

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF BRONX: CIVIL TERM: PART IA-14
-----X

3 JESUS BUESTAN and YOLANDA BUESTAN,

4 Plaintiffs,

5 -against-

Index No: 31815/2019E

6 550 WASHINGTON OWNER (DE) and TURNER CONSTRUCTION COMPANY,

7 **AFTERNOON SESSION**

8 Defendants.

-----X
9 **TESTIMONY BY ANTHONY DOLHON**

Bronx Supreme Court
851 Grand Concourse
Bronx, New York 10451
January 16, 2026

12 **B E F O R E:**

13 HONORABLE JOHN A. HOWARD-ALGARIN,
14 Justice of the Supreme Court

15 **A P P E A R A N C E S:**

16 GORAYEB & ASSOCIATES, P.C.
17 Attorneys for the Plaintiffs
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19 BY: CHRISTOPHER L. VARGAS, ESQ.

20 FUCHS, ROZENWEIG, PLLC.
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23 BY: DOUGLAS ROSENZWEIG, ESQ.
24 BY: OLIVIA FINGER, ESQ.

DANIELLE QUILES
Senior Court Reporter

1 COURT OFFICER: All rise. Jury entering.

2 (Whereupon, the jury entered the courtroom.)

3 MR. VARGAS: I would like to mark Mr. Anthony
4 Dolhon's report as Plaintiff's Exhibit 26 for ID.

5 (Whereupon, Anthony Dolhon's report was marked as
6 Plaintiff's Exhibit 26 for ID, by the Reporter.)

7 THE COURT: Welcome back, everyone. And I once
8 again express my appreciation for your participation and
9 attention. Have a seat.

10 Today will not be a heavy lift. I think within an
11 hour or so, we may be done. We have one witness the
12 plaintiff will call and then we will look forward to a
13 three-day weekend, four days when it comes to your services
14 because we will not have any activity on this case on
15 Tuesday when the court reopens and we will see you back
16 Wednesday morning.

17 MR. VARGAS: Yes. Both Wednesday and Thursday are
18 full days.

19 THE COURT: Very good. So, we ask that you give
20 your attention and I believe one of you have an issue where
21 you have to leave a little early. We will revisit that at
22 the close of this witness so that we can plan around you.

23 That said, plaintiff, are you ready to call your
24 next witness?

25 MR. VARGAS: Yes, Your Honor. I call Anthony

D. Q.

1 Dolhon to the stand.

2 (Whereupon, the witness is approaching the stand)

3 COURT OFFICER: Remain standing. Please raise your
4 right hand. Do you solemnly swear or affirm to tell the
5 truth, the whole truth and nothing, but the truth under
6 penalties of perjury?

7 THE WITNESS: I do.

8 COURT OFFICER: You can have a seat. State your
9 name and business address for the record.

10 THE WITNESS: Anthony M. Dolhon. The business is
11 Dolhon Forensics and the address is 103 Carnegie Center
12 Drive, Suite 300, Princeton, New Jersey 08534.

13 COURT OFFICER: Your Honor, the witness has been
14 sworn.

15 THE COURT: Okay. Counsel, you may inquire.

16 MR. VARGAS: Your Honor, I was going to hand up the
17 pictures that were marked into evidence.

18 THE COURT: Okay.

19 MR. VARGAS: Thank you. (Handing)

20 A N T H O N Y M. D O L H O N, called as a witness by and on
21 behalf of the Plaintiff, after having been first duly sworn, was
22 examined and testified as follows:

23 THE COURT: And was something marked for
24 identification purposes only?

25 MR. VARGAS: Yes. That was Plaintiff's Exhibit 26

1 which is Mr. Dolhon's report marked for ID for him to refer
2 to, if need be.

3 THE COURT: Okay. Thank you.

4 DIRECT EXAMINATION BY

5 MR. VARGAS:

6 Q Good afternoon.

7 A Good afternoon.

8 Q Let's start out with your educational background.

9 A I have a bachelor's of science degree in civil
10 engineering. I have a master of science degree in structural
11 engineering and I've been pursuing that work ever since I
12 graduated in the '80s.

13 Q And where did you get those degrees from?

14 A I earned a bachelor's of science degree from Clarkson
15 University in Upstate, New York and a master of science from The
16 University Of Vermont.

17 Q And could you tell the jury some of your work
18 experience?

19 A Shortly after I graduated, I started with an
20 engineering firm doing civil engineering, doing design of
21 bridges and shortly thereafter, I started doing load rating of
22 bridges.

23 So, that sign that you see on the bridge next to the
24 bridge that says load limit, that's what I did.

25 And ever since, I've been doing investigation

D. Q.

1 performance evaluation of existing buildings and structures.

2 Q And do you have your own private practice?

3 A I do. I have been in private practice on my own for
4 about the last eight years.

5 Q And what's the name of that practice?

6 A Dolhon Forensics.

7 Q And do you hold any licenses?

8 A Just an engineering license, a professional engineering
9 license in New York State and the surrounding states.

10 Q And any experience with construction safety?

11 A Yes. I have spent a lot of time in my early work in my
12 early career doing rehabilitation design investigation.

13 I spent a lot of time on construction sites so my work
14 is largely based on the safety on the construction site and
15 that's been primarily my work in the last about eight years,
16 even more.

17 Q And have you ever testified before?

18 A Yes, I have.

19 Q And you've been found to be an expert in construction
20 safety and engineering?

21 A Yes, I have.

22 Q And approximately how many times?

23 A I don't know the number, but about a dozen times.

24 Q And have you ever testified for my firm before?

25 A Yes, I have.

1 Q And how many times?

2 A Once.

3 Q And when was that?

4 A It was either 2024 or 2025.

5 Q And are you being paid for your time here today?

6 A Yes, I am.

7 Q How much?

8 A It's an hourly rate. So, my hourly rate for this
9 county here is \$435 an hour.

10 MR. VARGAS: Your Honor, I offer Anthony Dolhon as
11 an expert in construction safety and engineering.

12 MR. ROSENZWEIG: No objection.

13 THE COURT: He is so recognized. You may continue.

14 Q Mr. Dolhon, did my firm at some point ask you to review
15 this matter regarding the accident of Jesus Buestan?

16 A Yes, you did.

17 Q And can you tell us approximately the first time we
18 asked you to review it?

19 A I will review to my report because I have a couple of
20 notes on there. My first contact with this firm on this matter
21 was December 5, 2023.

22 Q And at that time, what did we ask you to do?

23 A I will refer to my report since I spent so much time
24 writing it. Seven things, I was asked to review the pleadings
25 and discovery, which is the stuff that the attorneys exchange.

1 The sworn testimony. I've been asked to review the defendant's
2 liability expert affidavit.

3 I've been asked to review motions and the court
4 decision, an earlier court decision and order. I've reviewed
5 the basic principles and practices pertaining to this matter and
6 applicable rules and regulations and also opine on the risks and
7 hazards.

8 Q And prior to testifying today, did you review any
9 further documents?

10 A Yes. Most recently, I reviewed three trial court
11 transcripts of two witnesses.

12 Q And was one of those witnesses the plaintiff?

13 A Yes, it was.

14 Q And was one of those witnesses a representative
15 formally employed by Turner James Romagnoli?

16 A Yes, it was.

17 Q And did you also review any exhibits marked with those
18 witnesses?

19 A Yes.

20 Q And after reviewing all of those documents, did you
21 come to an opinion with a reasonable degree of construction
22 safety and engineering certainty regarding Mr. Jesus Buestan's
23 accident?

24 A Yes, I did.

25 Q And when you came to that opinion, were there factors

1 that you took into account?

2 A Yes. Based on the file that I had, I reviewed about
3 twelve hundred pages of the documents and based on that file and
4 the most recent testimony, I understand that the building is an
5 old building maybe about a hundred years old. I considered
6 that.

7 I considered that there was testimony that there was
8 water infiltrating from above the slab. I also relied upon that
9 there was work going on in the adjacent area, drilling
10 foundation work and chipping away at the concrete incasement
11 around steel columns.

12 I also considered that there was the site, the
13 construction site is relatively close to the river and in a
14 flood plane. So, I considered the possibility of flooding
15 occurring in the basement and in this work area.

16 Q And as far as being in the cellar, was there anything
17 about the cellar that you considered and what's above the
18 cellar?

19 A Yeah. The testimony earlier, the earlier testimony and
20 the file indicated that the area of the accident was directly
21 below the loading dock. So, that was a consideration of mine
22 that the work was going on beneath the loading dock.

23 Q And starting with the age of the building, why is that
24 significant?

25 A It's easy to say it's just old, but it also suggests

1 that we don't know what the maintenance is or there's likely
2 repairs needed. There's conditions that warrant repairs over
3 that period of time.

4 The material strengths and condition, we don't
5 necessarily know because of the age, but that would suggest that
6 could be an issue.

7 Q And as far as the water infiltration, why is that
8 significant?

9 A We know that a piece of concrete had fallen and that
10 corrosion of the embedded steel reinforcement was the cause.

11 And the corrosion of the embedded steel reinforcement
12 is prone to occur in an environment of water damage, water
13 infiltration. Especially so in a loading dock or a parking
14 garage or at the entrance to a parking garage or on a ramp where
15 trucks come in, where there's areas that are prone for the
16 trucks and vehicles to drop their salts. So, that was a
17 consideration.

18 Q And why is the loading dock significant?

19 A Well, the mere fact that there's trucks going up above,
20 there's a tendency for the trucks to cause impact to the floor
21 slab, cause vibration in the floor slab.

22 Q What is the floor slab? Just please define it for the
23 jury.

24 A The floor slab, it's concrete. In this case, it's a
25 structural member. It's carrying the weight of the trucks and

1 vehicles above.

2 In this case, it's a reenforced concrete floor slab
3 made with concrete and conventional steel reenforcement.

4 Q And why is that significant that there is trucks going
5 in and out?

6 A Trucks have a tendency to drop any salt that may be
7 brought in from the streets from the outside. They may have a
8 tendency to drop salts in the loading dock or at the entrance of
9 the building.

10 There's a tendency at the interface between the
11 building and the outside, there's a tendency to have an
12 expansion joint and that expansion joint often gets hit and
13 causes a bumpy ride.

14 No different than like a pothole in the road and you
15 hit that and your car shakes. It's the same idea, but in the
16 case of a parking garage, it has a tendency to drop road salts.

17 Q And it also would cause vibration?

18 A Vibration, yeah.

19 Q And you also mentioned work adjacent on the foundation
20 done in the cellar?

21 A Yes. There was testimony that there was work going on
22 in the foundation, drilling in the foundation floor slab and
23 also chipping using mechanical chipping devices to chip away at
24 the concrete reenforcement surrounding steel columns.

25 Q And why is that significant?

1 A Well, that's another indication that there could be
2 vibration. It could be some damage to surrounding areas or
3 contribute to weakening something that's already weak or causing
4 something to fall that's already weakened.

5 Q And the work that Mr. Buestan was performing, is there
6 anything about his work that would contribute to this?

7 A There was testimony that he was cutting pipes and some
8 of the photographic exhibits also indicates he was cutting the
9 hangers that were supporting the pipes.

10 Q And what is a hanger just for the jury?

11 A The hanger would be embedded in the slab and then
12 hanging down below the slab into the basement area and it would
13 support the pipes that he was cutting.

14 In this case, he was cutting the pipe in sections so it
15 wasn't all coming down at one time, cutting the pipe in
16 sections.

17 So, that has a tendency to swing what's remaining.
18 There could be some swing to it. There could be some movement
19 in the hanger. There could be some dislodging of concrete that
20 is in the area next to a hanger or near a hanger.

21 And the mere fact that you're heating up by torch
22 cutting, you're heating up a hanger, you're causing some
23 expansion in the hanger rod and that expansion could cause some
24 weakened concrete to become dislodged.

25 Q And you mentioned the photographs. We have five of the

1 exhibits that are marked in front of you.

2 If you wouldn't mind, could you point out to the jury
3 which photograph indicates this?

4 A Most of my work was focused on three photographic
5 exhibits, 7D, 7A and 7E. These are the photographs that show
6 the area that had fallen and the debris that had fallen on the
7 floor.

8 Q And you mentioned the heating up of the hangers. Is
9 there evidence in any of the photographs that you saw of heating
10 up the hangers?

11 A There is in Exhibit 7D.

12 Q Could you hold up it up to show the jury?

13 A Yes. In 7D at the very top of the photograph, there's
14 what appears to be burn marks in the concrete ceiling.

15 That would indicate that's where a hanger was and it's
16 been burned and the pipe and the hanger has been demolished.

17 Q And from looking at those photographs, was there any
18 indication of corrosion to the ceiling?

19 A Oh, yes. In each of the photograph exhibits
20 particularly 7D and 7E, it shows the underside of the slab
21 looking up.

22 So, we are looking up at the underside of the slab and
23 what I see is rebar, rebar in an area that has fallen. I see
24 side-by-side parallel rows of rebar.

25 I also see three other pieces going in the direction

1 left and right across the page. Three rows, one at the very top
2 of what has fallen and one in the middle and one at the bottom.

3 That would be temperature steel although, we don't need
4 to define it here, but what I see is not a well defined rebar.

5 I see evidence of where the bar is, but I don't
6 necessarily see it well defined. I see a lot of a darkened area
7 in the photographs which suggest corrosion.

8 Q And have you ever heard of the phrase delineation?

9 A Maybe you mean delamination?

10 Q Delamination. I'm sorry.

11 A Yeah, that's actually a technical term. When people
12 say delamination of concrete, in this case, delamination
13 occurred before this concrete had fallen.

14 Once it has fallen, it's called a spall, but before it
15 has fallen, it's called a delamination. Essentially, what it
16 is, it's a hollow spot in the slab.

17 Q And what causes the hollow spot?

18 A Water and salts coming into the slab infiltrating
19 usually from the top of the slab migrating down through the slab
20 through cracks, through micro-cracks. Sometimes you don't even
21 see them. Through cracks and it gets down to the level of the
22 rebar.

23 And in this case, the rebar was most likely in the
24 bottom, the very bottom of the slab. And when the water,
25 salt-laden the water, got down to the rebar has the tendency to

1 cause corrosion on the rebar and that corrosion causes an
2 expansion force, a very, very strong expansion force.

3 That force, what you see as a result is a flaking
4 occurring on the rebar corrosion byproduct coming off the rebar
5 and that has a tendency to crack the concrete around that rebar.
6 And that cracking and that corrosion byproduct would create a
7 hollow area in the slab.

8 Q And for the type of work being performed at the site
9 where the accident occurred, are there applicable laws or codes
10 that apply to it?

11 A Yes. There is certainly in New York State, in New York
12 City in particular, there's rules in New York City and New York
13 State that are comparable to OSHA, but in New York City and New
14 York State, we call it the industrial code.

15 Q And what is the industrial code?

16 A It's rules and regulations to protect the worker unlike
17 a building code which is protecting the building or the public
18 in the building, the industrial code is there to protect the
19 workers primarily in construction, demolition, excavation.

20 Q And who do the rules apply to? Who is supposed to be
21 following them?

22 A Generally, the workers. Believe it or not, not me
23 because I am an engineer, but the workers, people doing the work
24 day to day. It's there to protect the workers.

25 Q And who is supposed to enforce the rules? Meaning is

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1 it the workers, the owners, the contractors?

2 MR. ROSENZWEIG: Objection.

3 THE COURT: Who is supposed to enforce the rules?

4 Overruled. If you know.

5 A The rules explicitly state that the owner of the
6 building and the contractors are responsible for ensuring the
7 safety of the workers.

8 Q And how long have these rules been around, the
9 industrial code?

10 A Longer than any of us. They predate OSHA. They are
11 probably fifteen hundred years older than OSHA.

12 Q And after reviewing all of these documents and the
13 photographs and the testimony, did you come to an opinion as to
14 whether the industrial code was complied with in this case?

15 A I did.

16 Q And what was your opinion?

17 A That it was not. That there was a violation of one of
18 the provisions on the industrial code.

19 Q What provision was that?

20 A It's called 23-3.3 Subsection C.

21 Q And if you could read that to the jury, please?

22 A Yes. I actually have it in my report. So, I would
23 like to refer to the report.

24 THE COURT: Standby with that reading. Go ahead.

25 A I could read from it or I could try to summarize it.

1 Which should I do?

2 Q Go ahead and read it. It's not that long.

3 A It's one paragraph. Section 23-3.3 Subsection C. It
4 is titled Inspection. And I am going to read directly from it.

5 "During hand demolition operations, continuing
6 inspections shall be made by designated persons as the work
7 progresses to detect any hazards to any persons resulting from
8 weakened or deteriorated floors or walls or from loosened
9 material.

10 Persons shall not be suffered or permitted to work
11 where such hazards exist until protection has been provided by
12 shoring, bracing or other effective means."

13 Q And as far as inspections based on your experience in
14 construction safety and engineering, what would have been the
15 proper inspections for this particular area where Mr. Buestan's
16 accident occurred?

17 A Based on my experience, there would have been an
18 inspection ahead of time before any work began. Some call it an
19 engineering survey or just a condition survey.

20 And then throughout the construction, throughout the
21 demolition work, there would be continuing inspections.

22 And that's the language of what I just read, continuing
23 inspections because as something is removed and demolished,
24 everything else has a tendency to shift and settle. So, there's
25 a recognized need for continuing inspections.

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1 Q And how would those continuing inspections or how
2 should they be carried out in your experience?

3 A While you're on site, while the work is going on, there
4 would be someone with experience in concrete to examine the work
5 area as pipes were removed, as hangers were removed, what has
6 that done to the rest of the slab?

7 If there's some bulging in the slab, if there's some
8 conditions forming in the slab, if there's some kind of
9 deterioration taking place and it's now starting to develop and
10 it's about to fall, that's an opportunity to do something about
11 it.

12 I mean, the inspection itself isn't the end game. The
13 inspection is just the means to decide what to do if you see a
14 condition.

15 Q And based on the factors that you mentioned to us that
16 you considered significant, was there a type of inspection that
17 you would have recommended?

18 A The industry would generally look at certainly the
19 visual, but visual in terms of somebody who knows what they're
20 looking at when they're looking at the condition, but there's a
21 nondestructive testing techniques that people often use. I used
22 it.

23 It could be as simple as a hammer tapping on the
24 concrete, tapping on the ceiling, tapping on the surfaces of the
25 concrete. It could be a pole, a rod.

1 There are some other devices you could buy and purchase
2 from manufacturers. You can get them for as cheap as about
3 fifty dollars other than the hammer and you just tap on the
4 concrete and you just listen. Just listen to see, to hear a
5 distinct hollow sound and that's all we are trying to accomplish
6 and that would be a form of continuing inspection.

7 Q And the hollow sound, what is that? If you heard the
8 hollow sound, what was that indicating to you?

9 A For anyone who's done this or has any experience with
10 it, they would recognize that a delamination has formed. There
11 is corrosion taking place. Just as the same as what we're
12 seeing in the photographs, in the photographic exhibits,
13 corrosion has taken place.

14 There's a debonding between the rebar and the concrete
15 slab and it needs to be dealt with either -- it needs to be
16 dealt with.

17 Q And even if you did the tapping or you used the hammer
18 and you tested the integrity of the ceiling, if you didn't hear
19 the hollow sound, in your experience, would you still have
20 recommended shoring?

21 A Yes. I think a general rule is the less you know, the
22 more protection you provide.

23 If you have all of the information at your fingertips,
24 maybe you would make a different decision, but based on what I
25 said earlier, that it's an old building, that we know there's

1 water infiltrating from above.

2 We know there's work going on nearby, vibration-related
3 work going on nearby, these are factors that would suggest that
4 there should be some kind of bracing, shoring or as the
5 industrial code says, other effective means.

6 Q Is that --

7 MR. ROSENZWEIG: Objection. Move to strike the
8 portion of the answer about a violation of some general rule
9 rather than a violation of the industrial code.

10 THE COURT: Sustained as to any other code that is
11 not the industrial code.

12 Q And --

13 THE COURT: And you will disregard any reference to
14 any codes outside of the industrial code.

15 Q And as far as shoring, is that sometimes referred to as
16 overhead protection?

17 A Yes.

18 Q And based on the conditions and the factors that you
19 considered significant, in your expert opinion, was it
20 foreseeable that the ceiling could collapse?

21 MR. ROSENZWEIG: Objection, Your Honor. It goes to
22 a jury's conclusion.

23 THE COURT: They can weigh his opinion. Overruled.

24 A Yes. I would say it's foreseeable. I mean, we know
25 that there's water infiltrating from above. We know there's

D. Q.

1 work going on. We know it's an old building. We know he's
2 doing work that is directly affecting the underside of the slab
3 and there's a potential to dislodge something that's loose. So,
4 is it foreseeable? Yeah, it's foreseeable that this could fall.

5 Q And that's with a reasonable degree of construction
6 safety and engineering certainty; is that correct?

7 A Yes.

8 MR. VARGAS: No further questions.

9 THE COURT: How is my jury doing?

10 THE JURY: Okay.

11 THE COURT: Great. Straightaway into
12 cross-examination we go.

13 MR. ROSENZWEIG: Thank you, Your Honor.

14 THE COURT: Pause the record.

15 (Whereupon, an off-the-record discussion was held.)

16 THE COURT: You may proceed.

17 MR. ROSENZWEIG: Thank you, Your Honor.

18 CROSS-EXAMINATION BY

19 MR. ROSENZWEIG:

20 Q Good afternoon, Mr. Dolhon.

21 A Good afternoon.

22 Q You are serving as the plaintiff's consulting engineer
23 today; is that correct?

24 A Consulting expert witness, yes.

25 Q Okay. And you're retained by law firms and that's what

1 you do as an everyday business; is that correct?

2 A By enlarge, yes.

3 Q Paid expert for whoever hires you; is that correct?

4 A Yes.

5 Q You performed this kind of paid consulting work since
6 at least 2010; is that fair?

7 A Correct.

8 Q And even before that?

9 A Yes, I did.

10 Q When did you start doing one hundred percent consulting
11 work?

12 A Before I went on my own, I was with Exponent. Exponent
13 is a leading engineering firm in this field. By enlarge, the
14 work that I was doing with Exponent was largely expert witness
15 or investigative work.

16 Q Listen to my question. I was just asking how long
17 you've done just consulting work for lawyers?

18 THE COURT: You mean exclusively when you ask that
19 question?

20 MR. ROSENZWEIG: Exclusively, correct.

21 THE COURT: For lawyers?

22 MR. ROSENZWEIG: Correct.

23 A At least fifteen years.

24 Q How much do you charge for your testimony?

25 A As I said earlier, for this county here is \$435 an

1 hour.

2 Q Do you also charge for preparing that long report that
3 you discussed?

4 A Yes, I did.

5 Q And in this case, how much did you charge for that
6 report?

7 A Most recently, I revised and updated this report and it
8 was about three thousand dollars at the end of the 2025.

9 Q Does that include preparation of the first report or is
10 that just the revision?

11 A Earlier 2023, at the very beginning of 2024, I did an
12 expert affidavit which was part of the motions. So, there was
13 work time spent at that time.

14 Most recently in December of 2025, I revised it,
15 updated it based on new information, based on pleadings and
16 decision and order.

17 Q Could you estimate how much your firm has billed Mr.
18 Vargas' firm in total during the course of this litigation?

19 A I don't have a total number, but in the vicinity of
20 fifteen thousand.

21 Q And how many expert reports did you author last year
22 ballpark? I'm not going to hold you to a specific number, but
23 ballpark, how many expert reports?

24 A I get generally about fifty calls a year, but not all
25 of those become reports. So, I don't know. I don't know. I

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1 get about fifty calls a year.

2 Q And I believe you said you've worked for the Gorayeb
3 Firm once before?

4 A I provided trial testimony once before.

5 Q How many expert reports have you written for the
6 Gorayeb Firm?

7 A I don't know.

8 Q More than one?

9 A Yes.

10 Q More than ten?

11 A Likely.

12 Q More than twenty?

13 A I don't know.

14 Q You've never worked in the demolition industry; is that
15 correct? You never worked for a demolition company?

16 A No. I'm not employed by a contractor, no.

17 Q In your career, have you ever been employed by a
18 demolition contractor?

19 A No.

20 Q How about for a general contractor?

21 A Yes, I have.

22 Q When was that?

23 A Early on in my career.

24 Q More than twenty years ago?

25 A Yes.

1 Q More than thirty?

2 A Yes.

3 Q You have consulted on quite a few cases over the course
4 of your career; is that correct?

5 A Yes, I have.

6 Q Could you estimate how many in the course of your
7 career?

8 A Most recent years, as I said, I have been getting about
9 fifty calls a year so you can the math.

10 Q That's why I became a lawyer to avoid the math. We
11 will take it per year. So, about fifty per year.

12 You've seen jobs where the contractors are awful and
13 they're not paying attention at all to safety; is that fair?

14 A I have seen a lot of things, yes.

15 Q Okay. And what I'm getting at is there's a continuum,
16 there's contractors who don't care at all about safety and then
17 on the other end, there's contractors who really care about
18 safety making sure it's a priority on the site; right?

19 A I've seen a range of attention to safety, yes.

20 Q You've seen the whole gamut; right?

21 A I have seen a range, yes.

22 Q Some people who follow the code and nothing more and
23 some people who don't follow anything?

24 A Yes, but I will clarify that. I am usually not
25 investigating the entire project. I am usually investigating

1 some aspect.

2 So, what I'm saying is based on some aspect of the
3 overall project, not the overall project.

4 Like in this case, the overall project was an entire
5 city block. I wasn't involved with anything else other than
6 this location in the basement.

7 Q Fair enough, but you reviewed a lot of documents in
8 connection with this case; is that right?

9 A Yes, I have.

10 Q Daily logs, transcripts, a bunch of different project
11 specific documents; is that correct?

12 A Yes, I have.

13 Q Did you review the contract?

14 A I think I saw bits and pieces of it, but there was
15 nothing there that pertained to the demolition and this
16 location.

17 Q But in general for site safety, you did look at the
18 contract to determine if there was site safety language within
19 the contract; is that correct?

20 A Yes.

21 Q And there was; is that correct?

22 A I don't know that I have the entire contract, the
23 entire construction set of documents for this. So, I can't
24 answer that.

25 Q Okay. Well, there was a site safety plan that you

D. Q.

1 reviewed; is that correct?

2 A Yes.

3 Q And there was a site safety manager from Turner on this
4 job site?

5 A Yes.

6 Q And there was a site safety manager from a separate
7 company on this job; is that correct?

8 A Yes.

9 Q And Breeze had its own site safety manager, Mr.
10 Buestan's employer; is that correct?

11 A Yes.

12 Q And there was a site safety orientation for Mr.
13 Buestan; is that right?

14 A I think so. I don't recall, yes.

15 Q Would it be in your records?

16 A Give me a name.

17 Q Site safety orientation. I am asking if that would be
18 in your records as one of the documents that you may have
19 reviewed?

20 A And are you referring to a particular company name?

21 Q I'm referring to Mr. Buestan's site safety orientation.

22 A I don't recall.

23 Q Okay. There were safety meetings on this job site?

24 A Yes.

25 Q Toolbox talks on this job site?

1 A Yes.

2 Q A physical therapist who did stretching on this job
3 site?

4 A I think there was, but if there was, I didn't pay
5 attention to their role.

6 Q An on-site medic?

7 A Yes.

8 Q The workers were empowered to report conditions that
9 were unsafe; fair?

10 A I assume so, but it's not something that I considered.
11 It's not something that I relied upon.

12 Q So, continuing on the job site that we talked about,
13 it's a pretty safe job site; is that correct?

14 A Well, what you didn't say was an engineer, an engineer
15 doing this inspection. You named everybody else, but you didn't
16 name an engineer.

17 Q Well, how about Luis Valderutten, wasn't he an
18 engineer?

19 A Yes, he was.

20 Q Okay. So, there was an engineer on this project; fair?

21 A Yes.

22 Q Okay. And he was there overseeing the demolition work;
23 is that correct?

24 A He only came into the picture as I understood from the
25 testimony from the file after the fact, after the accident.

1 Q And that kind of brings me to another point that I want
2 to talk about with you for a little bit.

3 When you were hired by Mr. Vargas' firm, he sent over
4 documents for you to review; is that correct?

5 A Yes, he did.

6 Q And then you provided a report; is that correct?

7 A Yes, I did.

8 Q And I believe your from your testimony, you got the
9 file in December of 2023?

10 A Correct.

11 Q And then your work product, I would assume would have
12 been done in 2024; is that correct?

13 A The very beginning of 2024.

14 Q Right. Five years after the accident; is that correct?

15 A Yes.

16 Q Would you agree that an in-person inspection at the
17 time of the accident would have been critical to determining why
18 an accident occurred?

19 A I think there were two other engineers that all
20 concluded in addition to myself as to why the accident occurred.

21 So, even though two of us did not visit the site, we
22 came to the same conclusion as the engineer who was there
23 shortly after the accident.

24 Q But there's a very different conclusion about whether
25 this was foreseeable; is that fair?

1 A Yes, there is.

2 Q There's a dispute; right? That's why we're here?

3 A Yes, that's why we're here.

4 Q And the Breeze guys say it was not foreseeable; is that
5 correct?

6 A Yes.

7 Q And the Turner guys say it was not foreseeable; is that
8 correct?

9 A Yes, but I don't know -- I don't understand their
10 qualifications.

11 THE COURT: You answered the question.

12 THE WITNESS: Thank you.

13 Q You never went to this job site; is that correct?

14 A No, I didn't.

15 Q You did never conducted any testing of the ceiling; is
16 that correct?

17 A No, I didn't.

18 Q Never conducted any walkthroughs of the buildings; is
19 that correct?

20 A No, I did not.

21 Q You never went to this building in 2023, 2024, 2025 or
22 this year; is that correct?

23 A Correct.

24 Q You never spoke with any of the Breeze employees; is
25 that correct?

1 A Sorry?

2 Q You never spoke with any of the Breeze employee; is
3 that correct?

4 A Correct.

5 Q And you never spoke with anyone from Turner; is that
6 correct?

7 A Correct.

8 Q So, your opinion is based solely on the documents that
9 Mr. Vargas' office provided; is that right?

10 A The stuff that was exchanged during this litigation,
11 yes.

12 Q And in your report, one of your critiques of my expert
13 is that he never went to the site; is that correct?

14 A Yes, I did.

15 Q Okay. A little pot calling the kettle black?

16 MR. VARGAS: Objection.

17 A No, but I agreed with his finding --

18 THE COURT: Overruled.

19 A -- as to the cause of the concrete falling.

20 Q So, let's get into some of the things that we can agree
21 on and then we can just kind of talk about the things we don't.

22 We can agree that there were no visible cracks or
23 obvious distress of the concrete ceiling; is that correct?

24 A No.

25 Q That's in your report; isn't it?

1 A All I did is repeat what was stated, but we don't know
2 what the condition was.

3 Q You don't know because you weren't there; isn't that
4 right?

5 A That's right.

6 Q Okay. And you used the word could a lot during your
7 direct testimony. Do you remember that?

8 A I probably used the word could.

9 Q Because you don't really know because you weren't
10 there; is that correct?

11 A But I have the photographs and I have the evidence.

12 Q Do you have anything from before September 27, 2019,
13 any photographs from before?

14 A No.

15 Q So, the guys who were there looking at the ceiling
16 would know better than you what the ceiling looked like; is that
17 fair?

18 A No.

19 Q So, their eyes are not as good as your expert
20 testimony?

21 A My report also described their investigation as a
22 cursory walkthrough as opposed to a condition survey and they
23 were looking for fire hazards, not the condition of the
24 concrete.

25 Q You read Mr. Romagnoli's testimony from just a couple

1 of days ago; is that correct?

2 A Yes.

3 Q And he testified that he was looking at the ceiling;
4 did he not?

5 A Right.

6 Q Okay. He was walking every day through this cellar
7 making sure that the conditions were proper. That's what he
8 testified to; is that correct?

9 A That's what he said, but we don't know what the
10 condition was that he was looking at. We don't know what he was
11 looking at in terms of the concrete.

12 Q You don't know because you weren't there?

13 A No. That's what the testimony said.

14 Q Well, he testified that he was there everyday looking
15 at the ceiling; is that correct?

16 A And what does that mean? He is looking at the ceiling.
17 He's not doing necessarily an inspection.

18 Q Well, you want a visual inspection; is that right?

19 A That would be the first start.

20 Q Correct. And if you see a problem during a visual
21 inspection, you do something about it; is that correct?

22 A Correct.

23 Q Okay. And if you don't see a problem and everything
24 looks fine, there is nothing to be done; is that correct?

25 A No.

1 Q So, if you see a ceiling like this one and it's look
2 fine, are you going to shore that ceiling?

3 A It depends on what we're doing.

4 Q You agree again as to the cause of why the ceiling
5 collapsed; is that correct?

6 A Yes.

7 Q And you agree with my expert and Mr. Valderutten that
8 stuff was leaking in from the top; is that correct?

9 A Yes.

10 Q Nothing to do with salt water from the Hudson on the
11 ground; is that correct? That's a red herring and the jury
12 doesn't need to worry about that.

13 MR. VARGAS: Objection.

14 THE COURT: Well, it's part of his question, but
15 avoid making your own conclusions, but he is inviting you to
16 agree or disagree with that.

17 A Sorry? Could you repeat the question?

18 THE COURT: Restate the question.

19 Q Salt water from the Hudson had nothing to do with this
20 accident; correct?

21 A We don't necessarily know. It's been in service for a
22 lot of years, so we don't know how much water has gotten in over
23 the years.

24 Q Would you hold your report up for the jury?

25 A Yes. (Witness complies)

1 Q Just let the jury know how many pages it is?

2 A Thirty pages.

3 Q Nowhere in that thirty page does it say anything about
4 the salt water from the Hudson causing this accident; is that
5 correct?

6 A It refers to salt-laden water coming from above. As to
7 the source, whether it's from the river, whether it's from the
8 trucks, salt-laden water would be the most likely cause for the
9 corrosion to take place.

10 Q The river's down here and the first floor is up here.
11 It couldn't be the Hudson; is that correct? (Indicating)

12 A I don't think we have enough information to say that.

13 Q So, you can't say either way?

14 A Sorry?

15 Q You can't say either way? You don't have enough
16 information?

17 A I don't have enough information.

18 Q Okay. Could we agree the condition of the rebar was
19 hidden from view?

20 A I don't know. I don't know if there was any spalls
21 that had existed. I don't know.

22 Q Okay. Fair enough. It's a lot that you don't know
23 because you weren't there; is that right?

24 A Yes.

25 MR. VARGAS: Objection.

1 THE COURT: Overruled. It's cross-examination.

2 Q We talked about the industrial code. You read it to
3 the jury 23-3.3 C?

4 A Yes.

5 Q It talks about continuing inspections by designated
6 persons; right?

7 A Yes.

8 Q Again, you're familiar with Mr. Romagnoli's testimony
9 from a few days ago?

10 A Yes.

11 Q And he testified that he was there; is that correct?

12 A Yes.

13 Q And he testified that Breeze was there; is that
14 correct?

15 A Yes.

16 Q And he testified that other Turner people were there?

17 A Yes.

18 Q And he testified that Breeze's foreman was there?

19 A Yes.

20 Q Could you we agree that the industrial code does not
21 define the term continuing inspection?

22 A It does not have an explicit definition.

23 Q Correct. So, we got to use a dictionary definition,
24 what does continuing mean?

25 A We have to use some judgment.

1 Q Correct. So, continuing means repeated over and over
2 again; is that right?

3 A That's logical, yeah.

4 Q And Mr. Romagnoli testified that he performed a
5 repeated inspection day after day of the cellar and its
6 environs; correct?

7 A He said that, but we don't know if he's looking at the
8 condition of the concrete and in terms of potential for spalling
9 and falling delamination. We do know that the work that was
10 going on had to do with fire protection or potential for
11 combustibles and fire damage.

12 Q Right. And that is one of the reasons there is water
13 in the picture; is that correct?

14 A Yes. Well, it could explain some of the water.

15 Q Thank you, sir. The designated person though is
16 defined in the code; is that correct?

17 A Yes.

18 Q And I will read it to you so you don't have to go back.
19 "A person selected and directed by an employer or his authorized
20 agent to perform a specific task or duty." Does that sound
21 right?

22 A That's about right.

23 Q Nothing in there that says that person has to be an
24 engineer; is that correct?

25 A That's right.

1 Q And Mr. Romagnoli here was the designated person by
2 Turner to perform these inspections; is that correct?

3 A We understood from the testimony that he was there to
4 do an inspection of fire hazards.

5 Q Right. Well, he had a bigger job than that. He was a
6 demolition superintendent; is that correct?

7 A Yes.

8 Q And so he wasn't just fire watch; right? He was there
9 overseeing Breeze's work; is that correct?

10 A For the entire project, yes.

11 Q And do you believe that Turner was committed to safety
12 on this job site?

13 A I have no reason to disagree.

14 Q Right. There is no reason Mr. Romagnoli would not be
15 looking for safety hazards that could impact the workers; is
16 that right?

17 A I would think in terms of what he was tasked with
18 doing, but again, I don't think he was there to look at the
19 condition of the concrete.

20 Q Well, the jury will have to make its own determination
21 from Mr. Romagnoli's testimony; is that fair?

22 A Fair.

23 Q Could we agree in this case, there's no issue with the
24 floors or the walls as it says in the 23-3.3 C?

25 A There is no evidence that was an issue.

1 Q Correct. And there were no loose materials before the
2 moment of Mr. Buestan's accident; is that correct?

3 A There was no evidence as to what the condition was
4 before.

5 Q Could we agree that there are conditions on the job
6 site which could exist which would make a hazard on the
7 demolition site unforeseeable?

8 A If you have an example, otherwise, I don't know how to
9 answer that.

10 Q I'm just saying is it possible?

11 A Anything is possible. I don't know that. That is not
12 an expert opinion. I don't know how to answer that.

13 Q You're aware that Mr. Buestan was working in the
14 basement for two days prior to his accident; is that correct?

15 A Yes.

16 Q And he testified that he didn't see any problem on day
17 one; is that correct?

18 A Correct.

19 Q And he's there all day burning the ceiling; is that
20 correct?

21 A Correct.

22 Q And day two, no problems with the ceiling; is that
23 correct?

24 A Correct.

25 Q And Mr. Romagnoli, same thing, testified each day, no

1 problems; is that correct?

2 A That is what he testified, but he wasn't necessarily on
3 that bay at that time for two days, three days before.

4 Q You don't know because you weren't there; is that
5 right?

6 A Well, we don't have any evidence in the file that says
7 otherwise.

8 Q Mr. Romagnoli testified at this trial; is that right?
9 And Mr. Valderutten and Mr. Martinez will testify and they have
10 not done so yet; is that correct?

11 MR. VARGAS: Objection.

12 A I don't know what they will testify to.

13 MR. VARGAS: How is he to know who is going to
14 testify in the future.

15 MR. ROSENZWEIG: Fair enough. I will withdraw the
16 question.

17 THE COURT: Sustained.

18 Q There is no reason for shoring if there is no obvious
19 deformity or potential hazard; correct?

20 A Not necessarily. Like I said before, the less you know
21 about the conditions, the more cautious you want to be.

22 So, in this case, the less you know about the condition
23 of the concrete, the more cautious, the more likely you are to
24 put in shoring simply because of where it's at.

25 Q So, if you perform an inspection and you look at the

1 ceiling and you don't see any problems, you're still going to
2 shore that ceiling; is that your testimony to this jury?

3 A Are you asking me or are you asking the people who were
4 there?

5 Q Well, I will ask the people that were there, but you
6 are the witness, sir.

7 A I don't understand your ask question.

8 Q I will move on, sir. Burning pipes like Mr. Buestan
9 was doing is a common activity New York; is that correct?
10 Nothing unique about this?

11 A Yes, it is.

12 Q It happens everyday?

13 A It's regular.

14 Q And ceilings don't collapse normally when this kind of
15 work takes place; right? It's not a hazard you're expecting?

16 A Well, I don't know what the conditions are of the cases
17 you're hypothetically talking about.

18 Q Again, if you are burning pipes hanging well below the
19 ceiling, you are not expecting the ceiling to fall down; is that
20 correct?

21 A Well, you hope not.

22 Q You're not surprised to see water on the floor during
23 hot work; is that correct?

24 A I am not surprised.

25 Q The pretask plan says that there is going to be water

1 used on the site to keep down sparks for potential flame
2 hazards; is that correct?

3 A I think the trial testimony was that. I don't think
4 the actual pretask plan stated that.

5 THE COURT: That is already in evidence; correct?

6 MR. ROSENZWEIG: Correct. I think it's either 2 or
7 3.

8 THE COURT: How much longer, Counsel?

9 MR. ROSENZWEIG: Five minutes. Sorry, it's B or C.

10 THE COURT: Redirect?

11 MR. VARGAS: Five minutes.

12 Q Could you read just the box to the far-right and let us
13 know if that refresh your recollection about the use of water?

14 A Which box?

15 Q The box to the right. I believe the first one down.

16 A Okay.

17 Q Does that refresh your recollection as to whether the
18 pretask plan caused for water to be used?

19 A It says wet area, fire guard wet area.

20 Q And that means that you wet the area to make sure there
21 is not going to be any sparks --

22 A It doesn't say that, but that may be the implication.

23 Q Would you agree that there is no way to know for
24 certain if any of the additional testing that you suggest would
25 have found the problem?

1 A Sorry, could you repeat that?

2 Q Do you know for certain whether any of the extra
3 testing that you suggest would have found the problem?

4 A It absolutely would. That is the whole purpose of
5 doing that.

6 Q A hundred percent?

7 A That's the whole purpose of doing the delamination
8 survey.

9 Q And do you see anything in the code that says that,
10 that defines what a continuing inspection to cover the surveys
11 that you recommend? Is there anything in the code that
12 specifically requires that inspection?

13 A It says continuing inspection.

14 Q That's it. That's all it says; is that correct?

15 A Yeah. And it leave the door open to various types of
16 jobs and activities. So, it's not necessarily covering just the
17 concrete.

18 Q Right. So, it leaves it to the people on the ground;
19 is that correct?

20 A Yes.

21 Q There is nothing in Labor Law 240 or 241.6 that
22 requires the inspections you suggest in terms of continuing
23 inspections; right? It leaves it open; is that right?

24 MR. VARGAS: Objection as to defining Labor Law.

25 THE COURT: Well, he is exploring your witness'

1 knowledge of that area of law. I will allow it. Overruled.

2 A It doesn't explicitly state it, no.

3 Q Thank you.

4 MR. ROSENZWEIG: Thank you. That's all that I
5 have, Your Honor.

6 THE COURT: Redirect, please.

7 MR. VARGAS: Thank you.

8 REDIRECT EXAMINATION BY

9 MR. VARGAS:

10 Q In your passed work experience for any of the companies
11 that you worked with, did they work with concrete?

12 A Yes.

13 Q And what kind of work did you do for those companies?

14 A I spent about twenty years with Wiss, Janney, Elstner.
15 That's W-I-S-S, J-A-N-N-E-Y, E-L-S-T-N-E-R. I said that for
16 twenty years, I've been saying that.

17 We did a lot of work with the concrete and my work was
18 primarily related to concrete, concrete that damaged from the
19 fire, from the flood, from the terror attack, from collapse,
20 from an overload. So, I and people I worked with would do this
21 kind of inspection of concrete structures.

22 Q And the custom and practice of those kind of
23 inspections, did it include tapping on the ceiling?

24 A Yes.

25 Q And why would it have certainly found this problem that

1 we have seen depicted in the photographs marked into evidence?

2 A What is shown in the photographs and what the
3 defendant's expert has said in his report, what the engineer for
4 Breeze said at the time, that it was from corrosion, long-term
5 corrosion of the embedded steel.

6 Q So, again, a lot was made of how many site safety
7 managers are on the site. They are all doing visual inspections
8 over and over we hear it over and over, but is visual
9 inspections enough under these particular factors that you
10 listed for us earlier?

11 A No.

12 Q And because it's a unique situation in the cellar and
13 all those factors that you said were significant; is that
14 correct?

15 A The industry custom and practice is that the work would
16 be done by an engineer experienced with concrete work.

17 There is no indication that the people that were doing
18 these cursory walkthroughs understood what they were looking at.
19 They could be looking right at the condition and not necessarily
20 know what they're looking at.

21 Q And lastly, you were asked about Breeze and Turner
22 finding that it wasn't foreseeable that the ceiling could
23 collapse. And you were about to give an answer.

24 You were saying that you didn't understand how they
25 came to that conclusion, I believe?

D. Q.

1 Breeze and Turner have stated that this was not
2 foreseeable?

3 A Yes.

4 Q And you were saying I don't understand and then you
5 were cut off. Could you expand on that?

6 A Yeah. I don't understand how they would arrive at that
7 conclusion.

8 In the case of the Breeze engineer, he was there
9 afterwards and he asked -- he wrote in his report that he didn't
10 see things. Well, because they are on the ground. And I can't
11 see things even in the photographs.

12 I am looking at Exhibit 7E, 7D. Correction 7A. 7A is
13 showing the debris on the ground and what I'm seeing is the top
14 of the slab or what appears to be the top of the slab is
15 actually the part that was embedded in the slab.

16 I can't see the bottom of the slab. I can't see and
17 neither did Breeze's engineer.

18 So, without examining all of this debris, without
19 examining what's underneath there, no. We don't know what was
20 there.

21 So, I'm surprised that he would say it wasn't
22 foreseeable because he concluded, we all concluded that it was
23 corrosion of the embedded steel and this is not some unknown
24 condition. This is a condition that occurs frequently in
25 construction. We know why it occurs. We know why it falls. We

1 know that it's foreseeable when water gets in, when salt-laden
2 water gets in. We know it's foreseeable. It's going to fall.
3 It's when.

4 MR. VARGAS: No further questions.

5 MR. ROSENZWEIG: Briefly, Your Honor.

6 THE COURT: Have at it.

7 RECROSS-EXAMINATION BY

8 MR. ROSENZWEIG:

9 Q I think you just told the jury that it's your belief
10 that Mr. Valderutten was not present before the day of the
11 accident on the site; is that correct?

12 A I'm sure he was there at the job site, but not
13 necessarily -- he didn't say he was there looking at this
14 location right before, no.

15 Q If there is testimony later in this trial that Mr.
16 Valderutten was there and was looking at the condition, would
17 that change your opinion in this case?

18 A I don't know what he's going to testify to. I don't
19 know.

20 Q It's possible?

21 A Again, one of those, everything is possible. Is that
22 what you are asking me?

23 Q I expect. Thank you.

24 MR. ROSENZWEIG: Thank you, Your Honor. That's all
25 that I have.

D. Q.

1 THE COURT: Thank you, Mr. Dolhon for your time and
2 testimony. With that, you may step down from the witness
3 stand.

4 THE WITNESS: Thank you.

5 (Whereupon, the witness is stepping down from the
6 stand)

7 THE COURT: Okay, Ladies and Gentlemen of the Jury,
8 it is now 3:26 and we don't have any further business for
9 you today. There are no other experts. We have a three-day
10 weekend. So, I am glad that we don't have any further
11 witnesses for you.

12 In fact, let's take a moment before I dismiss you.
13 Let's go into the robing room and discuss any schedule
14 issues we may have so that we can work with you. Let's
15 pause the record.

16 (Whereupon, there was a brief pause in the
17 proceedings.)

18 THE COURT: I will see you all bright and early all
19 day Wednesday at 9:30 in the morning. And we will go
20 Wednesday and Thursday. Then we will proceed the next
21 Monday and thereafter.

22 For all intents and purposes, we won't need you
23 until Wednesday morning. You should return to your regular
24 scheduling programing for that day.

25 Remember all of the instructions the Court has

D. Q.

1 given you. And enjoy your three-day weekend. I am so
2 grateful for you. I thank you. We rise as you exit.

3 COURT OFFICER: All rise. Jury exiting.

4 (Whereupon, the jury exits the courtroom.)

5 (Whereupon, the trial will resume on Wednesday,
6 January 21, 2026 at 9:30 a.m.)

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