

# Marlin E. Buckley, P.C.®

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### Testimony and Expert Work Marlin E. Buckley November 12, 2018

*The following cases are cited in accordance with Federal Rules of Civil Procedure 26(a)(2)(B):*

1. In May, 2007, I was engaged to provide expert services in a private arbitration case being held before the Honorable L. Anthony Gibson, JSC (ret'd), Linwood, NJ. The caption of the case is CCC Atlantic, LLC v. Intech Construction, Inc. I had been engaged to support counsel for the plaintiff, Walter T. Wolf, Esquire, Walter T. Wolf, LLC, Audubon, NJ.

The plaintiff hired the defendant to renovate a large office building in Linwood, NJ. The claim involved multiple construction defect issues, and was approximately \$5 million.

Some of the highlights of my work in this case are as follows:

- Expert report (initial), dated November 16, 2007
- Supplements to the expert report, dated June 4, 2008 and July 9, 2008
- Expert report to critique defendant's expert report, dated June 25, 2008
- Deposition on July 3, 2008
- Testimony at the arbitration on July 9 & 10, 2008

Judge Gibson ruled in favor of my client.

2. In July, 2008, I was engaged by Defense Counsel, Attorney James N. Gross, Philadelphia, to assist with his client's counter claim. Two real estate investors jointly owned 2 properties in North Philadelphia, and wished to dissolve the partnership. Plaintiff sued to obtain clear title to both properties. Defendant counter sued to receive compensation for renovation work he performed at the properties. The case is filed in the

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*Technical Support Services for Contractors, Owners, Attorneys,  
Architects, and other Construction Professionals*

Court of Common Pleas of Philadelphia County, August Term, 2007, No. 003040. The parties were Elinor Lee v. Wai Keung Ng.

I submitted an expert report on August 4, 2008, in which I stated the fair market value of defendant's construction work.

Counselors mutually agreed to reduce the claims to under \$50,000, thus qualifying the case for Philadelphia Common Pleas arbitration. I testified at the arbitration on January 22, 2009.

The arbitration tribunal ruled in favor of my client, and awarded a good monetary judgment.

3. On June 15, 2004, I prepared an expert report to support defense counsel in an American Arbitration Association action, case No. 14 M 110 01337 02. David Garcia, Esquire, Garcia and Associates, Philadelphia, was retaining counsel. The caption in the case is World Asian Investment Group, LP v. Hoon Ho Oh Builders and Contractors, Inc., and involved breach of contract and wrongful termination. The defendant was in the early stages of constructing a new office building when the plaintiff fenced in the job site and locked him out.

My expert report involved estimating the value of work already performed by the defendant in support of his counter suit. The case settled pre-trial in favor of the defendant.

4. On June 2, 2009, I was deposed as a fact witness in a case originating in 2001, affiliated with alleged collateral damages to a large apartment building caused by the collapse of the World Trade Center towers. Suit was filed by plaintiff's counsel in the United States District Court for the Southern District of New York, ECF CASE, Case No. CV-04-5201, before the Honorable Loretta A. Preska. The parties to the action are Parks Real Estate Purchasing Group, et. al., v. St Paul Fire and Marine Insurance Company. I supported defense counsel, attorney Brian J. Gerling, of the firm Hunton & Williams, McLean, VA.
5. On October 31, 2008, I submitted an expert report in support of plaintiff's counsel in a construction accident and personal injury case. The plaintiff, an ironworker, fell some 12 feet from a roof and suffered permanent injury to his legs and feet. The case is filed in the United States District Court for the District of New Jersey, and the caption is Brian P. Jones v. Dandrea Construction Co., and Greyhawk North America, LLC, et. al., Civil Action No. 07CV1884. Retaining counselors were Jeffrey A. Krawitz, of Silverman

Burns Kasmien & Krawitz, Philadelphia, and Arthur M. Krawitz, of Doroshow Pasquale Krawitz & Bhaya, Wilmington, DE.

Retaining counsel reported the case settled before the trial, which had been listed for the week of February 1, 2010.

6. On October 16, 2008, I submitted an expert report in support of plaintiff's counsel in a personal property damage case. A prominent artist was in process of transferring his personal artwork collection into a newly constructed studio when the roof leaked, causing permanent damage to a significant portion of his work. The case is filed in the Court of Common Pleas of Delaware County. The caption in the case was Charles Stegeman and Marie-Therese Zenner, h/w vs. The Trustees of Haverford College, et. al., No. 06-6867. Retaining counsel was Michael Lastowski, of Duane Morris, LLP, Wilmington, DE.

The case settled pre-trial in favor of the plaintiff, and a monetary payment was made by the defendants.

7. On a cold Winter afternoon a retired Philadelphia first grade teacher returned home to discover that a water pipe had frozen and burst, flooding her basement family room. She hired a clean-up contractor to repair the damage. When the contractor failed to follow established industry guidelines for water damage clean-up a toxic mold infestation erupted in her house, forcing the elderly lady to vacate the premises.

Upon contacting me, I provided technical assistance to identify the locations of the mold infestations and hired a qualified remediation contractor to clean the building. Efforts to obtain cooperation from the original clean-up contractor failed. Legal counsel was retained, and suit was filed to recover the damages. I wrote an expert report for counsel.

The caption in this case is Dorothy Pesa v. ServiceMaster Clean, et. al., Court of Common Pleas of Philadelphia County, May Term 2008, No. 2537. Counsel was David Garcia-Villarreal, of Garcia & Associates, LLC, Philadelphia. This case settled in Spring, 2010.

8. On July 6, 2009, I submitted an expert report in defense of a mechanical contractor who had installed a mop receptor in an office building. An employee on the floor below was hit on the head by a ceiling tile when water saturated it. This employee (the plaintiff) was suing for personal injuries. The case was listed for the November, 2009, trial pool in the Court of Common Pleas of Philadelphia County, and was continued into the December trial pool. The case number is October Term, 2007, No. 002393. Retaining counsel was Jay Branderbit, Esquire, of the firm Kent & McBride, P.C., Philadelphia.

Retaining counsel reported that jury selection had concluded on December 18, 2010, shortly after which the parties came to a settlement agreement.

9. On October 5, 2009, I submitted an expert report in defense of a mechanical contractor who had installed an air conditioning cooling tower on the rooftop of a university library building as part of a major renovation project. The plaintiff, a maintenance employee of the university, fell while descending the ladder of the cooling tower. Plaintiff was seeking a multi-million dollar claim against the mechanical contractor for alleged construction deficiencies and personal injuries.

The case was listed for trial in January, 2010, and jury selection concluded on January 29, 2010. Retaining counsel reported that opening arguments had commenced when the case settled on February 2, 2010, and my client's insurance carrier only reimbursed Drexel University for the \$250,000 in worker's compensation payments. Mr. Harvey was not paid a single dollar.

The caption in the case is Robert Harvey, et. al., v. West Chester Mechanical Contractors, Inc., et. al., Court of Common Pleas of Philadelphia County, June Term, 2008, No. 000549. Retaining counsel was Marc B. Zingarini, of the law firm of Weber Gallagher Stapleton Fires & Newby, LLC, Philadelphia.

10. On April 20, 2010, I submitted an expert report in defense of a large Philadelphia area office management firm. The plaintiff, an occupant of one of the offices, claimed that when she flushed the water closet (toilet) in the ladies room it exploded, hurling her into the toilet compartment door, causing personal injury.

The caption in the case is Nikita Fulton v. Becker Ventures, LLC, et. al., Court of Common Pleas of Philadelphia County, September Term, 2009, No. 2325. Retaining counsel was Greg A. Ray, Esquire, of the firm Comeau & Bunker, Philadelphia.

Retaining counsel reported this case settled shortly after my expert report was issued.

11. I was engaged by defense counsel for a large Philadelphia construction management firm in a large insurance subrogation case. The construction management firm was hired by a developer to build a project consisting of luxury condominiums and renovations to a historic Philadelphia restaurant. Due to funding difficulties and cost overruns not all condominium units were completed. A number of the condominium units were finished to only a *white box* level.

Subsequent to completion by the construction manager, the developer hired a general contractor to complete interiors of a number of the units.

On a particularly cold February night a fire sprinkler pipe, located inside an exterior wall, froze and burst, causing substantial damage to the condominium and the restaurant below. It is believed that the general contractor tampered with the fire sprinkler pipe which had been originally installed by the defendant. In addition to property damages there was a business interruption claim. Plaintiff in this case was the insurance carrier for the restaurant, and was seeking to recover losses paid on the claims.

The caption in the case is Depositor's Insurance Company v. The Henderson Corporation, et., al., United States District Court for the Eastern District of Pennsylvania, Docket No. 08-787 (S.S.D.C.E.D.Pa). Retaining counsel was Richard E. Stabinski, of the firm Weber Gallagher Simpson Stapleton Fires & Newby, LLP, Philadelphia.

The case settled in the Spring of 2010, a couple of weeks before my expert report was completed.

12. A homeowner in the Frankfort section of Philadelphia hired a satellite antenna television service to install subscription service at her residence in September, 2007. Sometime thereafter, she complained of a malodor inside the premises and alleged personal injuries to herself and other occupants of the dwelling as a result of the installation of the satellite antenna.

Plaintiff's counsel demanded damages exceeding \$2 million, and suit was filed in court. The caption in the case is SYBIL O'NEIL, et. al., v. DIRECTV, INC, Court of Common Pleas of Philadelphia County, docket NO. 0904-2939. The case was listed for jury trial in the November, 2010, trial pool.

I was engaged as an expert witness by defense counsel, attorney Norman L. Haase, partner in the firm of Swartz Campbell, LLC, Media, PA. After investigating the premises on July 27, 2010, I prepared an expert report dated August 21, 2010.

Trial preparation conferences were conducted, and a video recorded demonstration was prepared for presentation to the jury.

Retaining counsel reported that the case settled for a nominal monetary amount on November 2, 2010.

13. Two homeowners in the Cobbs Creek section of Philadelphia hired a home improvement contractor to replace the roof on their house. The contractor subsequently hired a roofing

contractor to actually perform the work. While the work was underway, a heavy storm passed through the area, and water entered through the open portion of the roof, causing damages to the building interior and its contents. The costs of repairs and contents replacement were paid by the homeowner's insurance carrier.

Subsequently, the homeowners' insurance carrier filed a subrogation suit against the insurance carrier of the home improvement contractor to recover the monies paid out.

I was retained by defense counsel for the home improvement contractor's insurance carrier, and prepared an expert report, dated October 4, 2010.

The caption in the case is ALLSTATE INSURANCE COMPANY A/S/O WILLIAM AND NIKKOL BLAGMON v. HAYDEN CONSTRUCTION CO. D/B/A ROCCO & SONS CONSTRUCTION CO., INC.; AND ANTON BERZIN, Court of Common Pleas of Philadelphia County, docket NO. 0906-1363. Retaining counsel was Joseph W. Denneler of Zarwin Baum DeVito Kaplan Schaer Toddy, P.C., Philadelphia.

The case settled shortly before the trial.

14. A lady had been renting a row house in South Philadelphia for over 10 years. During that time there were chronic leaks emanating from the 2<sup>nd</sup> floor bathroom, and water was making its way down to the kitchen. Repeated notifications to the landlord failed to correct the problem. On August 10, 2010, after using the bathroom, the plaintiff entered the kitchen and slipped on a puddle of water. Her injuries were extensive, and she is permanently disabled and bed ridden.

I was retained by plaintiff's counsel, attorney Frank D. Branella, Philadelphia, to prepare an expert report, dated November 7, 2011, and to testify at trial before a jury of 12, on April 24, 2012. I did testify at trial.

The caption in the case is BARBARA CUSUMANO-MURDOCK v. JOHN FALCONE, Court of Common Pleas of Philadelphia County, docket NO. 110101237.

The jury awarded the plaintiff a non-monetary judgment. Counselor Branella filed an appeal to PA Superior Court. The Superior Court affirmed the Common Pleas judgment. No money was paid, and Mr. Branella retired from his practice.

15. A new homeowner couple hired a home improvement contractor friend of one of the family members. As work progressed the homeowners became dissatisfied with the quality of the workmanship, and withheld a sizable bank draw. The contractor ceased

work and filed a mechanic's lien on the property. The homeowners retained counsel and filed a counter claim against the contractor.

I was retained by the homeowners to evaluate the construction deficiencies and to prepare a cost estimate for remediation. The cost estimate was incorporated into my expert report dated February 23, 2012. A supplementary expert report was prepared on March 8, 2012, in rebuttal to the contractor's expert's report.

An American Arbitration Association meeting was held on June 27, 2012, at which I testified. The caption in the case was JOSEPH DELVISCIO, DANIAL DELVISCIO & ROMAN BUILDERS v. CHRIS SAULLO & GEANINE SAULLO, AAA NO. 14 527 01160 11. Counsel for the Saullo's was Daniel M. Keane, of Clemens Richter & Reiss, P.C., Doylestown, PA.

The arbitrator rendered judgment in favor of both parties.

16. A small township just Northwest of Reading, PA, built a new municipal building and police station. It was a multi-prime contract, as is common in public works construction projects. The HVAC prime contractor had numerous deficiencies in his work which significantly impacted the system's performance, and therefore, the comfort of the building's occupants. Additionally, energy consumption was well beyond expectations. The township withheld final payment to the HVAC contractor and filed suit to recover its costs incurred while correcting the work.

I was retained as an HVAC expert by the township solicitor, attorney Cheryl J. Allerton, of Hartman & Shurr, Wyomissing, PA. Following a site investigation of the work and case file documents I prepared a Settlement Proposal Workbook, dated March 7, 2012. On March 27, 2012, I attended a settlement conference with the parties at the township building.

In or around August, 2012, the parties settled.

The caption in the case is ONTELAUNEE TOWNSHIP v. TMI COMMERCIAL, INC., and AEGIS SECURITY INSURANCE COMPANY, Court of Common Pleas, Berks County, PA, NO. 10-12599.

17. A Center Valley, PA, couple contracted with a local builder to construct a custom home. Shortly after occupying the home the couple decided to have installed a private bathroom in their young son's second floor bedroom. They hired a local plumbing contractor to perform the work.

Several years later they began to experience severe clogging of the son's water closet (toilet). One of these occasions caused significant damage, especially to the finished basement area. A new plumbing contractor was brought in to clear the blockage and to investigate. It was discovered the plumbing contractor who installed the son's bathroom connected the soil pipe to a passive radon evacuation stack, and not to the soil pipe in the basement. The bathroom plumbing contractor failed to clearly label the piping as required by the plumbing and building codes. Repairs were made by the new plumber.

Suit was filed by the homeowners and their insurance carrier to recover the costs. I was retained as a plumbing and construction management expert witness by counsel for the insurance carrier of the plumbing contractor.

Upon investigating the site I concluded in my expert report (and agreed with the homeowners' expert) that my client, the plumbing contractor, had connected the bathroom soil pipe in error to the radon evacuation stack.

The case settled.

The caption in the case was LEONARD and CHRISTINE PAPARO v. SPECTRUM HOMES, INC., and RITTER PLUMBING & HEATING, LLC, Common Pleas Court of Lehigh County, PA, NO. 2011-C-1568. Retaining counsel was attorney Richard C. Howard, Jr., of Weber, Kracht & Chellew, Perkasio, PA.

18. An elderly tenant of an apartment building slipped and fell down a flight of stairs suffering serious and permanent injuries to her legs. She had slipped on loose carpeting on the stairway.

Counsel for the tenant retained my services as an expert witness in the area of carpet installation and the Philadelphia Property Maintenance Code. My expert report was dated August 29, 2012, and was followed by a supplemental report dated November 12, 2012. I was deposed on March 12, 2013, by counsel for the landlords' insurance carrier.

The case settled in early July, 2013.

The caption in the case was MARIA POKORA v. ROMAULD KWIECINSKI, JANUSZ KOWALCZYK, and RYSZARD DZIEDZIC, United States District Court for the Eastern District of Pennsylvania, NO. 11-7617. Retaining counsel was Christopher S. Froba, of Gordon and Weinberg, P.C., Conshohocken, PA.

19. In a complex multi-issue construction defect suit involving the construction of a large condominium project in Northern New Jersey I was engaged as a plumbing and

construction management expert witness. The project had been completed some 8 to 10 years earlier, and suffered from deficiencies from the outset, including various structural weaknesses and rain water infiltration.

The condominium association filed suit, and eventually my client, the plumbing contractor to the builder, ended up as one of the many defendants. The claim by experts for the association was that my client compromised the structural integrity of a number of floor trusses (TJIs) while installing his 3 inch soil lines.

Evidence was spoliated, which precluded any meaningful site investigation. Relying on limited photographic evidence provided by others, and deposition testimonies of various parties, I speculated my client possibly could have cut the trusses. Conclusive proof was absent.

I prepared an initial expert report, dated August 15, 2012, and a supplementary report, dated September 28, 2012, which included cost estimates for the repair work which retaining counsel used to settle the case.

The caption in the case is THE NICOLE CONDOMINIUM ASSOCIATION INC., aka 729 MADISON STREET CONDOMINIUM ASSOCIATION, INC., v. LUONGO PLUMBING & HEATING, et. al., Superior Court of New Jersey, Law Division: Hudson County. Retaining counsel was Leslie Parikh of Gebhardt & Keifer, P.C., Clinton, NJ.

20. A Philadelphia area HVAC contractor submitted a prime bid to a New Jersey school district for scattered site repairs to vandalized school building HVAC equipment. This contractor was the apparent low bidder by a rather slim margin. Bidder #4, who was higher by a significant amount, filed a protest and notified the school board it intended to file suit if the work was awarded to any of bidders 1-3. The claim was that the 3 lowest bidders failed to name a licensed New Jersey Master Plumber, even though the required bid form provided no line on which to name a plumber.

Bidder #1 retained counsel and filed a temporary restraining order against the school board, preventing contract award, pending further hearings.

Counsel for bidder #1 retained me as a licensed New Jersey plumbing expert witness to research the matter. I concluded the bid documents, in fact, contained no plumbing, as defined by the New Jersey Administrative Code. I further concluded my client was properly qualified to perform the work as designed. These findings were memorialized in expert reports dated April 17, 2013, and April 24, 2013.

Retaining counsel filed a petition and a hearing was held on April 17, 2013, to determine the merits of extending the temporary restraining order through trial. At the request of

retaining counsel I was on standby in the court room in the event my testimony would be needed. The temporary restraining order was extended through trial.

Last report from counsel was that a settlement with the school board was on the table.

The caption in the case is DEVINE BROTHERS, INC. v. CAMDEN CITY PUBLIC SCHOOLS, Superior Court of New Jersey, Law Division, Civil Part, Mercer County, NO. CAM-L-1503-13. Retaining counselors were Shawn R. Farrell and Kathleen M. Morley of Cohen Seglias Pallas Greenhall & Furman, P.C, Philadelphia. George Pallas was the name partner for the case.

21. Two real estate developers were in process of dissolving their relationship. Multiple properties had been acquired and developed over many years. One problematic parcel involved in the litigation was an unfinished project. Essentially, the building construction ceased in its very early stages some years prior, and remained a shell. A commercial building appraiser was needed to determine the cost to complete renovations of the building into 3 retail spaces in order to place a fair market value on the property.

I was retained by counsel for one of the developers as a professional construction cost estimator and construction manager expert witness. Following my site inspection of the property with the appraiser I prepared my expert report which included a cost estimate for the value of the work to complete the construction.

At the request of counsel, I attended the hearing on May 10, 2013, and was on standby to testify if needed.

The caption in the case is BRUCE EARLE, et. al. v. GEORGE J. SPAEDER, et., al., Court of Common Pleas, Delaware County, PA, NO. 12-6409. Retaining counsel was Daniel J. Dugan of Specter Gadon & Rosen, P.C., Philadelphia.

The case settled.

22. A point of use domestic hot water heater had been installed at a coffee station in an office space. After the tenant vacated the premises maintenance staff failed to disconnect power to the heater. The space remained vacant for over a year. During that time the hot water heater went dry and failed, causing a leak which damaged large areas of the building.

While representing the manufacturer of the heater I examined the installation instructions and testing lab results of the failed heater. In my expert report, dated April 30, 2015, I concluded the hot water heater failed as the result of the user's failure to follow the manufacturer's operating instructions.

The caption in the case is PENNSYLVANIA AFL-CIO v. EMERSON ELECTRIC CO., Court of Common Pleas, Dauphin County, PA, NO. 210 CV 07457 CV. Retaining counsel was J. Michael Kunsch, of the firm of Sweeney & Sheehan, Philadelphia. The case settled.

23. A private condominium owner lived on the ground floor of a 2 story condominium building. Chronic plumbing leaks from the 2<sup>nd</sup> floor condominium were not repaired for years, causing water damage in the bathroom and kitchen areas of the 1<sup>st</sup> floor condominium. Additionally, toxic mold grew in the wall and ceiling cavities creating significant health conditions for the 1<sup>st</sup> floor occupant.

I coordinated the efforts of a certified industrial hygienist to perform mold sampling and testing, along with coordinating the efforts of a licensed mold remediation contractor to remove the contaminated building elements. I prepared an expert report, dated July 25, 2014, in which I estimating the costs to the condominium owner to have the necessary repairs made.

The caption in the case is GRACE L. DAHLQUIST v. THOMAS V. PENNISE, JR., Court of Common Pleas, Montgomery County, PA, NO. 2008-31678. Retaining counsel was William P. Marshall, Colmar, PA. The case is abandoned.

24. I was involved in a very large case involving the repair of the domestic hot water system in a five star hotel. Everyone in that case is under a lifetime federal court gag order. All parties involved in this case were required to dispose of everything in their possession, and the penalty for violating this order is a personal visit from the U.S. Marshals with a search warrant and those shiny bracelets.

25. A general contractor hired an HVAC contractor to install the HVAC system in a 120 bed nursing home it was building near Annapolis, MD. The contract was a design-build agreement, and as such, required the HVAC contractor to provide certain construction elements presumed necessary for a complete and functioning HVAC system. The HVAC contractor demanded change orders for work the general contractor deemed to be included within the base bid of the agreement. The HVAC contractor stopped work and filed suit, including a mechanic's lien, against the general contractor. I was retained by the general contractor and prepared an expert report dated December 23, 2014, evaluating the HVAC contractor's claims. Neither party was willing to settle, so the case was listed for trial.

The caption in the case is GENERAL SHEET METAL AND MECHANICAL, LLC v. BURRIS CONSTRUCTION COMPANY, et. al., Circuit Court for Anne Arundel

County, MD, CASE NO. 02-C-14-186546. Counsel was Michael P. Darrow, of the law firm of Hillman, Brown & Darrow, Annapolis, MD. An all day trial prep session was conducted at the office of counsel. The afternoon before trial was to commence the parties settled.

26. A successful Philadelphia area electrical contractor attempted to retire and sell his business to another firm. Day to day operations had already been delegated to a president and vice president. Economic times in the construction market were difficult, and in an effort to secure work the president and vice president under-priced 3 sizable bids. The jobs were obtained and hemorrhaged hundreds of thousands of dollars, not only due to the under-bidding, but to project mis-management.

The president and vice president believed they were entitled to a million dollar end of year bonus. When the owner of the firm refused payment they sued. I was retained by the owner to prepare an expert report, dated April 12, 2012, in which I examined the original estimating worksheets used to prepare the bids and negotiate the contracts. There were insufficient funds in the signed contracts to complete the work, and the few change orders obtained were insufficient to recover the losses. I prepared a supplementary expert report, dated January 31, 2013, which further analyzed the estimates and project management.

The caption in the case is EARL ZIEGENFUSS AND ROBERT WOODY v. J.W. CARRIGAN, INC., et. al., Court of Common Pleas, Delaware County, PA, NO. 10-2088 and NO. 11-5455, CONSOLIDATED. Retaining counsel was Alfred A. Gollatz, of the firm of MacElree Harvey, Ltd., West Chester, PA. Several trial prep sessions were held at counsel's office, and the case was listed for trial. A few days prior to trial the case settled.

27. Homeowners purchased a whirlpool bathtub and hired a plumbing contractor to install it in their home. Some time later, the homeowners observed water leaking through the ceiling in the room below the bathroom. The severity of the leak increased quickly until substantial water damage occurred. A subsequent plumbing contractor repaired the leak, and a testing laboratory concluded the original installing contractor improperly installed the water spout portion of the tub faucet, damaging a rubber O ring, causing the leak. I was retained by Erie Insurance, claim #010181158911, to defend the plumbing contractor. The caption for the case is Johanson v. Stellabott Construction, LLC. I wrote an expert report, dated September 14, 2014, in which I concluded the damage to the rubber O ring was caused by the homeowner's mis-using the bath spout as a disabled grab bar, and failure to follow the manufacturer's instructions. The fixture was never intended to be a disabled grab bar. This was a subrogation matter, and the case settled in the insurance industry's mediation system.

28. A homeowner hired a general contractor to perform renovations to his home. Misunderstandings arose between the parties which were further complicated by code violation citations from the building inspector. The homeowner refused to allow the contractor on the property to remedy the construction deficiencies and filed suit.

The caption in the case is JULIO PEREZ v. SANTIAGO DEL VILLAR, Court of Common Pleas, Lehigh County, PA, NO. 2012-C-1033. Retaining counsel was William P. Marshall, Colmar, PA. I prepared an expert report identifying the construction deficiencies and the cost to make the repairs. I was present during the trial.

During opening arguments the judge ordered the parties to settle.

29. A young married couple purchased a small row house in South Philadelphia which had been unoccupied for quite some time. They obtained financing for the renovation and permanent mortgage. A local general contractor was hired to perform the work. The work included a completely new interior and a 3<sup>rd</sup> story addition. Work commenced, and payments by the bank were made to the contractor. At a point where almost 75% of the money was paid out the work was barely 40% complete, and many construction deficiencies were observed. The homeowners froze bank payments and the contractor abandoned the job. The homeowners retained counsel and filed suit.

I examined the premises and prepared an expert report, dated April 7, 2014, in which I determined the cost to repair the deficiencies and to complete the work. The cost far exceeded the original contract value.

The homeowners were Adam and Jill Short. The jury had just been seated and the parties were dismissed by the court for lunch break. Upon returning from lunch, retaining counsel, Joshua C. Quinter, of the firm of Kaplan Stewart Meloff Reiter & Stein, P.C., Blue Bell, PA, informed me that over the lunch break the parties had settled.

30. A domestic hot water expansion tank failed in the basement of a home, causing water damage. I examined the tank and wrote an expert report, dated December 17, 2013, in which I concluded that the vinyl bladder inside the steel tank failed, allowing the water to corrode the tank, allowing it to leak.

The Erie insurance claim is No. 010181095602. Erie Insurance represented the tank manufacturer. This was a subrogation matter, and the case settled in the insurance industry's mediation system.

31. A dispute arose between a young married couple and the wife's mother over the purchase price of the house in which the parties resided. The property was deeded to the mother, but the couple expended significant personal funds to correct defects due to maintenance neglect and building code violations. The case ended up in court. I wrote an expert report.

The caption of the case is MARIE E. SCHMELTZER v. Edward C. DEVLIN and LISA DEVLIN, Court of Common Pleas, Philadelphia County, PA, JULY TERM, 2012, NO. 004809. Retaining counsel was initially James N. Gross, Philadelphia, and transferred to Robert Dickman, Philadelphia. The case was listed for trial, and a trial prep session was conducted at counsel's office. The case settled shortly before trial.

32. A businessman purchased an older office and warehouse building in Valley Forge, PA. He hired a large contractor to renovate portions of the existing building and to add an addition. Work commenced, but did not proceed as the owner expected. Some of the work was not performed according to the contract documents, and some was never completed. Some work was of poor quality. The contractor filed a mechanic's lien.

I was retained as an expert witness and prepared a detailed estimate for the repair of deficient work, and for the completion of the contract work. Several attempts at settlement failed. The court commenced the trial on November 2, 2015. I attended the entire 4 day trial.

I observed the jury selection, opening arguments, examination of witnesses, and testified as an expert witness. I was in attendance for the jury's reading of the verdict.

The caption in the matter is International Management Consultants, Inc. v. SEA-Z, LLC, and the docket number is No. 2011-24556, Montgomery County Common Pleas Court. Counsel with whom I worked was William D. Auxer, of the law firm of Kaplan Stewart Meloff Reiter & Stein, PC., Blue Bell, PA.

33. A New Jersey builder was contracted to build 2 assisted living homes in Maryland: One was near Baltimore and the other was near Annapolis. The builder owned the plans and specs and had successfully constructed similar buildings in New Jersey. The plans were schematic in nature, as these were design-build projects, as opposed to plan and spec projects where the documents are more thorough and complete. For economy some of the work for both projects was awarded to the same specialty contractors.

Since Maryland was not the usual location in which the builder worked he hired Maryland specialty contractors who were licensed in the state. Specifically, plumbing,

HVAC, and electric construction were the problematic trades. Shortly after commencement of the work disputes arose between the builder and the specialty contractors as to what work was in the base contract scope and what work was entitled to be paid extra as a Change Order. All parties, including the builder, were deficient in maintaining proper construction records and following generally accepted industry procedures. Work slowed to a trickle, and in some cases, completely ceased. Suits and Mechanic's Liens were filed (5 in total).

I was engaged by the builder and wrote 5 expert reports and was instrumental in remedying some of the deficient work. Four of the cases were sent to NJ Superior Court due to a venue provision in the subcontracts. The HVAC case remained in Maryland.

All cases eventually settled. The New Jersey consolidated case caption is BURRIS CONSTRUCTION v. SHURE LINE ELECTRIC and H & B PLUMBING, Burlington County Superior Court Docket No. BUR-L-70514. Counselors with whom I worked were Steven Berkowitz, Marlton, NJ, and Michael Darrow, Annapolis, MD.

34. A housekeeper was standing in a bathtub while cleaning it. She slipped and fell, allowing the hot water to scald her seriously. The caption in the case is MARTHA ALICIA RAMIREZ v. WILLIAM PERGOLA AND SUSAN PERGOLA, Supreme Court of the State of New York County of Suffolk, Index No. 604868/207. Following a site inspection I wrote an expert report for defense counsel, Tulia Garavito, Esquire, house counsel for Metropolitan Life & Home Insurance. The case settled.
35. A union painter was 30 feet up in the air painting a steel beam in an office building at the Philadelphia Navy Yard. The turret hinge pin sheared, causing the basket holding the painter to fall to the concrete floor. The painter was ejected from the basket and suffered serious injuries.

Examination of the lift's service records and the manufacturer's operating and maintenance manual determined the manufacturer did not provide for the routine inspection of the failed hinge pin. I wrote an expert report dated October 14, 2016, for defense counsel and had trial prep. The case settled a few days prior to trial.

The caption in the case is MICHAEL INGRAM v. SNORKEL INTERNATIONAL, INC., *et. al.*, Court of Common Pleas of Philadelphia County, Pennsylvania, Civil Action No. 14080159. Retaining counsel was Peter Samson, Esquire, house counsel for Liberty Mutual Insurance Co.

36. An apartment house tenant slipped and fell in the laundry room on a wet floor caused by a defective drain on the laundry tray, severely injuring herself. Following a site

inspection I prepared an expert report dated January 10, 2018, for plaintiffs' counsel. The caption in the case is ANTONIA M. SMITH and JESSE B. SMITH v. SOUTHGATE APARTMENTS, LLC, *et. al.*, Superior Court of New Jersey, Law Division, Mercer County, Docket No. MER-L-1060-16. Retaining counsel was J. Robert Bratman, Esquire, partner with Stark & Stark, Princeton, NJ. The case settled prior to trial.

37. A young single lady with minimal construction experience purchased a dilapidated house in the Olney section of Philadelphia. The house had been unoccupied for some time, and had been vandalized. She procured a construction loan and mortgage through one of the HUD programs, and hired the lowest bidding contractor of 3 bidders. The contractor was less than competent, and had overstated the value of work in place on the monthly pay applications. By the time  $\frac{3}{4}$  of the money had been paid to the contractor less than half of the work was actually complete. The workmanship was some of the worst I have examined in my 43 years in the construction business. She is now paying on the permanent mortgage for a house which cannot be occupied and probably requires \$200,000 in remedial and completion construction to obtain the occupancy permit.

I wrote an expert report for plaintiff's counsel dated December 18, 2017, in which I identified most of the major construction defects. The caption in the case is CANDICE LANGLEY v. L.B.'s REMODELING & RENOVATION, LLC, *et. al.*, Court of Common Pleas of Philadelphia County, Pennsylvania, December Term, 2016, Case ID: 161201812. The case went to arbitration, the outcome of which is unknown.

38. A small real estate speculator in York, PA was purchasing houses and flipping them. He had an agreement of sale with a lady for one of the properties in which he held the mortgage. The lady had been a rental tenant at the property, and already occupied the premises prior to settlement.

On a cold winter afternoon she returned home from work to find her electricity had been disconnected for non-payment. The boiler could not run without electricity. At her request the owner (my client) arrived to assess the situation. He disconnected the gas supply tubing to the clothes dryer and lit it like a Bunsen burner to provide some minimal heat. He did likewise with the gas pipe supplying the boiler in the basement.

Upon returning home the next evening, the next door neighbor saw fire flickering through the windows and called the fire department. Rather than turn off the gas main at the readily accessible gas meter the firemen broke down the door to gain access to extinguish the fire. Sometime shortly, my client, the very unhappy owner, arrived on the premises and caused a stir with the police and firefighters.

Later that evening, my client made some rather un-diplomatic comments on the fire department's web site about the incident.

My client was arrested and charged with 6 criminal charges related to arson.

After a site inspection of the premises, I wrote an expert report dated July 24, 2017, in which I explained that while not very bright, my client's actions posed no harm to people or property.

On the morning of trial my client entered into a plea deal with the District Attorney's office. My client served approximately 6 months in the county jail and paid some nominal fines.

The caption in the case is COMMONWEALTH OF PENNSYLVANIA v. JASON ALLEN SNELBAKER, Court of Common Pleas of York County, Pennsylvania, Case No. CP-67-CR-0001041-201616. Retaining counsel was Thomas H. Kelley, Esquire, Kelley Law, York, PA.

39. A homeowner hired a contractor to construct a large addition to his home, and to make certain changes in the existing home to accommodate his disabled daughter. Work did not progress as the homeowner expected, and the quality of the work was deficient, even though all progress payments to the contractor were paid up to date. The contractor was eventually terminated for cause and counsel was retained.

After several site inspections I prepared an expert report dated November 14, 2016, in which I identified the most serious construction deficiencies and prepared a cost estimate for remediation of the defects and to complete the original work. Defects included site work, concrete, masonry, carpentry, roofing, finishes, elevators, plumbing, HVAC, and electric work. Two initial attempts at mediation failed and the case was listed for trial.

The caption in the case is MOHAMMED ALI v. LOGRASSO GENERAL CONSTRUCTION, INC., *et. als.*, Superior Court of Bergen County, New Jersey, case No. L-4965-15. Retaining counsel was Steven A. Berkowitz, Esquire, Marlton, NJ. The case settled a few days prior to trial.