

CONFIDENTIAL ATTORNEY WORK PRODUCT

Deposition Summary
of
John E. Smith, P.E.
Taken June 6th, 2003
Hawkins v. River View Subdivision et al.
Case No.: CB1234567

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Summary

EXAMINATION BY MR. KENNEDY

Previous depositions

11:14 12:2 John Edward Smith estimates he has had his deposition taken twenty times over an 8-10 year period. All were related to soil engineering. On two of those twenty occasions Smith had been a party in the case. The name of his firm is Haskins, Smith & Associates, hereinafter referred to as HSA.

HSA as defendant

12:4 12:18 Smith was a party in Rollins v. HSA and Clapp v. HSA. The Rollins deposition had been taken six months previously and the Clapp deposition two years ago. Both were Alameda County cases.

Expert witness experience

12:20 12:25 The other 18 times Smith had deposed as an expert witness. The transcripts for all those depositions are available but Smith does not know where.

Preparation for deposition

13:3 13:9 Smith had reviewed a chronology of activities he had prepared during a meeting with Ron Small. Smith had not reviewed any files.

Exhibit 11: Letter dated April 12, 1999

13:22 15:3 Smith had prepared this letter from HSA to Barry Engineering. The letter referred to the River View project. Smith believed that his first contact with Barry Engineering was on or about April 12th, 1999, the date of the letter. Dave Barry had called Smith on that first occasion but he could not recall the details of the conversation.

Joint projects between Smith, Chris George & Dave Barry

16:3 17:6 Smith estimated that he worked on ten projects with Dave Barry. Chris George had probably helped Smith on some of those ten projects. Five of those projects would have been in River City. The River City projects included single family residences; grading for access roads; an apartment complex; and a small bridge.

Chris George's engineering credentials

17:20 18:25 Mr. George began working for Smith in late 1995. He did not hold any engineering licenses at the relevant times in 1998. Prior to 1998 George had gone back to school at San Jose State and during his studies had worked as a technician at HSA. George achieved a degree in civil engineering and was eventually registered with the State of California as a civil engineer, but that was after 1999. Smith admitted that George did geotechnical engineering for HSA, although Smith had no knowledge of George ever taking an examination and receiving a specialty designation as a geotechnical engineer.

Soil engineering at River Valley Church

19:4 21:17 Prior to October 1998, Smith had done some soil engineering work on River Valley Church. The project entailed a fill wedge that was creeping down the slope. You could see with the naked eye that the slab floor of the gymnasium had moved. Exploratory borings had been made at the rear of the building. Smith was the soil engineer of record on that project – he compiled a file on that project, which he still has.

Soil Engineering on parcels adjoining River View Road

21:19 23:24 Smith had done soil engineering on other parcels adjoining the River View project, including a subdivision across from Pennsylvania Avenue. He also worked in some capacity for River City when the River View Road embankment was having problems during the 1992-1996 period.

Exhibit 14: List of concerns

24:8 27:21 This exhibit is a handwritten note dated September 13, 1998. Smith confirms that the handwriting is not his own. It might be Joe Haskins', but Smith is not sure. Haskins had interaction with the River View project after January 1, 1998. The note was placed in Smith's file because "this is a set of concerns we are going to evaluate in our geotechnical evaluation." Smith confirmed that the concerns were evaluated. He does not know whether the list of concerns set out in the note was given to anyone outside the firm.

The main concerns

28:8 32:4 The first item on the list read "slope stability". Underneath that it read: "existing grades and subsurface water." Smith thought that these concerns probably occurred when the firm was writing a proposal in April 1998. HSA were concerned as geotechnical engineers because of stability issues; slides could occur. They were also concerned because this was a fill slope and Smith was concerned about the characteristics of this man-made product.

Communication about the project

32:6 34:13 Smith would talk to the civil engineer who was proposing the project if he wanted to find out if there were going to be grade cuts and fill slopes. Another way to find out such information would be to look at any document that was already prepared that showed the grades. In this particular case Smith does not think such a document had been prepared.

34:15 Q. Then the next concern is listed, number two, “Why V-ditch in good condition?” Why did HSA list that as a concern on September 13, 1998?

34:18 A. Again “concern” might have been the wrong heading in my mind. A V-ditch is concrete; I know that. And most of the soils in this area are highly expansive. So it is interesting to us why a concrete slab that had sat there for x number of years un-maintained was in good condition, meaning are the clays as expansive as we think they could be?

Project records

35:4 36:23 Smith has detailed records showing the time that Chris George spent on the River View project, even back to 1998.
[Mr. Kennedy made a request for those records.]

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