

Florida



LUKS, SANTANIELLO
— **PETRILLO & COHEN** —
OUR VERDICTS TELL THE STORY



David Rosinsky

Dismissal with Prejudice

Construction Partner David Rosinsky, Esq., obtained a good result in the matter styled BZB Barn, LLC. vs. Guerrero D. Construction, Inc. Buck Steel, Inc., Hornet Steel Buildings, Inc. when Plaintiff agreed to drop all claims against our client. Plaintiff is the owner of an equestrian facility in Loxahatchee Grove. It purchased a pre-engineered steel building to cover an equestrian ring on its farm from a local distributor. The distributor purchased the materials and plans for the structure from our client. Due to agricultural exemptions, Plaintiff was not required to obtain a building permit and, as such, was not required to have the erection of the building performed by a licensed general contractor. Plaintiff chose to hire day laborers with no experience in the erection of the steel building. The day laborers did not follow the plans for the erection of the building and did not use the necessary temporary and permanent bracing to support it during the erection. Before the erection was completed, the partially erected building collapsed. Plaintiff sued our client and the distributor for strict liability – manufacturing defect, strict liability – design defect as to the design of the steel building and as to the design of the steel building's foundation, and for negligence. In addition, Plaintiff also sued one of the day laborers and his unrelated paving company. Despite numerous discussions with Plaintiff's counsel concerning the overwhelming evidence that our client was not responsible for the collapse of the steel building and being served with a Proposal for Settlement, Plaintiff refused to dismiss its claims against our client.

Shortly after completing the depositions of Plaintiff's two corporate representatives and establishing that the collapse of the steel building was due to Plaintiff's own failure to hire experienced erectors and the failure of the day laborers to erect the building in compliance with the building's plans and specifications and the Metal Building Systems Manual standards for the erection of a steel building, Plaintiff terminated its relationship with its counsel. Plaintiff subsequently hired new counsel who after review of the case agreed to drop all claims against our client.