

Tharpe & Howell, LLP

ATTORNEYS AT LAW

LOS ANGELES REGIONAL OFFICE

15250 VENTURA BOULEVARD, 9TH FLOOR, SHERMAN OAKS, CA 91403

PHONE: (818) 205-9955 FAX: (818) 205-9944

WWW.THARPE-HOWELL.COM

sender's e-mail:
rmfreedman@tharpe-howell.com

December 9, 2016

Our File No.: 26414

To: The Editor of the News Press

Re: *Stephanie Grace, et al v. Wolfe & Associates*

To Whom It May Concern:

I represent Ronald L. Wolfe and Associates, Inc. in the litigation involving the Deltopia deck failure. It has come to my attention that your newspaper published an article that contains inaccurate and incomplete information obtained from a press release that was not verified. The press release was issued by attorney John Taylor, a contingency-fee plaintiff's lawyer from Los Angeles that represented the plaintiffs in that case. He sent out the press release to gain free advertising for his firm. This letter is intended to provide you information so you have an accurate record of what happened.

The deck failed during Deltopia 2013 while 20 to 25 college students were drinking and dancing on a small apartment deck in Isla Vista. While there were a number of injured students, fortunately there were no serious injuries as the deck was only about 9' off the ground, and it was a slow failure - not a collapse. The deck failure revealed the presence of previously concealed termites and dry rot.

Mr. Taylor's office was immediately hired by one of the plaintiffs. Mr. Taylor hired an engineer from San Diego with no expertise in pest control matters to walk around the property. With no testing or consideration of any other factors such as activities on the deck, he quickly concluded termites and dry rot was the cause. It appears that Mr. Taylor arranged for a TV interview to exploit the alleged injured student and the condition of the property in order to troll for more clients to sue Wolfe and the out of state property owner.

Once the lawsuits started, both the property owner and Wolfe conducted a very thorough investigation of the failure and injuries. Under California law the property owner has a non-delegable duty to keep the property safe. The property manager had a contractual limitation that required the property manager to tell the property owner only of dangers or unsafe condition that the property manager had knowledge of. *In the over three years the case was litigated, there was no evidence discovered that showed Wolfe and Associates was ever informed that the deck was unsafe or dangerous.*

Celebrating Over 40 Years of Distinguished Service

ORANGE COUNTY • SAN FRANCISCO • SACRAMENTO • SANTA BARBARA • SAN DIEGO

Wolfe hired Gary Hart, one of the most respected structural engineering experts in the world, who performed a complete investigation along with an expert in pest control. He investigated the matter for over a year, went to the property on multiple occasions, and actually performed a complete re-construction of the failed deck. Mr. Hart and other engineers concluded that the deck failed due to overloading by students during the Deltopia party, combined with defects in the way the deck was connected to the building when it was built. *Mr. Hart concluded that termite and dry rot was not a substantial factor in causing the deck to fail.*

None of the termite inspection reports before the failure indicated the presence of termites or dry rot damage in the part of the deck that failed. Every expert and every witness in the case testified that the termite and dry rot was previously concealed between the ledger boards. *The termite and dry rot in the ledger board was a hidden condition that could not have been observed by anyone before the accident.*

It was also determined that the dry rot and termite damage that was observed after the accident, was caused by another previously hidden condition. The original builder failed to seal a construction joint where the deck connected with the building, which allowed twenty years of moisture to permeate. *All of the experts agreed that even if the building had been fully tented for termites, the accident would not have been avoided.*

The real story here is the plaintiffs' and their counsel exploiting this unfortunate accident for obvious reasons. The attorneys used the media to sign up additional plaintiffs and grossly exaggerated the plaintiffs' injuries demanding eleven million dollars. They made these outrageous demands for years despite the fact that the plaintiffs' own social media postings showed that their injuries quickly resolved and they had successfully gone on with their lives.

The insurers for the property owner and for Wolfe made numerous attempts to settle for reasonable amounts as this was expensive litigation and to put the matter behind them, all of which were effectively rejected by the plaintiffs who hoped they would hit the lottery at trial. Finally, after two court orders brought by Wolfe forcing the plaintiffs to produce their otherwise hidden social media usage, and after three days of selecting a Santa Barbara jury, they agreed to accept the settlement offers previously made by the insurers, folded up their tent and went home.

Very truly yours,

Robert M. Freedman

ROBERT M. FREEDMAN, Esq.
THARPE AND HOWELL, LLP.