar of the footings.

Bob's standard procedure for pouring the footings is as follows: "After consulting your blueprints, you dig about a size foot hole and then pour concrete around the reinforced rebar columns. You wait for a couple of days for the concrete to harden and cure before pouring the concrete and tying the two pieces together with rebar."

Bob poured these footings on August 25, 2016, and the foundation was poured on August 30, 2016. Prior to pouring the foundation, Bob's foreman mentioned to him that there was some blood on the footings, but that it was nothing to reschedule a foundation pouring over.

Bob's standard proceeding for pouring the foundation is as follows: "You generally inspect the footings and prepare a large lattice work of rebar to tie the individual pieces of concrete together and the pour the foundation. After that, you let the concrete set and cure for several days and then you can start framing."

About a week after pouring the foundation, Bob began framing the house and realized that the foundation was not level. The foundation was not level due to one of the footings being knocked out of alignment.

Regarding safety precautions, Bob stated that he puts fencing on commercial projects to keep pedestrians and trespassers out; however, for residential projects, he does not generally have a fence around it because anyone in the neighborhood can see it is an active jobsite. Furthermore, Bob did not have posted any sign that indicated a jobsite or hard hat zone. However, Bob warns his clients about the dangers on the job site by telling them that it isn't a good idea to come by the project until after the house is framed.

## **CONTRACTOR'S INSURANCE**

Bob has contractor's insurance with Constructor's Insurance, LLC. They have been Bob's provider for the last six months or so; his last insurance company was Builder's United, Inc. Bob had been insured by them for eighteen years, but moved to Constructor's Insurance, LLC when Builder's United Inc. began charging more for their premiums.

Bob has had three workplace accidents during his career. The accidents include: One crewmember accidentally nailed the hand of another with a roofing nail gun; another crew member who tripped over a pile of 2x4s and broke his leg when he fell into a hole prepped for footing; and the last accident was when a wall fell over and knocked a couple of crewmembers over, causing them to sustain concussions.

### **MOST RECENT CONTACT WITH THE HOMEOWNERS**

Bob approached the Homeowners about the foundation on the last part of September—almost one month later. He told the Homeowners that there had been a mistake with the foundation and that he would need more time and money to fix it. Bob believes that he would need another couple of thousand dollars and at least six additional weeks to fix the foundation.

Mr. Homeowner was not willing to comply with Bob's demands; therefore, Bob told them that the house could not be completed with a faulty foundation and that his crew could not continue working on the project without making sure it is built to code. Bob additionally explains in his deposition that there are always set-backs in the construction business and that most construction projects go over the contracted time and money requirements.

### **PERTAINING TO THE NEGLIGENCE AND BREACH OF CONTRACT CLAIMS**

Bob was unaware that the Homeowners intended to visit the jobsite, and was also unaware that the homeowners had been trying to contact him. Bob did not receive any of the Homeowners' telephone messages or emails. His secretary, Ms. Blueprint, was in charge of receiving and answering emails and messages; however, she had been sick with MS and could not perform these duties. Consequently, the emails and messages started piling up and none of them came to the attention of Bob.