

## **The Negligence Corner:**

### **WSI 240 (Work Site Investigation) Depositions in a Labor Law Accident Case**

by Kenneth J. Landau

As the case law constantly evolves, learning all of the facts in a labor law accident case is more important than ever. The "facts" may help to win important motions, give rise to certain defenses or provide the protection or remove the mandates of a statute. The deposition will provide the best opportunity to learn these facts which may form the basis for winning or losing the case. The following is a partial list of questions your should ask (or prepare your client to answer) at the depositions.

#### **Questions for the plaintiff:**

- experience in the field
- prior work on this job
- duties on this and prior projects
- tools used and experience with them
- name of supervisor
- prior complaints or problems with work area, methods or equipment
- use and availability of safety equipment
- exact activities on day of accident
- other supervisors or trades
- how plaintiff got this job
- how reached the work site
- how and by whom paid
- description of heights and hazards

#### **Questions for the plaintiff concerning damages:**

- amount and status of worker's compensation and disability payments
- testimony at worker's compensation hearing
- worker's compensation and social security disability attorneys
- attempts to return to work
- attempts to try other types of work
- immigration status
- housing arrangements
- attempts to learn new skills
- daily routine
- education

#### **Questions for the defendants**

- scope of project
- role in project
- who was acting as the general contractor

- use of sub-contractors
- contracts and permits
- scope of responsibility for the project
- who ordered supplies
- who accepted supplies
- who paid for supplies
- who was their supervisor/foreman at site
- who coordinated work
- records concerning the project
- compliance with regulations
- visits to site
- tools, equipment and safety at site
- insurance, representations, requirements, verification and scope of coverage

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