

RETURN DATE: MARCH 27, 2018 : SUPERIOR COURT

BRIDGEPORT FIRE DEPARTMENT,
BRIAN ROONEY,
WILLIAM COSGROVE,
WILLIAM FINCH,
DENNIS BUCKLEY,
AND PETER PAAJANEN

: J.D. OF FAIRFIELD

V.

: AT BRIDGEPORT

WORTH CONSTRUCTION, INC.

: FEBRUARY 21, 2018

COMPLAINT

COUNT ONE (COMMON LAW INDEMNIFICATION)

1. At all times relevant hereto, the City of Bridgeport Fire Department, Brian Rooney, William Cosgrove, William Finch, Dennis Buckley, and Peter Paajanen (hereinafter “the municipal plaintiffs”) were defendants in *Twila Williams, Administratrix of the Estate of Tiana N.A. Black, et al. v. Housing Authority of the City of Bridgeport, et al.*, Docket No. FBT-CV10-6014962, brought by Twila Williams, as Administratrix of the Estates of Tiana N.A. Black, Nyaisja Williams, Tyaisja Williams, and Nyshon Williams (hereinafter “Williams plaintiff”).
2. At all times relevant hereto, Worth Construction Co., Inc. (“Worth Construction”), was a company, organized and existing under the laws of the State of New Jersey, with a place of business located at 24 Taylor Avenue, Bethel, Connecticut, and in the business of providing construction services.
3. The Williams plaintiff alleges that the decedents’ injuries and deaths were caused by a fire that occurred at the premises owned by the City of Bridgeport Housing Authority

("BHA"), known as the P.T. Barnum Apartments, Building 12, Apartment 205, Bridgeport, Connecticut (the "Premises").

4. The Williams plaintiff claimed that the decedents' injuries and deaths were caused by the negligence of the municipal plaintiffs in that they:
 - a. Knew or should have known that the above described apartment and building did not have a safe, reasonable and/or adequate means of egress provided to the decedents to exit the above described apartment/building;
 - b. Knew or should have known that the above described apartment and/or building did not have a safe, reasonable and/or adequate means of egress provided to the decedents to exit the above described apartment/building particularly during a fire;
 - c. Knew or should have known that the above described apartment and building in which the decedents died did not comply with applicable federal, state and local law, codes and/or regulations including fire and building safety regulations, codes and laws and/or zoning laws, codes and/or regulations;
 - d. Knew or should have known that the above described apartment and building was not consistent with and in conformity with recognized standard for building safety, fire safety and building and zoning laws,
 - e. Knew or should have known that the above described apartment and building was previously renovated, redesigned and/or remodeled and a fire escape and/or other reasonable means of egress from the apartment and/or building was not provided for use of the decedents;

- f. Knew or should have known that the above described apartment and building did not have adequate, sufficient and/or proper fire suppression and fire/smoke detection devices including the failure to have proper smoke detectors in the apartment and building;
- g. Knew or should have known that the above described apartment and/or building did not have adequate and/or proper fire suppression and/or fire detection devices;
- h. Failed to provide and/or install photo-electric smoke detectors in the above described apartment and building where the decedents were caused to die and/or ensure such devices were installed;
- i. Knew or should have known that the above described apartment or building did not have a reasonable and/or proper fire alarm system;
- j. Failed to ensure that the above described apartment and/or building had a reasonable and/or proper fire alarm system;
- k. Knew or should have known that the above described apartment and building did not have a fire sprinkler system to ensure the safety of the residents including the decedents;
- l. Failed to ensure that the above described apartment and/or building had a fire sprinkler system to ensure the safety of the residents of said apartment and/or building including the decedents;
- m. Knew or should have known that a fire extinguisher was not provided for use of tenants in the above described building or apartment including the decedents;

- n. Knew or should have known that the above described apartment and/or building was not safe for use by tenants including the decedents and/or contained hazards making it not safe for use by tenants including the decedents;
 - o. Failed to provide fire safety training including fire drill/escape training for residents of buildings and apartments in the City of Bridgeport including the decedents;
 - p. Failed to formulate and implement or ensure implementation of fire safety/protection strategies and plans for residents of buildings and apartments in the City of Bridgeport including the decedents;
 - q. Knew or should have known that fire and/or building inspections of the above described apartment and/or building in which the decedents were caused to die were not conducted although such inspections were required to be performed including requirements pursuant to Connecticut General Statutes Section 29-305.
5. On or about June 25, 1993, BHA and Worth Construction entered into a contract whereby Worth Construction agreed to serve as the general contractor for a project known as the “Rehabilitation of P.T. Barnum Apartments, Demolition/Construction, Phase II-VII, Project No. CONN 1-5,” (“the Contract”) to furnish all labor, materials, services and equipment and to perform and complete all work required for the project in strict accordance with the Specifications and any Addenda thereto. The subject Premises were part of this renovation project.
6. Pursuant to the Contract with BHA, Worth Construction was to ensure that the renovated buildings and apartments, including the subject Premises, complied with all fire and safety standards, codes and regulations. (Gen. Conditions §12).

7. Pursuant to the terms of the Contract with BHA, Worth Construction was responsible for ensuring that the shop drawings were in compliance with the contract requirements and that construction was completed in accordance therewith. (Gen. Conditions §9).
8. The Contract with BHA also required Worth Construction to ensure that the drawings and specifications were in compliance with all applicable codes and regulations bearing on the work. (Gen. Conditions §12).
9. Pursuant to the Contract with BHA, Worth Construction warranted compliance of the construction to the contract requirements and that work on the Premises was free from any defect in equipment, material or workmanship. (Gen. Conditions §23).
10. Pursuant to its Contract with BHA, Worth Construction further agreed that for products or workmanship specified by association, trade, or Federal Standards, the Project would comply with the requirements of the standard, except when more rigid requirements were specified or were required by applicable codes. (Specifications, Sec. 01090, §1.02, “Quality Assurance”).
11. Worth Construction also agreed, pursuant to the terms of its Contract with BHA, that the work would comply with specified standards as a minimum quality for the work except when more stringent tolerances, codes or specified requirements indicated higher standards or more precise workmanship. (Specifications, Sec. 01400, §1.03 “Quality Control”).
12. Throughout the course of the performance of the Contract, certain codes required that Worth Construction perform the renovations to the Premises in compliance with all applicable building codes.

13. The municipal plaintiffs relied on representations by Worth Construction that it complied with all applicable building codes and regulations.
14. If any of the alleged conditions of the Premises proximately caused the decedents' deaths as alleged by the Williams plaintiff, which allegations are denied by the municipal plaintiffs, such conditions were proximately and directly due to the negligence of Worth Construction in one or more of the following ways:
 - a. it failed to provide a safe and reasonable and/or adequate means of egress for the decedents to exit the above described apartment building, particularly during a fire;
 - b. it failed to construct and/or renovate the above-described apartment and building in which the decedents died in such a way as to comply with applicable federal, state, and local law, codes, and/or regulations, including fire and building safety regulations, codes and laws, or other codes applicable to smoke alarms and means of egress;
 - c. it failed to ascertain that the above described building and apartment was consistent with and in conformity with recognized standards for building safety and fire safety;
 - d. it failed to provide and/or install proper inter-connected smoke detectors in the above described apartment and building where the decedents died;
 - e. it failed to provide a reasonable and/or proper fire alarm system for the above described apartment and/or building;
 - f. it failed to provide and/or install a fire sprinkler system in the above described apartment and/or building;

- g. it failed to adequately and properly inspect the above described apartment and/or building to ascertain the safety of said apartment and/or building for use by tenants, including the decedents;
 - h. it failed to correct and remedy the dangerous condition of said building and apartment where the decedents died, although it knew or in the exercise of reasonable care should have known of said dangerous condition;
 - i. it failed to use reasonable care to inspect said building and apartment where the decedents died thereby creating a dangerous condition; and
 - j. it failed to notify the municipal plaintiffs or any of the claimed deficiencies noted above.
15. If any of the alleged conditions of the Premises proximately caused the decedents' deaths as alleged by the Williams plaintiff, which allegations are denied by the municipal plaintiffs, Worth Construction's negligence was a direct and immediate cause of the decedents' deaths rather than the negligence, if any, of the plaintiffs.
16. The negligence of Worth Construction was active and primary, and any negligence on the part of the municipal plaintiffs, which is denied, was passive and secondary.
17. The conditions and situation present at the Premises which the Williams plaintiff alleges to have resulted in the decedents' deaths were conditions within the exclusive control of Worth Construction.
18. The municipal plaintiffs had no knowledge of Worth Construction's negligence and had no reason to anticipate that Worth Construction would be negligent, and could reasonably rely on it not to be negligent.

19. As a result of the negligence and carelessness of Worth Construction, as indicated above, the municipal plaintiffs have been damaged in that they have been forced to expend significant sums of money to defend themselves in a suit filed by the Williams plaintiff relating to the alleged losses as set forth above.
20. If the municipal plaintiffs are found liable to the Williams plaintiff, it is entitled to indemnification from Worth Construction for such sum and its defense costs.

COUNT TWO (THIRD PARTY BENEFICIARY)

- 1-14. The municipal plaintiffs incorporate paragraphs 1 through 14 of Count One as if fully set forth herein.
15. The municipal plaintiffs are third-party beneficiaries to the Contract between BHA and Worth Construction.
16. In forming the Contract, both BHA and Worth Construction intended to create a direct obligation from Worth Construction to the municipal plaintiffs to perform the Contract consistent with its terms.
17. The Invitation to Bid for the subject renovation project, which was incorporated into the Contract, contained a provision which required the Contractor, Worth Construction, and its subcontractors “to defend, indemnify, and hold harmless the City of Bridgeport Housing Authority, its agents and employees from any and all claims, liabilities, obligations and causes of action whatsoever kind and nature and for injury to or death . . . resulting in connection with work, services or activities under this agreement regardless of cause except that the contractor shall not be required to assume liability or indemnify the City for such injuries, damages or claims deemed by law to be due to the sole

negligence of the City of Bridgeport, its agents, officers or employees.” (Bid, Contractor’s Liability Insurance, §1(a) “Indemnification”).

18. The Contract required Worth Construction to provide insurance coverage for the municipal plaintiffs as additional insureds.
19. Pursuant to the insurance provisions of the Contract, Worth Construction procured a Commercial General Liability policy from Aetna of America (Policy Number 007C0022862962) naming the City of Bridgeport as certificate holder and additional insured.
20. Pursuant to the insurance provisions of the Contract, Worth Construction procured an Automobile Liability policy from The Aetna Casualty & Surety Co. (Policy Number 07FJ1063280) naming the City of Bridgeport as certificate holder and additional insured.
21. Pursuant to the insurance provisions of the Contract, Worth Construction procured an Excess Liability policy from The Aetna Casualty & Surety Co. (Policy Number 007XS022863839) naming the City of Bridgeport as certificate holder and additional insured.
22. Pursuant to the insurance provisions of the Contract, Worth Construction procured a Worker’s Compensation and Employers’ Liability policy from Farmington Casualty Co. (Policy Number 0022936074) naming the City of Bridgeport as certificate holder and additional insured.
23. Pursuant to the insurance provisions of the Contract, Worth Construction procured a Builders Risk policy from Hartford Fire Insurance Co. (Policy Number 02MSBQ2040) naming the City of Bridgeport as certificate holder and loss payee.

24. Some of the conditions of the Premises that the Williams plaintiff alleges caused the decedents' deaths, including but not limited to the failure of the subject Premises to meet fire and building safety standards, codes and regulations, are conditions which result from the work, services and/or activities of Worth Construction performed under its Contract with BHA.
25. Pursuant to the terms of the Agreement, Worth Construction and/or its liability insurance carriers must indemnify, defend and hold harmless the municipal plaintiffs, as third-party beneficiaries to the Contract, for the claims in this action.
26. Pursuant to the Contract, should the municipal plaintiffs be found liable for the decedents' deaths, then Worth Construction must indemnify and hold harmless the municipal plaintiffs from any damages, costs and attorney's fees.

COUNT THREE (IMPLIED INDEMNITY)

- 1-22. The municipal plaintiffs incorporate paragraphs 1 through 24 of Count Two as if fully set forth herein.
23. Worth Construction's representation to BHA, the municipal plaintiffs, and other City of Bridgeport officials that it performed work consistent with applicable building codes and regulations, and its inclusion of the City of Bridgeport as a certificate holder, additional insured, and/or loss payee of its insurance policies evidences Worth Construction's implied duty to defend and indemnify the municipal plaintiffs.
24. Pursuant to Worth Construction's implied duty to defend and indemnify the municipal plaintiffs, Worth Construction and/or its liability insurance carriers must indemnify, defend and hold harmless the municipal plaintiffs for the claims in this action.

25. Pursuant to Worth Construction's implied duty to indemnify the municipal plaintiffs, should the municipal plaintiffs be found liable for the decedents' deaths, then Worth Construction must indemnify and hold harmless the municipal plaintiffs from any damages, costs and attorney's fees.

WHEREFORE, the plaintiffs claim:

1. Compensatory damages;
2. Indemnity;
3. Cost of defense; and
4. Such other relief at law or in equity as the Court may deem fair and just.

THE PLAINTIFFS,
BRIDGEPORT FIRE DEPARTMENT,
BRIAN ROONEY, WILLIAM COSGROVE,
WILLIAM FINCH, DENNIS BUCKLEY,
AND PETER PAAJANEN

BY MILANO & WANAT LLC

By



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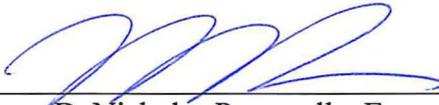
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STATEMENT OF AMOUNT IN DEMAND

The amount, legal interest or property in demand, exclusive of attorney's fees, interest or costs, is in excess of Fifteen Thousand Dollars (\$15,000.00).

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BRIDGEPORT FIRE DEPARTMENT,
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