

Case: Robert Plaintiff vs. ABC Company
Summary of the Deposition of: John Supervisor
Date of Deposition: April 1, 2007

PAGES/LINE	TOPIC	SUMMARY
3:1-7	Location	Ace, Smith & Jones LLP, 700 Westfield Road, Suite 220, Fresno, CA
3:12-25	Appearances	Mike Counsel, Ace, Smith & Jones LLP – Attorney for plaintiff Christine Lewis, Law Offices of Christine M. Lewis – Attorney for defendant
4:4-6	Name	<u>Examination by Mr. Counsel</u> Witness' name is John Supervisor.
4:7-22	Prior depositions	Witness has had his deposition taken on one previous occasion; he DNR how long ago it was. It was in connection with a work matter, and he was working at BuildCorp at the time. It was within the last 10 years. He DNR if it was in connection to a job site accident.
4:23-9:8	Admonitions	Admonitions were reviewed.
9:9-20	Witness' residence address	Witness' residence address is 158 Slimline Street, Redwood City, CA, 94063. He has lived there for more than 10 years. He might move in the next few years but not immediately.
9:21-10:3	Witness' phone numbers	His telephone number is (650) 555-5555. His cell phone number is (650) 444-4444.
10:4-25	Current employment	Witness is currently working for BuildCorp Builders as a labor foreman. He has worked for them for more than five years. He DNR if he was working for them in the 1980s. He has been a labor foreman for BuildCorp since he joined them.
11:1-18	Previous employment	Prior to BuildCorp, witness worked for Belcore Construction in Campbell or Los Gatos, for four to five years. He was a laborer for them. He has not been a labor foreman for any company other than BuildCorp. He has never worked for BuildCorp as a laborer rather than a foreman.
11:18-19	Date of birth	Witness' date of birth is 2/25/1956.
11:20-21	Remaining time at work	Witness plans to continue working for two to three more years.

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11:22-24	Who witness reports to	Witness reports to Thomas Pointer.
11:25-12:17	Four Market Street project	Witness recalls the Four Market Street project. He was reporting to Mr. Pointer on that project. He was the laborer foreman on that project. He DNR how long he worked on that project but it was not more than one year. It may have been last year but he DNR.
12:18-13:7	Laborers working for witness on project	The number of journeyman laborers working for witness on the project varied during different points of the project. He generally had around eight laborers. He supervised them and was a working foreman.
13:8-14:1	Witness' function on project	Witness' function was focused on doweling and epoxying rebar. It was a seismic retrofit project which included reinforcing the concrete with rebar. This was necessary in the perimeter walls, which were made of brick and concrete.
14:2-15	Laborers' work	The laborers that witness supervised did the same work. While he was there, they did not have any other responsibilities besides doweling and epoxying rebar. Witness was in charge of all the laborers.
14:16-25	Laborers cleaned up on previous projects	On other projects, there have been occasions where witness has supervised laborers that have cleaned up after other subcontractors for which BuildCorp would then charge that subcontractor for the cleanup. Witness DNR any of this happening while he was on the Four Market project.
15:1-3	Equipment used to drill holes for dowels	Witness used rotary hammers to drill the holes for the dowels.
15:4-24	What laborers did on a typical day	On a typical day, witness would direct the laborers to get the right size bars that they were installing, make sure that they had all the epoxy they needed, inspect the holes that they were blown correctly before they put the epoxy, and check the layout for the next day. A carpenter foreman would check the layout ahead of them and witness would go to him to make sure that they were done to what they needed. A layout guy would mark the locations for the drilling. It was a carpenter.
15:25-16:9	Subcontractors involved on	When witness arrived on the project, the other subcontractors involved were Boston Wrecking doing the demolition, SteelCo Steel bringing in

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	project	all the steel beams and so on, and electricians, whose company witness DNR.
16:10-15	No rain on project	Witness DNR what season it was when he started on the project. There was no rain.
16:16-17:3	BuildCorp safety meetings	Witness attended safety meetings on the project. He DNK when the meetings were held. Most likely it was Ferguson, the carpenter foreman, who ran the meetings. Witness DNK his last name. The meetings were just for BuildCorp employees.
17:4-9	Coordination meetings with subcontractors	Witness is not aware of coordination meetings that took place between BuildCorp and the subcontractors. He DNR attending these.
17:10-18:9	What transpired at safety meetings	The topics covered in the safety meetings that witness attended were different every time. There were no pictures but there were letters on a pre-printed form. Whoever conducted the meetings read the form to attendees. Discussion followed about the safety topic. If anybody had an issue they wanted to raise about that topic, they could bring it up. There was also the opportunity for people to bring up safety concerns that they had that were not related to that topic. If somebody encountered a safety issue in the week prior, that was a forum for people to discuss the safety issue.
18:10-19:3	No discussion or concern about trades working close to one another	Witness never heard anything during any of the safety meetings that he attended about concerns about the different trades working in close proximity to one another. Witness never heard anybody raise any concern about debris falling from the demolition down on people. Witness did not have any understanding that there were instances where Boston Wrecking had caused debris to fall down on other trades. Witness did not have a sense that the trades were working too closely to one another.
19:4-18	Direction to work locations	Witness was guided by a carpenter to the location where he would be working the following day. Witness DNK if BuildCorp personnel were directing the various subcontractors to where they would be working on any given day.
19:19-20:1	Did not have to stop work because of another trade in the area	There were never any occasions in which witness had to stop his work because another trade was going to be coming into the area where he was working. There were no occasions where witness couldn't do his work because another trade was working in the area.

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20:2-12	Special inspector addressing quality of work	Besides witness, a special inspector which was a different contractor than BuildCorp, inspected the work they were doing. Witness DNR who that individual worked for. The person was inspecting the quality of the work being done.
20:13-21:4	Safety inspections	Witness DNK who was in charge of safety because his job was to do the doweling and epoxy. It was normal procedure for BuildCorp to do safety inspections. Witness DNK who did the inspections or if it was more than one person.
21:5-22:14	Instances in which witness has seen unsafe work by subcontractors in his career	<p>While working for BuildCorp, witness DNR seeing a subcontractor on a project working unsafely. If witness assumes he is on project where BuildCorp is the general contractor and he sees a subcontractor performing work unsafely, witness stops him. Witness DNR if, in his career, he has stopped a subcontractor who he felt was doing something unsafe; it might have happened. There have been occasions where witness has seen a subcontractor working without a hard hat and he said "Put on your hard hat". Witness has not seen a subcontractor to BuildCorp working without eye protection and told them to put their eye protection on. There have been occasions where witness has seen a subcontractor to BuildCorp working without hearing protection and he has said "wear hearing protection." Witness has not seen a subcontractor not wearing fall protection and said "You've got to have fall protection".</p> <p>When witness has said "Put on your hard hat" or "Put on your hearing protection," it's just taken care of at that point.</p>
22:15-23:5	No recollection of unsafe work on Four Market project	If witness saw a subcontractor performing unsafe work on the Four Market project, he could have the subcontractor stop and correct the unsafe practice. Witness DNR any such instances. Witness DNK if there was at least an occasion where that did occur.
23:6-12	Slab grabbers	Witness recalls on the Four Market project that there were locations where there were guardrail systems that used slab grabbers. The locations were where the demolition was ahead of them.
23:13-21	Regular work sequence	The regular work sequence was Boston going through a particular area first performing their demolition, followed by BuildCorp, followed by SteelCo Steel.
23:22-24:20	Installation of slab glabber railing systems by	There were occasions where witness followed the work of Boston Wrecking where they might have created a floor opening and there would be a slab grabber railing system. BuildCorp installed those railing

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	BuildCorp	systems. Witness did not have any involvement in the installation of those railing systems. To his knowledge, none of his laborers were involved in the installation of those railing systems. That would typically be handled by the BuildCorp carpenters.
24:21-26:14	How slab grabber railing systems are installed	Witness has watched the installation process for the slab grabber railing systems. The metal post has a leg on the bottom that gets adjusted from the post, top of post. It has a nut that you turn with a crescent wrench, slide it in the slab, the end of the slab, and you tighten it up. After that you install two-by-fours, two of them, at different elevations. The two-by-fours are not affixed to the slab grabbers with screws. They are not wired to the slab grabber. It has a nail so it doesn't slide to the sides. BuildCorp carpenters insert those nails; it is always done. It's a safety policy that the two-by-fours be nailed so that they don't slide in the slab grabber. Witness has seen them installed when he walked through the areas where they're doing it.
26:15-27:5	Witness' replacement of slab grabber	Witness has had to replace a slab grabber. He does not carry a crescent wrench with him. When he has had to replace a slab grabber, he has to go get a crescent wrench to do so or call somebody near him to lend him a tool. Witness learned how to replace a slab grabber in his career. Witness did not replace any of the slab grabbers on the Four Market project.
27:6-28:3	What witness typically carries	Witness typically carries his radio. He keeps his wrench handy. If he didn't have it at the time, he would get somebody near him with a crescent wrench. He would then have to re-nail the two-by-fours into the slab grabber. Witness has a hammer among his tools. There are usually boxes of nails nearby the areas they are working on.
28:4-25	Tightening of slab grabber	Witness most likely uses a number 10 wrench to tighten a slab grabber down. He tightens the slab grabber as tight as possible. He turns it until it can't be turned anymore. To make sure it is affixed to the slab well, he grabs it and shakes it a little. If it needs more tightening, then he tightens it. It should butt right to the edge of the concrete; there is no play acceptable. It shouldn't move at all.
29:1-7	Analysis when re-attaching slab grabber	When re-attaching a slab grabber, witness analyzes that there is a flat surface underneath and a flat surface on top so that it sets right.
29:8-30:20	Force applied to slab grabber	Witness DNK how much force a slab grabber is supposed to be able to withstand if installed properly. He DNK if there is any difference in the amount of force a slab grabber is supposed to be able to withstand at the top versus at the base. Witness has never seen a slab grabber get knocked

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		off. He has seen people, but nothing else, leaning on slab grabbers. He considers it safe to lean against a safety railing. Witness has never seen a slab grabber with sort of handles on top.
30:21-31:1	Replacing slab grabber	When witness has replaced a slab grabber, it is something he was asked to do by his superintendent.
31:2-19	Taking down slab grabbers	Witness has seen slab grabber railing systems that were down to allow some work to take place. He has been asked by his superintendent to take down a slab grabber system. He was not asked to do so on the Four Market project. It is generally in the realm of the carpenters to handle the slab grabbers but witness might step in if the carpenters were not available.
31:20-32:10	Safety concern when slab grabber is down	When a slab grabber is down it is always a safety concern. If it is down, he puts it right back up. He never left the area unattended. If there is work taking place in the area, he would most likely advise everybody and tell them "There is work going on, stay away from the area," and then keep an eye on it to make sure that, once the job is done in that area, they are put back the way they were.
32:11-33:15	Removal of slab grabbers around a stairwell opening	If the slab grabber is in the way of people installing a stairway, for example, then witness or a carpenter would be directed by his supervisor to remove it while they are doing their work. Witness DNK if in the process of installing new stairs in an existing structure, like the Four Market project, the slab grabbers around a stairwell opening will from time to time need to be lowered to allow the stairwell work to take place. Witness did not see slab grabbers down around stairwell openings on the Four Market project. He has seen them down around stairwell openings on other projects while there are other people installing that are doing the job.
33:16-34:3	What witness would do if subcontractor removed slab grabber	Witness has never in his career seen subcontractors to BuildCorp either removing or replacing slab grabbers. If he saw a subcontractor removing a slab grabber to perform work in a stairwell opening, he would inform his supervisor because it is their responsibility to do that. They should go straight to them to have them removed.
34:4-22	What witness would do if subcontractor removed two-by-fours	If witness saw a subcontractor removing the two-by-fours and not the slab grabbers in order to perform their work, he would put them right back up. If it's a quick move, he would do so right away. If it's going to take a long time, he would go to his supervisor and discuss it. If it were going to be a long time, he would try to take care of it right away so that it wouldn't be a safety issue.

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34:23-35:24	Has seen stringers and railings lowered into stairwell openings	Witness has seen stringers lowered into a stairwell opening. The stringers are separate pieces from the railings. Witness has seen railings lowered into the stairwell openings. It is typically done by putting a cross member, which is an I-beam, up high, and then some come-alongs with chains to hoist them or lower inside the shaft where they're installing the stairways. When witness has seen stringers and railings lowered, he has not seen the two-by-fours removed in order to allow the access of those items, because they usually do it inside the shaft. They hoist them up and down. They lower from the top or bottom.
35:25-37:17	Lowering of stringers and railings from a lower floor	Witness has seen stringers and railings lowered from a particular floor down on a retrofit project of an existing structure. Slab grabbers were present on those occasions. It has been necessary to remove the two-by-fours only in a slab grabber railing system when the actual lowering takes place. It is not a five-minute project but witness DNK how long it would take because he doesn't work in that field.
37:18-38:12	Talk with supervisor if two-by-fours were to be down	When witness has seen two-by-fours down in the midst of the process of lowering stringers into stairwell openings, from a safety perspective he has talked to his supervisor, who would inform him what's going on in the area so witness knows what they are doing. He would expect to know beforehand that the railings were going to be removed.
38:13-23	Morning meetings with Lenahan or Pointer	In a typical week on the Four Market project, witness would not know what the other trades were going to be doing. He met in the morning with Mr. Lenny or Mr. Pointer. He was concerned about his area, his job, his progress. He was not involved in the other part of the work.
38:24-41:1	Advance notice of stringers being lowered on other projects	When witness has seen stringers lowered into stairwell openings on other projects, he was told in advance by his supervisor over the radio that this would occur. In his career, witness has not seen two-by-fours in slab grabber railing systems removed without being apprised by his superintendent that it was going to occur.
41:2-19	No awareness of stringers lowered at Four Market	Witness was not aware of the stringers being lowered in on the Four Market project because he wasn't working near the stringers. He was probably not on the job site at the time; he was in the project.
41:20-42:8	Slab grabbers with plywood barrier	Witness has never seen slab grabber railing systems which have also been accompanied by a plywood barrier. BuildCorp wouldn't set up plywood with the slab grabber railing system.

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42:9-43:12	Barricades around floor openings	On the Four Market project, there were cuts in the floor openings. Witness saw demolition occurring on the project. If demolition was taking place near a floor opening, they barricaded the area on the columns to keep people from going to where the demolition was taking place.
43:13-45:7	Demolition witnessed	Witness saw demolition of part of the floor opening facing Market St. and part of the floors, meaning the floor structure, going to their neighbors, which is a hotel. There were four to five floors on the project, and demolition occurred on most of them. Some of the demolition involved creating floor openings. Some was near the columns. The railing that supports the cart and the cart of the old freight elevator were demolished. The elevator hoistway was still in place. Jackhammers and Bobcats were used for the demolition. Witness DNR any other equipment used.
45:8-24	Purpose of holes in floors	The holes created in the floors were to put in electric escalators, and to add some concrete beams for the retrofit. Witness DNK that the holes were being created for stairwells.
45:25-47:21	Red caution tape comprised barricades	Where the demolition occurred, the floors were barricaded. Witness DNK who erected the barricades. Boston Wrecking did the demolition. The barricades around the demolition work that witness saw consisted of red caution tape that goes from column to column. This indicates a line that you are not supposed to cross. Yellow tape indicates a line that can be crossed with caution. Most likely Boston erected the red caution tape. Witness never saw any barricades besides the red caution tape.
47:22-48:16	Prevention of debris exiting main area of project	Witness has seen systems designed to contain debris on the project; they were intended to prevent debris from exiting the project site. He saw a netting and a shoot. They were designed to prevent the debris from getting outside the main area of the project.
48:17-49:17	Covering holes with plywood	Witness never saw any holes created in the exterior of the building. He saw holes on the project that were covered with plywood that was nailed down. To affix the plywood to a concrete floor, you attach it with a 16 nail duplex that has a double head and a piece of wire. Before that, you drill the hole through the plywood to the concrete with a bull dog that has a 3/16 inch bit. Then you pound the nail and the wire to plywood to concrete. Witness did not do that kind of work; it is the carpenter's work. The plywood used to cover the holes was commonly 5/8 or 3/4.
49:18-50:9	Warning on open hole	When plywood is placed over a hole, witness does not consider that to be a tripping hazard. It's only 3/4 or 5/8 thick. Once it's applied, they put a

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		sign on it saying "Open hole." Nobody should be walking or rolling anything on top of it.
50:10-19	No barricades around hole	Witness did not see any barricades, railing systems, or anything set back from the hole opening itself.
50:20-22	No recall of other railing systems	Witness DNR seeing any other railing systems apart from slab grabber on the Four Market project.
50:23-52:16	Protection of flooring on ground floor	On the ground floor of the project, inside, witness moved materials. The floor surface was concrete. On occasions, witness was advised that small, old, existing penetrations in the flooring needed to be protected on the ground floor in certain locations. Decorative flooring also had to be protected, in the center of the main ground floor, first floor. They used plywood to protect that flooring the entire time he was there. Steel plates were used on the ground floor to protect the transit of the Bobcats when they were traveling on the floor. Witness did not see the floor beneath that needed protecting.
52:17-22	No railing systems affixed to steel plates	Witness has not seen any railing systems welded to or affixed in any way to the steel plates.
52:23-53:13	Use of plywood in construction areas	Witness had never seen BuildCorp use plywood in conjunction with a slab grabber railing system. They have built some walls with plywood behind the construction areas, like barricades, but not to contain any load. Witness has never seen plywood erected around a stairwell opening to prevent debris from going in the stairwell.
53:14-54:20	Recall of outhouses in photograph	The photographs Bates stamped Boston 712-731 were taken in 2004. Witness recognizes the outhouses and portables in Boston 713. He DNK how long they were there. Witness DNR what is depicted in 714. He only remembers where the outhouses were. He DNR how this looked.
54:21-24	Exhibit 1	<u>Exhibit 1</u> Photograph Bates stamped Boston 714 was marked for identification.
54:25-55:18	Exhibit 1	In Exhibit 1, the exit was on this side, behind this wall. The entrance and exit to the project was a door with a chain, little ramp, and then outhouses. The outhouses were kept inside in the same place during the day. Apart from the two outhouses, witness does not recognize much in

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55:19-20	Exhibit 2	<p><u>Exhibit 2</u></p> <p>Photograph was marked for identification.</p>
55:21-56:11	Debris in Exhibit 2	<p>Exhibit 2 is a slightly different perspective of the general area of photo 1. There is a little more debris over here than over here (indicating). Witness did not often see piles of debris on the ground level. If there was, it was something like the size of the pile in photograph 2.</p>
56:12-58:8	Removal of debris from ground floor	<p>Witness saw Boston Wrecking personnel using a Bobcat on the ground floor to remove debris from the premises where the main demolition was, and it was usually done with a wheelbarrow and some of their laborers.</p> <p>There were not many occasions when witness saw piles of debris on the ground floor similar to the one in Exhibit 2. They were pretty good at keeping everything in their demolition areas. He saw debris piles similar to the one in Exhibit 2 on the ground floor of the project while the demolition was in progress. He saw Boston Wrecking personnel using wheelbarrows to remove debris piles by that were of the size seen in Exhibit 2. They used manual labor, shovels, to load the debris into the wheelbarrows. They also used Bobcats. Whether they used Bobcats versus wheelbarrows and shovels depended on the size of the debris pile.</p>
58:9-59:12	Removal of debris from upper floors via shoot	<p>Witness DNK where the debris was taken, besides that it was taken outside. Debris was removed from the upper floors and taken to the lower floors via an internal shoot which landed right on the ground floor. Witness DNR if there was a barricade off the area where debris fell onto the ground floor. He DNR whether there was anything to contain the debris as it fell through the shoot to the ground floor.</p>
59:13-61:22	What witness would do if he saw a debris pile pushed against plywood and slab grabbers	<p>There were two floors below the ground level. Witness DNR the stairwell opening on the other side of the plywood in photograph 2. If witness had seen Boston Wrecking personnel using a Bobcat to load a debris pile the size seen in Exhibit 2, during which he saw them pushing the debris pile so that it was pressing up against the plywood and the slab grabbers, he would have stopped them because if they would push this, the force of the slab grabbers is not to support the force of a piece of equipment of that size. He would be concerned that the plywood and slab grabber could get knocked into the stairwell. He would expect a competent Bobcat operator to not push debris up against plywood and a slab grabber that surrounded a stairwell opening.</p>

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61:23-62:3	No knowledge of schedule for debris removal	Witness was not aware of any schedule with regard to removal of debris on the project, or any limitations as to when debris could or could not be removed.
62:4-16	Work hours	Witness started work on the project at 6:30 and left at 3:30. He DNR if there were crews that continued to work after he left. He DNR if there was overtime demolition.
62:17-24	Did not hear about accident on project	Witness recently heard about the incident involved in the current action. He didn't hear about it while working on the project.
62:25-63:10	Debris removal while ironworkers in stairwell	Witness DNK of any reason why debris removal would have to have taken place at the same time that ironworkers were working in the stairwell in photograph 2.
63:11-64:16	Who witness knew on project	Witness knew two ironworkers on the project, Mario and the foreman, whose name he DNR. Witness has never heard of John Smith. The foreman was Latin. Witness is not sure if he knows the name Jessie Jones. Witness did not know these people prior to the Four Market project. The discussions he had with them were nothing beyond "Hello, how are you, how are you doing". He never had lunch with any of them. Witness knew the Boston Wrecking personnel when he met him on the job, but not before that. He didn't have any discussions with these personnel beyond "Hello, how are you?"
64:17-20	When witness learned of incident	Witness' first knowledge about the incident in question was when he learned of his deposition.
64:22-66:1	Witness' demolition work history	<u>Examination by Ms. Lewis</u> Witness has done demolition work while working for BuildCorp. He has done it off and on; the longest period was around three months on one project. He has been doing demolition work off and on since he started as a laborer. He did not do any demolition work on the Four Market project.
66:2-18	No unsafe work by Boston	Witness DNR any instances where he saw Boston working unsafely. He recalls them operating the Bobcat. He DNR them operating the Bobcat unsafely. It is common to use Bobcats on retrofit projects.
66:19-67:5	Debris shoot used by Boston Wrecking	Boston Wrecking set up the debris shoot. It was an existing tube, a big tube that was there. He DNK the reason it was there. Boston Wrecking was using it for their debris.

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67:6-11	Slab grabbers and plywood	Witness did not see Boston removing any slab grabbers on the project. He DNR if Boston had its own plywood on the project.
67:12-68:1	Boston employees that witness knew	Witness has worked with Boston Wrecking on three to four projects. He knew some of the Boston employees. The only name he can remember is Popo; he DNK if that is his first or last name. He didn't know the others by name, just "Hello, how are you." He DNR any of the Boston employees that were working on Four Market.
68:3:69:16	Safety during demolition work for BuildCorp	<p><u>Further Examination by Mr. Counsel</u></p> <p>When witness has done demolition for BuildCorp, he has endeavored to do so in a safe manner. He gets a sense of his surroundings and who's working around him. Most of his demolition work has been carried out by BuildCorp with nobody else around. Their normal safety procedure is to not drop something on somebody below when they are doing demo. This applies to any work they perform.</p>
69:17-69:23	Use of backhoe and Bobcat	Witness has never used a backhoe for BuildCorp. He has used a Bobcat for BuildCorp. A backhoe is typically operated by an operating engineer.
69:24-71:8	When to use Bobcat vs. wheelbarrow and shovel	Witness is aware of projects where Bobcats are used because the environment is not large enough for a backhoe. He is aware of environments he has worked in previously that do not permit a Bobcat, and they have to use wheelbarrows or shovels. In deciding whether to use a Bobcat rather than a wheelbarrow or shovel, one item for consideration is whether it can be done safely with a Bobcat.