

North Carolina Contractors Beware: Your Corporate Shield is Cracked

by Richard A. Prosser

In [White v. Collins Building, Inc.](#), issued January 4, 2011, the Court of Appeals extended individual liability to the president of a corporate general contractor for his role in defective construction. The court's decision, based on the principle that a corporate officer is personally liable for his or her own torts, is the first to extend individual tort liability to a corporate officer in the construction context.

At issue was the construction of a personal residence in Wrightsville Beach, North Carolina. Collins Building, Inc. ("Collins Building") contracted with a developer to build the home, and Edwin E. Collins, Jr. ("Collins"), president and licensing qualifier for Collins Building, oversaw and supervised construction.

After the home was purchased from the developer, the homeowners began experiencing problems with the windows and doors, and, consequently, water intrusion. The homeowners' efforts to remedy the problems brought to light additional issues. Ultimately, a lawsuit was filed against the developer, Collins Building and Collins, individually, for negligent supervision of construction.

On appeal, the issue before the court was whether Collins could be held personally liable for negligence committed in his capacity as a representative of Collins Building. The court, relying on the principle that a corporate officer is individually liable for his own torts, sided with the homeowners, holding that the allegations of the homeowners' complaint adequately stated a claim against Collins.

Although the court has previously addressed the imposition of tort liability on corporate officers, this decision is the first to address the issue in the construction context. Whether the holding is perceived as an expansion of law or the clarification of an existing point, it undoubtedly casts a spotlight on a crack in the contractor's corporate shield.