

Worker's fall in unmarked elevator shaft causes permanent brain damage

\$2.6 million settlement from contractors' and homeowners' insurance

Derrick Murphy (not his real name) had worked as an air conditioning technician in south Florida for decades, servicing and troubleshooting existing air conditioning units. However, on July 8, 2014, he was asked to assist with the HVAC installation for an 8,000-square-foot home that was being constructed on the Intracoastal Waterway in Palm Beach Gardens, Florida. Derrick finished his work installing condensers along the home's exterior, then went inside the home to see if his coworkers needed assistance. Inside, he found one of his coworkers finishing the installation of grills

and grates throughout the home's ceilings. To assist his coworker, Derrick started looking throughout the home for any openings that still needed to have a grill installed.

Derrick was unaware that the two-story home contained an elevator connecting the ground and upper floors. Although all of the interior doors were in place at this time, the elevator itself had not yet been installed. There was only an empty elevator shaft that dropped from the top floor nearly 20 feet down to a concrete subfloor. The upstairs and downstairs doors to the elevator shaft were also in place. The doors, *(Continued on page three.)*

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which looked the same as all of the other interior doors throughout the home, were closed and unlocked. There were no warning signs on the elevator doors, nor any blocking or bracing of the openings to prevent someone from opening the door and falling to the subfloor below. Concentrating on his search for open ducts that needed to be capped and never expecting to encounter an empty elevator shaft hidden behind an interior door, Derrick opened the elevator door and fell through to the concrete floor below.

A coworker, returning to the home after getting supplies from his truck, discovered Derrick's nearly lifeless body at the bottom of the elevator shaft. He had suffered life-threatening injuries as a result of the fall, including a catastrophic brain injury and cervical spine injury. Because of the brain damage, Derrick does not remember anything about the day he was injured. He was taken by ambulance to St. Mary's Medical Center where he underwent multiple surgeries over many weeks in an effort to combat the profound damage to his brain. It would be months before he was able to speak again, and many more months before he could walk.

After Derrick's injury, his family contacted SDSBS attorney **Jack Hill** seeking representation. Eventually, legal actions were filed against the general contractor for failing to provide a reasonably safe jobsite, against the trim-work contractor for failing to appropriately secure the door concealing the elevator shaft (as instructed by the general contractor), and against the homeowners for failing to warn of the dangerous condition. While the homeowners' insurance carrier tendered its policy limits shortly after suit was filed, insurance companies for the remaining defendants required extensive discovery before, ultimately, tendering their respective policy limits as well. Additionally, Mr. Hill successfully argued



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for a judicial determination that Derrick's health insurance carrier had waived any entitlement to reimbursement from the settlement proceeds for the approximately \$1,000,000 in medical expenses due to its failure to follow Florida law.

The total recovery on behalf of Derrick Murphy was \$2,600,000. The settlement proceeds funded critical long-term rehabilitation for his traumatic brain injury – expenses which Derrick's health insurance carrier had refused to pay. The focused brain therapy has resulted in astonishing improvements in Derrick's quality of life. While he still suffers from very significant limitations and is not able to live independently, he has made tremendous strides in improving his physical abilities. He is able to walk without a cane and has recently had his feeding tube removed. In addition to the tort recovery, Derrick will also continue to pursue a worker's compensation claim to address his life-long need for medical and nursing care. The worker's compensation insurance carrier originally denied Derrick's claim for benefits due him as a result of the workplace injury. Derrick remains totally disabled, but is continuing to improve his life through hard work and determination. ♦