

Recounting the 2013 Salvation Army thrift store collapse and its legal aftermath

By Joseph A. Slobodzian

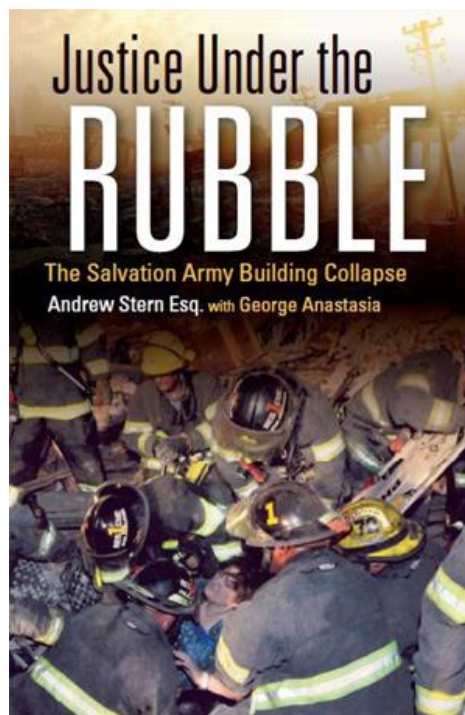
“Justice Under the Rubble” By Andrew Stern and George Anastasia Camino Books, 159 pp. \$19.95

Every day, our lives depend on people doing what they’re supposed to. We don’t think about how or whether the other driver will stop at an intersection when the light turns red, or whether restaurants will serve us properly cooked food, or whether construction workers will look out for the safety of pedestrians below. When things don’t happen as they’re supposed to, the consequences can be catastrophic, leading to lawsuits by injured survivors and the families of those killed.

This is the subject of *Justice Under the Rubble* by Philadelphia lawyer Andrew J. Stern and author and former Inquirer reporter George Anastasia. The book examines the hard-fought civil litigation involving the June 5, 2013, demolition collapse that crushed the popular Salvation Army thrift store at 22nd and Market Streets in Center City. For those new to the story, *Justice Under the Rubble* is a useful guide. It’s also a sobering warning to us all.

Seven people died and 12 were injured, including Stern’s client Mariya Plekan, 54, a Ukrainian immigrant

who survived 13 hours buried under the rubble. Dubbed the “Miracle of Market Street” by media, Plekan survived to live an ongoing nightmare: Her legs had to be amputated at the hips, and she was plagued by kidney and breathing problems, destining her for a life of round-the-clock medical care.



As a reporter for *The Inquirer* and *Philadelphia Daily News*, I covered the criminal trial of the demolition contractor and excavator operator charged in the collapse, and then the civil trial. (In full disclosure, Stern refers to my reporting, positively, several times in this book.) The con-

solidated civil trial of collapse lawsuits began in fall 2016 in a City Hall courtroom and lasted 17 weeks, until Jan. 31, 2017, when a Common Pleas Court jury found all five individual and corporate defendants liable for the deaths and injuries. The second-longest civil trial in Pennsylvania history, it resulted in a \$227 million settlement for the victims, the largest personal injury settlement in state history. In May 2017, an arbitrator who was appointed to divide the settlement awarded \$95.6 million to Plekan.

As Stern’s book makes clear, the outcome was far from certain, as was whether any verdict or settlement would be enough to pay for Plekan’s lifetime medical care. For any student of the law, Stern’s book provides an inside view of a major trial and how hard-driving personalities and legal rulings shape the outcome. Robert J. Mongeluzzi, considered among the top construction accident lawyers in the country, filed suit first, against New York real estate speculator Richard Basciano, who owned the building being demolished next to the thrift store. Mongeluzzi contended that Basciano, who made millions in New York’s onetime Times Square pornography market, saved money on demolition by hiring an architect, demolition contractor, and excavator operator who were unli-

censed and unqualified to handle a job that big. The devastating result should have been expected, contended Mongeluzzi, whose clients included former City Treasurer Nancy Winkler and her husband, Jay Bryan, whose daughter Anne, 24, died in the collapse.

Stern sued the Salvation Army on a theory of safe access: Regardless of its charitable work, when the store was opened, the Salvation Army had the same obligation as Macy's would to safeguard employees and the public.

The plaintiffs also had strategic reasons for their suits.

Mongeluzzi, according to Stern, believed that attacking the venerable Salvation Army was too risky. A jury, Mongeluzzi reasoned, was much more likely to blame Basciano — a former porn mogul who hired incompetent people to raze a dilapidated building — than a religious charity whose donation kettles and bell-ringing solicitors were omnipresent every Christmas season.

Stern believed the jury would find the Salvation Army liable if he could show that it was also a big business: \$14.8 billion in assets in 2015, including \$2.7 billion in revenue, of which 20 percent was from thrift stores. Moreover, Stern believed only the Salvation Army could afford to pay damages sufficient for Plekan and the other plaintiffs.

Stern focused on email exchanges between Salvation Army officials and Basciano's chief lieutenant that showed the two sides playing a game of chicken. Basciano was negotiating with the Salvation Army for access to the building next door so he could have it demolished. Eager to get on with demolition, he offered to swap

another property for the present store; he felt the Salvation Army should accept that offer, or at least let his demolition crew on the thrift store roof to take down the remains of his building. Stern argues that the charity viewed Basciano with distaste because of how he earned his fortune: pornography. Salvation Army officials delayed resolving the dispute, and Basciano's crew continued demolishing the building next door. Officials of the charity also failed to warn workers in the store — and shoppers like Plekan — about the imminent danger. Following tenets one might expect of a nominally paramilitary organization, Salvation Army officials testified that employees did not have "a need to know."

Stern's position won the day but, as the book demonstrates, only after a lot of behind-the-scenes battles.

On Jan. 8, 2016, Common Pleas Court Judge Glenn B. Bronson sentenced demolition contractor Griffin Campbell and excavator operator Sean Benschop — the only two criminally charged in the collapse — to long prison terms.

"This tragedy shocked this city to its core," Bronson told courtroom spectators. "We may never feel quite the same walking down the streets of Center City Philadelphia."