

The Saiber Construction Law Column: February 2024

March 8, 2024

Source: MetroBuilders' Construction Law Column

In the April 2023 *OnSite* issue, the Saiber Construction Law Column discussed a 2022 case in which the Supreme Court of Maryland held that a party who hires an independent contractor is generally not liable to an employee of that contractor for injuries caused by the contractor's negligence in performing the work for which it was hired. A similar issue was recently addressed by the United States District Court for the District of New Jersey.

In *Taveras v. Advance at Hoboken, LLC, et al.*, plaintiff, an employee of a subcontractor, sought to hold the general contractor liable for injuries he sustained at a construction jobsite when he fell from scaffolding that came undone and collapsed. Plaintiff argued that the contractor was liable because the scaffolding was defective. Plaintiff also argued that the contractor could owe a duty of care to a subcontractor's employee if the contractor retained control over the manner or means of the work.

The court, however, found that there was no evidence presented by plaintiff to show that the contractor supplied the scaffolding which collapsed and caused plaintiff's injuries. The court also found that while the general contractor performed supervisory work at the jobsite, the evidence presented showed that the subcontractor who employed plaintiff, not the contractor, determined how its employees would perform their assigned work. Thus, the court acknowledged that there are exceptions to the general rule that contractors are not liable to employees of an independent contractor, but found that those exceptions did not apply in *Taveras*.

Although parties in New Jersey who hire independent contractors are generally not responsible for any harm that occurs to the contractor's employee as a result of the very work that the contractor was hired to perform, there are limited exceptions to that principal. Accordingly, general contractors should choose their subcontractors wisely and define with the subcontractor what it will be responsible for with regard to the work it will be performing and how that work will be performed.

* * * * *

Each issue's Saiber Construction Law Column will discuss a recent decision by New Jersey courts or courts from other states which may be of interest to people in the construction industry.

The information in each article is not intended to be legal advice and may not be used as legal advice. Legal advice must be tailored to the specific circumstances of each case. Every effort has been made to ensure this information is up-to-date. The article is not intended to be a full and

exhaustive explanation of the law in any area, nor should it be used to replace the advice of your own legal counsel.

For any question relating to this article, please contact Robert B. Nussbaum, Esq. at Saiber LLC at rnussbaum@saiber.com.