

**DOCKET NO: LLI-CV-15-6012742-S** : **SUPERIOR COURT**  
**OLVIN PINEDA** : **J.D. LITCHFIELD**  
**VS.** : **AT LITCHFIELD**  
**FORTUNATO CONSTRUCTION,**  
**GROUP, INC.** : **APRIL 26, 2016**

**AMENDED COMPLAINT**

**COUNT ONE: As To Fortunato Construction Group, LLC**

1. At all times relevant hereto, Fortunato Construction Group, Inc.(hereinafter referred to as "Defendant"), was the General Contractor in possession and/or control of property located at Rumsey Hall with a principal address of 200 and 201 Romford Road, located in the Town of Washington Depot, and State of Connecticut (hereinafter referred to as the "Premises").

2. At all times material hereto, the Defendant, Fortunato Construction Group, Inc. is a business in the State of Connecticut with a CT Business ID of 0235814 and Vincent J. Fortunato and Richard S. Fortunato, individuals, are members and owners and who conducted and transacted the business of Fortunato Construction Group, Inc.

3. On or about October 31, 2013, Olvin Pineda (hereinafter referred to as "Plaintiff"), was a lawfully at said Premises as a legal invitee in the capacity as either a sub-contractor, independent contractor and/or an employee of Alva Drywall, the status of the relationship is unknown at this time.

4. On or about October 31, 2013 on or about 7:00 a.m. Olvin Pineda was hanging drywall near an open incomplete stairwell on the 2nd Floor of the above referenced premises when he fell through the opening in the floor down to the basement causing him to sustain serious injuries, some of all of which may be permanent in nature.

5. As a result of said occurrence, Olvin Pineda was taken to Waterbury Hospital by private vehicle as he sustained serious multiple injuries and major head trauma.

6. On or about the above date and time, the Defendant and/or an agent, servant or employee of the Defendant knew or should have known of the defective condition of said staircase but failed to remedy the same.

7. Said occurrence and injury to Olvin Pineda and consequences emanating there from were the direct and proximate result of the carelessness and negligence of the defendant, their agents, servants or employees, in one or more of the following ways:

- a. In that the Defendant allowed and permitted Olvin Pineda to work in a dangerous and defective area by not erecting any blockades to an open hole in the floor;
- b. In that the Defendant failed to adequately make proper and reasonable inspections to discover the existence of the dangerous and defective condition;
- c. In that the Defendant failed to maintain proper safeguards, warnings, signs, netting boards covering said hole and or railings, of the aforesaid dangerous and defective conditions when reasonably necessary under the circumstances;

- d. In that the defendant failed to remedy, repair and remove the dangerous and defective conditions, when same were reasonably necessary under the circumstances;
  - e. In that the defendant failed to provide safety programs, instructions and materials and training in the proper use of the area and fall hazard training and safety equipment including hard hats and safety harnesses; and
  - f. In that the defendant failed to provide hard hats and safety harness and had no guardrails on the second floor exposing individuals to fall 20 - 30 feet or more.
  - g. In that the defendant failed to provide proper lighting to allow the plaintiff to see the hazard.
8. Further, said occurrence and injury to Olvin Pineda and consequences emanating there from were the direct and proximate result of the carelessness and negligence of the defendant, their agents, servants or employees, in one or more of the following ways, in that the Defendant:
- a. violated Section 1926.501(b)(1) of the OSHA Regulations (Standards - 29CFR) by failing to provide a guardrail system, safety net system or personal fall arrest system on a walking/working surface with an unprotected side or edge which is 6 feet (1.8 m) or more above a lower level;

- b. violated Section 1926.501(b)(2)(1) of the OSHA Regulations (Standards - 29CFR) by failing to protect employees who are working on a leading edge 6 feet (1.8 m) or more above lower levels from falling by use of a guardrail system, safety net system, or personal fall arrest system. Exception: when the employer can demonstrate that it is infeasible or creates a greater hazard to use the systems, the employer shall develop and implement a fall protection plan which meets the requirements of paragraph (k) of 1926.502;
- c. violated Section 1926.501(b)(4)(i) of the OSHA Regulations (Standards - 29CFR) by failing to protect employees on walking/working surfaces from falling through holes (including skylights) more than 6 feet (1.8 m) above lower levels, by personal fall arrest systems, covers, or guardrail systems erected around such holes;
- d. violated Section 1926.501(b)(4)(ii) of the OSHA Regulations (Standards - 29CFR) by failing to protect employees on a walking/working surface from tripping in or stepping into or through holes (including skylights) by covers;
- e. violated Section 1926.501(b)(6) of the OSHA Regulations (Standards - 29CFR) "Ramps, runways and other walkways" by failing to protect employees from falling 6 feet (1.8 m) or more to lower levels by guardrail systems;

- f. violated Section 1926.501(b)(15) of the OSHA Regulations (Standards - 29CFR) "Walking/working surfaces not otherwise addressed." Except as provided in 1926.500(a)(2) or in 1926.501 (b)(1) through (b)(14), by failing to protect employees on a walking/working surface 6 feet (1.8 m) or more above lower levels from falling by a guardrail system, safety net system, or personal fall arrest system;
- g. violated Section 1926.502(a)(2) of the OSHA Regulations (Standards - 29CFR) by failing to provide and install all protection systems required by this subpart for an employee, and by failing to comply with all other pertinent requirements of this subpart before that employee began the work that necessitated fall protection;
- h. violated Section 1926.502(b) of the OSHA Regulations (Standards - 29CFR) "Guardrail systems" by failing to protect employees with guardrail systems as more specifically set forth in paragraphs i through q below;
- i. violated Section 1926.502(b)(1) of the OSHA Regulations (Standards - 29CFR) by failing to protect employees with guardrail systems that have a top edge height of top rails, or equivalent guardrail system members, which shall be 42 inches (1.1 m) plus or minus 3 inches (8 cm) above the walking/working level.

- j. violated Section 1926.502(b)(2) of the OSHA Regulations (Standards - 29CFR) by failing to protect employees with midrails, screens, mesh, intermediate vertical members, or equivalent intermediate structural members which shall be installed between the top edge of the guardrail system and the walking/working surface when there is no wall or parapet wall at least 21 inches (53 cm) high;
- k. violated Section 1926.502(b)(2)(i) of the OSHA Regulations (Standards - 29CFR) by failing to protect employees with midrails, which when used, shall be installed at a height midway between the top edge of the guardrail system and the walking/working level;
- l. violated Section 1926.502(b)(3) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with guardrail systems which shall be capable of withstanding, without failure, a force of at least 200 pounds (890 N) applied within 2 inches (5.1 cm) of the top edge, in any outward or downward direction, at any point along the top edge;
- m. violated Section 1926.502(b)(4) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees when the 200 pound (890 N) test load specified in paragraph (b)(3) of this section is applied in a downward direction, the top edge of the guardrail shall not deflect to a height less than 39

inches (1.0 m) above the walking/working level by not installing any guardrail system;

- n. violated Section 1926.502(b)(5) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with midrails, screens, mesh, intermediate vertical members, solid panels, and equivalent structural members which shall be capable of withstanding, without failure, a force of at least 150 pounds (666 N) applied in any downward or outward direction at any point along the midrail or other member;
- o. violated Section 1926.502(b)(6) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with guardrail systems which shall be so surfaced as to prevent injury to an employee from punctures or lacerations, and to prevent snagging of clothing;
- p. violated Section 1926.502(b)(11) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees by the installation of a guardrail system when used at holes, shall be erected on all unprotected sides or edges of the hole;
- q. violated Section 1926.502(b)(12) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees by installing guardrail systems around holes when used for the passage of materials, the hole shall have not more than two sides provided with removable guardrail sections to allow the

passage of materials. When the hole is not in use, it shall be closed over with a cover, or a guardrail system shall be provided along all unprotected sides or edges;

- r. violated Section 1926.502 (c)(1) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with safety nets which shall be installed as close as practicable under the walking/working surface on which employees are working, but in no case more than 30 feet (9.1 m) below such level;
- s. violated Section 1926.502(c)(3) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with safety nets which shall be installed with sufficient clearance under them to prevent contact with the surface or structures below when subjected to an impact force equal to the drop test specified in paragraph (c)(4) of this section;
- t. violated Section 1926.502(c)(4) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with safety nets and their installations capable of absorbing an impact force equal to that produced by the drop test specified in paragraph (c)(4)(i) of this section;
- u. violated Section 1926.502(d) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with proper "Personal fall arrest systems".

Personal fall arrest systems and their use shall comply with the provisions set forth below in paragraphs v through x;

- v. violated Section 1926.502(d)(15) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with anchorages used for attachment of personal fall arrest equipment which shall be independent of any anchorage being used to support or suspend platforms and capable of supporting at least 5,000 pounds (22.2 KN) per employee attached, or shall be designed, installed, and used as set forth in paragraphs w through x below;
- w. violated Section 1926.502(d)(15)(i) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees as part of a complete personal fall arrest system which maintains a safety factor of at least two; and
- x. violated Section 1926.502(d)(15)(ii) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees under the supervision of a qualified person;
- y. violated Section 1926.502(i) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with "Covers". Covers for holes in floors, roofs, and other walking/working surfaces shall meet the requirements set forth in paragraphs z through aa below;
- z. violated Section 1926.502(i)(3) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees by having all covers secured when

installed so as to prevent accidental displacement by the wind, equipment, or employees;

- aa. violated Section 1926.502(i)(4) of the OSHA Regulations (Standards, 29 CFR) by failing to protect employees by having all covers color coded or they shall be marked with the word "HOLE" or "COVER" to provide warning of the hazard;
- bb. violated Section 1926.503(a) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees by providing a "Training Program" to train Olvin Pineda with the requirements set forth in paragraphs cc through pp below;
- cc. violated Section 1926.503(a)(1) of the OSHA Regulations (Standards - 29 CFR) by failing to provide a training program for each employee who might be exposed to fall hazards. The program shall enable each employee to recognize the hazards of falling and shall train each employee in the procedures to be followed in order to minimize these hazards;
- dd. violated Section 1926.503(a)(2) of the OSHA Regulations Standards - 29 CFR) by failing to assure that each employee has been trained, as necessary, by a competent person qualified in the areas set forth in paragraphs ee through hh below;

- ee. violated Section 1926.503(a)(2)(i) of the OSHA Regulations (Standards - 29 CFR) by failing to provide a competent person to train employees regarding the nature of fall hazards in the work area;
- ff. violated Section 1926.503(a)(2)(ii) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with training regarding the correct procedures for erecting, maintaining, disassembling, and inspecting the fall protection systems to be used;
- gg. violated Section 1926.503(a)(2)(iii) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with training regarding the use and operation of guardrail systems, personal fall arrest systems, safety net systems, warning line systems, safety monitoring systems, controlled access zones, and other protection to be used;  
  
And the correct procedures for the handling and storage of equipment and materials and the erection of overhead protection; and
- hh. violated Section 1926.503(a)(2)(vii) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with training regarding the role of employees in fall protection plans;
- ii. violated Section 1926.503(a)(2)(viii) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with training regarding the standards contained in this subpart;

- jj. violated Section 1926.503(b) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees by providing a "Certification of training" with the requirements set forth in paragraphs kk through pp below;
- kk. violated Section 1926.503(b)(I) of the OSHA Regulations (Standards - 29 CFR) by failing to prepare a written certification record. The written certification record shall contain the name or other identity of the employee trained, the date(s) of the training, and the signature of the person who conducted the training or the signature of the employer. If the employer relies on training conducted by another employer or completed prior to the effective date of this section, the certification record shall indicate the date the employer determined the prior training was adequate rather than the date of actual training;
- ll. violated Section 1926.503(b)(2) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees by failing to maintain the latest training certification;
- mm. violated Section 1926.503(c) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with "Retraining". When the employer has reason to believe that any affected employee who has already been trained does not have the understanding and skill required by paragraph (a) of this section, the employer shall retrain each such employee. Circumstances where

retraining is required include, but are not limited to, situations set forth in paragraphs nn through pp below;

- nn. violated Section 1926.503(c)(1) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees by not retraining Brian Millett when changes in the workplace render previous training obsolete; or
- oo. violated Section 1926.503(c)(2) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees by not retraining Brian Millett when changes in the types of fall protection systems or equipment to be used render previous training obsolete; or
- pp. violated Section 1926.503(c)(3) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees when inadequacies in an affected employee's knowledge or use of fall protection systems or equipment indicate that the employee has not retained the requisite understanding or skill. (See 1926.20, 1926.21 and 1926.32);
- qq. failed to provide a safe means of egress off the platform;
- rr. failed to provide a means of egress free of hazards and in good working order;
- ss. failed to adequately inspect said work site to ascertain and remedy the dangerous conditions therein;
- tt. failed to take reasonable and proper precautions to avoid the probability of harm to employees using the work site, including the Plaintiffs decedent;

- uu. failed to properly cordon off said platform;
- vv. failed to maintain said premises in a safe condition;
- ww. failed to provide a safe job site;
- xx. failed to train and/or supervise its employees and agents so as to properly train or retrain Olvin Pineda.

8. As a direct and proximate result of the carelessness and negligence of the Defendant, as aforesaid, the Plaintiff suffered from the following injuries:

- a. Head trauma;
  - b. Traumatic Brain Injury;
  - c. Cervical sprain/strain
  - d. Right Shoulder sprain/strain:
  - e. Right hip contusions;
  - f. Right Leg sprain/strain
  - g. Right Foot sprain/strain;
  - h. Right Foot Fracture;
  - i. Lumbar Spine sprain/strain; and
  - j. Associated pain and suffering.
9. All of the aforesaid injuries are or may be permanent in nature.

10. As a further result of the defendant's aforementioned carelessness and negligence, the plaintiff has incurred and will continue to incur in the future considerable expenses for necessary hospital and medical treatment and pharmaceutical supplies.

11. As a further result of the defendant's aforementioned carelessness and negligence, the plaintiff, has suffered and will continue to suffer in the future tremendous physical pain and discomfort.

12. As a further result of the defendant's aforementioned carelessness and negligence, the plaintiff, suffers from the fear and anxiety that future medical complications may occur, arising out of this incident.

13. As a further result of the defendant's aforementioned carelessness and negligence, the plaintiff, suffered and will continue to suffer from the loss of ability to pursue and enjoy life's pleasures and activities.

14. As a further result of the defendant's aforementioned carelessness and negligence, the plaintiff the plaintiff will need future assistance with his day to day activities, personal maintenance and travel due to his traumatic brain injury.

15. As a further result of the defendant's aforementioned carelessness and negligence, the Plaintiff lost time and may lose more time from employment to his financial loss.

**COUNT TWO: As To Wall Systems, Inc.**

1 - 15. Paragraphs 1 through 15 of the First Count are hereby made Paragraphs I through 15 of this the Second Count.

16. At all times relevant hereto, Wall Systems, Inc. (hereinafter referred to as "Defendant"), was the Contractor in possession and control of property located at Rumsey Hall with a principal address of 200 and 201 Romford Road, located in the Town of Washington Depot, and State of Connecticut (hereinafter referred to as the "Premises").

17. At all times material hereto, the Defendant, Wall Systems, Inc. was a business in the State of Connecticut with a CT Business ID of 027223 7 and Richard Valerio and Timothy Kulig, individuals, are members and owners and who conducted and transacted the business of Wall Systems, Inc.

**COUNT THREE: As To RV Enterprise, LLC.**

1 - 15. Paragraphs 1 through 15 of the First Count are hereby made Paragraphs I through 15 of this the Third Count.

16. At all times relevant hereto, RV Enterprise, LLC. (hereinafter referred to as "Defendant"), was the Contractor in possession and control of property located at Rumsey Hall with a principal address of 200 and 201 Romford Road, located in the Town of Washington Depot, and State of Connecticut (hereinafter referred to as the "Premises").

17. At all times material hereto, the Defendant, RV Enterprise, LLC. was a business in the State of Connecticut with a CT Business ID of 01116635 and Richard Valerio, individual, is a member and owners and who conducted and transacted the business of RV Enterprise, LLC.

**COUNT FOUR: As to Rumsey Hall School, Inc.**

1 - 15. Paragraphs 1 through 15 of the First Count are hereby made Paragraphs 1 through 15 of this the Fourth Count.

16. The Defendant The Rumsey Hall School, Incorporated is a business in the State of Connecticut with a business ID of 0096454, and a principal address of 201 Romford Road, Washington, CT and was in possession and control of real property located at 200 and 201 Romford Road, located in the Town of Washington Depot, County of Litchfield and State of Connecticut (hereinafter referred to as the "Premises").

17.

The decedent's injuries, death and damages were caused by the negligence and carelessness of the Defendant in one or more of the following ways, in that the Defendant:

- a. violated Section 1926.501(b)(1) of the OSHA Regulations (Standards - 29CFR) by failing to provide a guardrail system, safety net system or personal fall arrest system on a walking/working surface with an unprotected side or edge which is 6 feet (1.8 m) or more above a lower level;
- b. violated Section 1926.501(b)(2)(1) of the OSHA Regulations (Standards - 29CFR) by failing to protect employees who are working on a leading edge 6 feet (1.8 m) or more above lower levels from falling by use of a guardrail system, safety net system, or personal fall arrest system. Exception: when the employer can demonstrate that it is infeasible or creates a greater hazard to use the systems, the employer shall develop and implement a fall protection plan which meets the requirements of paragraph (k) of 1926.502;
- c. violated Section 1926.501(b)(4)(i) of the OSHA Regulations (Standards - 29CFR) by failing to protect employees on walking/working surfaces from falling through holes (including skylights) more than 6 feet (1.8 m) above lower levels, by personal fall arrest systems, covers, or guardrail systems erected around such holes;
- d. violated Section 1926.501(b)(4)(ii) of the OSHA Regulations (Standards - 29CFR) by failing to protect employees on a walking/working surface from tripping in or stepping into or through holes (including skylights) by covers;

- e. violated Section 1926.501(b)(6) of the OSHA Regulations (Standards - 29CFR) "Ramps, runways and other walkways" by failing to protect employees from falling 6 feet (1.8 m) or more to lower levels by guardrail systems;
- f. violated Section 1926.501(b)(15) of the OSHA Regulations (Standards - 29CFR) "Walking/working surfaces not otherwise addressed." Except as provided in 1926.500(a)(2) or in 1926.501 (b)(1) through (b)(14), by failing to protect employees on a walking/working surface 6 feet (1.8 m) or more above lower levels from falling by a guardrail system, safety net system, or personal fall arrest system;
- g. violated Section 1926.502(a)(2) of the OSHA Regulations (Standards - 29CFR) by failing to provide and install all protection systems required by this subpart for an employee, and by failing to comply with all other pertinent requirements of this subpart before that employee began the work that necessitated fall protection;
- h. violated Section 1926.502(b) of the OSHA Regulations (Standards - 29CFR) "Guardrail systems" by failing to protect employees with guardrail systems as more specifically set forth in paragraphs i through q below;
- i. violated Section 1926.502(b)(1) of the OSHA Regulations (Standards - 29CFR) by failing to protect employees with guardrail systems that have a top

edge height of top rails, or equivalent guardrail system members, which shall be 42 inches (1.1 m) plus or minus 3 inches (8 cm) above the walking/working level. When conditions warrant, the height of the top edge may exceed the 45-inch height, provided the guardrail system meets all other criteria of this paragraph;

- j. violated Section 1926.502(b)(2) of the OSHA Regulations (Standards - 29CFR) by failing to protect employees with midrails, screens, mesh, intermediate vertical members, or equivalent intermediate structural members which shall be installed between the top edge of the guardrail system and the walking/working surface when there is no wall or parapet wall at least 21 inches (53 cm) high;
- k. violated Section 1926.502(b)(2)(i) of the OSHA Regulations (Standards - 29CFR) by failing to protect employees with midrails, which when used, shall be installed at a height midway between the top edge of the guardrail system and the walking/working level;
- l. violated Section 1926.502(b)(3) of the OSHA Regulations (Standards - 29CFR) by failing to protect employees with guardrail systems which shall be capable of withstanding, without failure, a force of at least 200 pounds (890 N) applied within 2 inches (5.1 cm) of the top edge, in any outward or downward direction, at any point along the top edge;

- m. violated Section 1926.502(b)(4) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees when the 200 pound (890 N) test load specified in paragraph (b)(3) of this section is applied in a downward direction, the top edge of the guardrail shall not deflect to a height less than 39 inches (1.0 m) above the walking/working level by not installing any guardrail system;
- n. violated Section 1926.502(b)(5) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with midrails, screens, mesh, intermediate vertical members, solid panels, and equivalent structural members which shall be capable of withstanding, without failure, a force of at least 150 pounds (666 N) applied in any downward or outward direction at any point along the midrail or other member;
- o. violated Section 1926.502(b)(6) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with guardrail systems which shall be so surfaced as to prevent injury to an employee from punctures or lacerations, and to prevent snagging of clothing;
- p. violated Section 1926.502(b)(11) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees by the installation of a guardrail system when used at holes, shall be erected on all unprotected sides or edges of the hole;

- q. violated Section 1926.502(b)(12) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees by installing guardrail systems around holes when used for the passage of materials, the hole shall have not more than two sides provided with removable guardrail sections to allow the passage of materials. When the hole is not in use, it shall be closed over with a cover, or a guardrail system shall be provided along all unprotected sides or edges;
- r. violated Section 1926.502 (c)(1) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with safety nets which shall be installed as close as practicable under the walking/working surface on which employees are working, but in no case more than 30 feet (9.1 m) below such level;
- s. violated Section 1926.502(c)(3) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with safety nets which shall be installed with sufficient clearance under them to prevent contact with the surface or structures below when subjected to an impact force equal to the drop test specified in paragraph (c)(4) of this section;
- t. violated Section 1926.502(c)(4) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with safety nets and their installations

capable of absorbing an impact force equal to that produced by the drop test specified in paragraph (c)(4)(i) of this section;

- u. violated Section 1926.502(d) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with proper "Personal fall arrest systems".

Personal fall arrest systems and their use shall comply with the provisions set forth below in paragraphs v through x;

- v. violated Section 1926.502(d)(15) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with anchorages used for attachment of personal fall arrest equipment which shall be independent of any anchorage being used to support or suspend platforms and capable of supporting at least 5,000 pounds (22.2 KN) per employee attached, or shall be designed, installed, and used as set forth in paragraphs w through x below;

- w. violated Section 1926.502(d)(15)(i) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees as part of a complete personal fall arrest system which maintains a safety factor of at least two; and

- x. violated Section 1926.502(d)(15)(ii) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees under the supervision of a qualified person;

- y. violated Section 1926.502(i) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with "Covers". Covers for holes in floors,

roofs, and other walking/working surfaces shall meet the requirements set forth in paragraphs z through aa below;

- z. violated Section 1926.502(i)(3) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees by having all covers secured when installed so as to prevent accidental displacement by the wind, equipment, or employees;
- aa. violated Section 1926.502(i)(4) of the OSHA Regulations (Standards, 29 CFR) by failing to protect employees by having all covers color coded or they shall be marked with the word "HOLE" or "COVER" to provide warning of the hazard;
- bb. violated Section 1926.503(a) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees by providing a "Training Program" to train Olvin Pineda with the requirements set forth in paragraphs cc through pp below;
- cc. violated Section 1926.503(a)(1) of the OSHA Regulations (Standards - 29 CFR) by failing to provide a training program for each employee who might be exposed to fall hazards. The program shall enable each employee to recognize the hazards of falling and shall train each employee in the procedures to be followed in order to minimize these hazards;

- dd. violated Section 1926.503(a)(2) of the OSHA Regulations Standards - 29 CFR) by failing to assure that each employee has been trained, as necessary, by a competent person qualified in the areas set forth in paragraphs ee through hh below;
- ee. violated Section 1926.503(a)(2)(i) a the OSHA Regulations (Standards - 29 CFR) by failing to provide a competent person to train employees regarding the nature of fall hazards in the work area;
- ff. violated Section 1926.503(a)(2)(ii) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with training regarding the correct procedures for erecting, maintaining, disassembling, and inspecting the fall protection systems to be used;
- gg. violated Section 1926.503(a)(2)(iii) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with training regarding the use and operation of guardrail systems, personal fall arrest systems, safety net systems, warning line systems, safety monitoring systems, controlled access zones, and other protection to be used;  
  
And the correct procedures for the handling and storage of equipment and materials and the erection of overhead protection; and

- hh. violated Section 1926.503(a)(2)(vii) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with training regarding the role of employees in fall protection plans;
- ii. violated Section 1926.503(a)(2)(viii) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with training regarding the standards contained in this subpart;  
violated Section 1926.503(b) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees by providing a "Certification of training" with the requirements set forth in paragraphs Ide through pp below;
- kk. violated Section 1926.503(b)(I) of the OSHA Regulations (Standards - 29 CFR) by failing to prepare a written certification record. The written certification record shall contain the name or other identity of the employee trained, the date(s) of the training, and the signature of the person who conducted the training or the signature of the employer. If he employer relies on training conducted by another employer or completed prior to the effective date of this section, the certification record shall indicate the date the employer determined the prior training was adequate rather than the date of actual training;

- ll. violated Section 1926.503(b)(2) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees by failing to maintain the latest training certification;
- mm. violated Section 1926.503(c) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees with "Retraining". When the employer has reason to believe that any affected employee who has already been trained does not have the understanding and skill required by paragraph (a) of this section, the employer shall retrain each such employee. Circumstances where retraining is required include, but are not limited to, situations set forth in paragraphs nn through pp below;
- nn. violated Section 1926.503(c)(1) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees by not retraining Brian Millett when changes in the workplace render previous training obsolete; or
- oo. violated Section 1926.503(c)(2) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees by not retraining Brian Millett when changes in the types of fall protection systems or equipment to be used render previous training obsolete; or
- pp. violated Section 1926.503(c)(3) of the OSHA Regulations (Standards - 29 CFR) by failing to protect employees when inadequacies in an affected employee's knowledge or use of fall protection systems or equipment indicate

that the employee has not retained the requisite understanding or skill. (See 1926.20, 1926.21 and 1926.32);

- qq. failed to provide a safe means of egress off the platform;
- rr. failed to provide a means of egress free of hazards and in good working order;
- ss. failed to adequately inspect said work site to ascertain and remedy the dangerous conditions therein;
- tt. failed to take reasonable and proper precautions to avoid the probability of harm to employees using the work site, including the Plaintiffs decedent;
- uu. failed to properly cordon off said platform;
- vv. failed to maintain said premises in a safe condition;
- ww. failed to provide a safe job site;
- xx. failed to train and/or supervise its employees and agents so as to properly train or retrain Olvin Pineda.

WHEREFORE, the plaintiff claims:

- a. money damages;
- b. costs of this action;
- c. Pain and suffering; and
- d. such other relief as the court deems just and proper.

PLAINTIFF,  
OLVIN PINEDA

By \_\_\_\_\_ /s/ 407831  
James F. Sullivan, Esq.  
Howard, Kohn, Sprague & Fitzgerald  
237 Buckingham Street  
Hartford, CT 06106  
Juris No. 028160  
Telephone: 860-525-3101  
Fax: 860-247-4201  
jfs@hksflaw.com

**DOCKET NO: LLI-CV-15-6012742-S** : **SUPERIOR COURT**  
**OLVIN PINEDA** : **J.D. LITCHFIELD**  
**VS.** : **AT LITCHFIELD**

**FORTUNATO CONSTRUCTION,  
GROUP, INC.**

**: APRIL 26, 2015**

**STATEMENT OF AMOUNT IN DEMAND**

The amount in demand is in excess of FIFTEEN THOUSAND and NO/100  
(\$15,000.00) DOLLARS, exclusive of costs and interest.

PLAINTIFF,  
OLVIN PINEDA

By \_\_\_\_\_ /s/ 407831

James F. Sullivan, Esq.  
Howard, Kohn, Sprague & Fitzgerald  
237 Buckingham Street  
Hartford, CT 06106  
Juris No. 028160  
Telephone: 860-525-3101  
Fax: 860-247-4201  
jfs@hksflaw.com

**CERTIFICATION**

I hereby certify that this pleading complies with the requirements of Practice Book § 4-7 and a copy of the foregoing was mailed, U.S. Mail - postage prepaid, on this the 19<sup>th</sup> day of November, 2015, to:

William Rivera  
The Rivera Law Group, LLC  
17 Walnut Street  
New Britain, CT 06051

Keith E. Marquis  
The Law Offices of Keith E. Marquis  
236 Boston Post Road, 2<sup>nd</sup> floor  
Orange, CT 06477

Mark A. Milano  
Milano & Wanat  
471 East Main Street  
Branford, CT 06405

Jeffrey Paul Apuzzo  
Law Office of Jeffrey Paul Apuzzo  
10 Waterside Drive, Suite 102  
Farmington, CT 06032

BY           /s/          407831            
                          James F. Sullivan