

# Expert Witness Testimony Required to Establish Negligent Design

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*Sticks & Bricks*

The Michigan Court of Appeals recently affirmed its prior holding in *Lawrenchuk v Riverside Arena, Inc.*, 214 Mich App 431 (1995), that expert witness testimony is required to establish liability on a claim of negligent building design and that summary disposition is appropriate where the plaintiff has failed to present any expert testimony in support of his claim of negligent design.

In *Tappen v Carlton 54th, LLC*, (Mich. Ct. App. July 30, 2010), the plaintiff sought to recover damages for personal injuries he sustained after falling at a hotel designed by the defendant. The plaintiff filed suit, alleging that the hotel was negligently designed and that the resulting defects caused his injuries.

The defendant filed a motion for summary disposition of the plaintiff's claims, arguing, in part, that the plaintiff failed to present expert testimony establishing that the hotel was negligently designed. The trial court denied the defendant's motion and the defendant appealed.

The appellate court reversed the trial court's ruling and remanded the case for entry of judgment in favor of the defendant. In so doing, the court stated as follows:

"It is well settled that a jury must not be permitted to speculate or guess whether a defendant has been negligent; nor may a jury be permitted to speculate concerning the causation of a plaintiff's injuries. (citations omitted) Because the plaintiff failed to present expert testimony to support his claim that the defendant's hotel was negligently designed, the circuit court erred by declining to grant summary disposition in favor of the defendant with respect to this claim."

Therefore, in the absence of expert testimony providing standards for evaluating the relevant risks and advantages of a particular design, a plaintiff's action won't have "a leg to stand on."

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