

Georgia Court of Appeals Holds Lay Witness Can Provide Opinion Testimony on the Value of a Property If the Witness Had an Opportunity to Form a Reasoned Opinion

Gus Sara

The Subrogation Strategist

9.4.18

In *Woodrum v. Ga. Farm Bureau Mut. Ins. Co.*, 815 S.E.2d 650 (Ga. Ct. App. 2018), the Court of Appeals of Georgia considered whether the lower court properly disqualified a contractor as an expert witness and excluded the contractor from offering lay opinion testimony regarding the value of a property. The Court of Appeals held that, while the lower court properly disqualified the contractor as an *expert* witness, it improperly excluded the general contractor's lay opinion testimony regarding the value of the property. This case establishes that, in Georgia, a lay witness can provide opinion testimony on the value of a property if the proponent of the testimony demonstrates that the witness had an opportunity to form a reasoned opinion.

In *Woodrum*, the plaintiffs sued their property casualty insurance carrier, Farm Bureau Mutual Insurance Company (Farm Bureau Mutual), because of a dispute over the appropriate value of their insurance claim after a tree fell on their home. The plaintiffs argued that the tree fall caused cracks in the foundation, which diminished the value of the property. Farm Bureau Mutual disagreed with the plaintiffs' contentions and only paid for repairing the damage. In support of their argument, the plaintiffs introduced an affidavit from the general contractor who made the repairs to their home. The contractor opined, based on his experience and visual inspection of the home, that the cracks in the foundation diminished the value of the property. Farm Bureau Mutual filed a motion to exclude the contractor as an expert witness. The lower court granted the motion and, in addition, excluded the contractor's lay opinion testimony as to the value of the property. The court then granted Farm Bureau's motion for summary judgment, which the plaintiffs appealed.

The Court of Appeals agreed with Farm Bureau Mutual that the contractor did not sufficiently describe the methodology by which he formed his opinion, and thus could not offer expert opinion testimony. However, the Court of Appeals held that the lower court erred in excluding the contractor's lay opinion testimony. The appeals court's decision was based primarily on Georgia statute OCGA 24-7-701 (b), which states that a witness need not be an expert to testify as to a property's value if he or she has had an opportunity to form a reasoned opinion. In determining whether the contractor had an opportunity to form a reasoned opinion, the appeals court considered whether the contractor had sufficient knowledge, experience and familiarity with the property. The court found that the contractor's affidavit and deposition testimony established that he had sufficient knowledge and experience in building homes, as well as familiarity with the home and, thus, he could offer a lay opinion as to the diminished value of the home. As such, the Court of Appeals reversed the lower court's ruling that the contractor could not offer lay opinion testimony on the property's value and, in addition, reversed the lower court's decision granting summary judgment in Farm Bureau Mutual's favor.

The *Woodrum* decision reminds us that, in Georgia, a witness does not need to qualify as an expert to testify about the diminished value of a property if the witness has had an opportunity to form a reasoned opinion. The Court of Appeals' holding is helpful to subrogation plaintiffs because the admissibility standard for lay opinion testimony is far less burdensome than the admissibility standards for expert witnesses.

This correspondence should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only and you are urged to consult a lawyer concerning your own situation and legal questions.