

# Deconstruction

## The last day of Menes Daniel's life ...

By Rob Jordan

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One Bal Harbour, a 26-story luxury condominium and hotel complex at the mouth of Haulover Inlet, became a temporary tomb for three workers. The sold-out building's 85 condominium apartments went for \$1 million to \$12 million each



Thirty-four-year-old Edny Guirand,

Creeping silently through the bedroom window, dawn shatters with a mechanical bleating. The alarm clock will not be ignored. It is Saturday, May 6, just another morning in Menes Daniel's ten-hour-a-day, six-day work week, or so Daniel thinks.

He can look forward to the rest Sunday will bring. His niece will have her Communion at Holy Family Catholic Church. Daniel might go fishing. He might cook something special — maybe fried chicken — for dinner. It's one shift away. For now, though, it's another wake-up-in-the-dark, put-on-black-jeans, and go-to-work day. Daniel, a little over five feet tall and not quite 145 pounds, with soft eyes and a round face, is used to heavy work. He has been doing concrete forming for about a year, just long enough to feel comfortable with the work. It isn't always easy to feel comfortable, though, ten, twenty, twenty-five stories up, the wind whipping around.

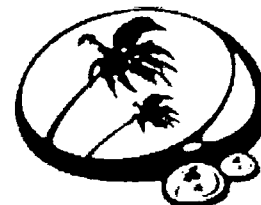
After breakfast, Daniel packs lunch in his plastic cooler. Outside the North Miami ranch house he shares with his 54-year-old sister Solange and five of her ten children, the rising sun is already vaporizing the last drops of dew on the lawn. Daniel and his sister, a powerfully built woman with a gentle, deep voice, have been inseparable best friends since childhood. He leaves her \$150 for bills they had discussed the night before, and says goodbye. In his wallet he carries a couple of dollars, a Haitian 50-gourde bill, a few family photos, his driver's license, and an alien resident card.

7:00 a.m.

Daniel's brown Buick Century is still cool inside. He cranks up the engine and lets it idle for a moment before shifting into drive. The weatherman puts the temperature in the low seventies, says it will flirt with ninety by the afternoon. A handful of clouds litter the sky. Daniel has the radio set to 101.5 Lite FM — "Have a Lite day" — and lets the music fill the blank drive. The first song might have been "Fields of Gold" by Sting or "Silly Love Songs" by Paul McCartney or maybe "Broken Wings" by Mr. Mister.

About twenty minutes later, he pulls into the lot at Haulover Park. From here it is a short ride, an old yellow school bus ride, to the work site across the inlet. Some of

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a practical joker who worked with Daniel, had been in the U.S. only two years



Torbio Acevedo, age 36, planned to return to Mexico and build a house for his girlfriend and the 9-month-old daughter he had seen only in photos

the men doze, their white, green, yellow, and reddish brown hardhats clanging against the windows as the driver maneuvers into traffic. Over the bridge, One Bal Harbour Tower Estates, the 26-story condominium high-rise Daniel has been working on for the past year, casts a shadow across the bus as it pulls up to the sidewalk. The drone of water pumps and idling supply trucks is already constant around the site.

Weeks earlier, WCI Communities, the Bonita Springs-based developer behind One Bal Harbour, part of a complex that will include a luxury hotel, had thrown a Polynesian-theme topping-off party with an "island chic" dress code. Dozens of guests sipped cocktails and smoked hand-rolled cigars in the building's shadow. The highrise's 85 apartments and penthouses, ranging from 1900 to 8500 square feet and \$1 million to \$12 million, would be ready by December, invitees were told. There would be two ocean-front pools, a spa, a restaurant, 24-hour valet service. As a band played, hired dancers gyrated. Bal Harbour's mayor, city manager, and two of the village's four councilmen made the scene. The evening ended with a champagne toast and a shirtless fire juggler.

The music at Miami's real-estate party may not be playing with the same brio as it once did, but the dance floor is still crowded. Within the city limits alone (i.e., excluding Bal Harbour, Miami Beach, and other development-intensive areas) are 400 "large-scale" projects, mostly residential high-rises, underway or awaiting groundbreaking, according to the city's building department. In 2005 Miami's planning department reviewed 205 major development projects in various stages of planning or construction. Those projects — 53 of which were approved last year — are slated to create 62,828 new residential units, 2634 hotel rooms, 5.21 million square feet of office space, 4.79 million square feet of retail, and 115,971 parking spaces.

Feeding the frenzy is an army of construction workers, many of them undocumented immigrants. As of this past April, the construction industry in Miami-Dade employed 46,600 workers, or about one-tenth of the industry's state total, according to the federal Bureau of Labor Statistics. The average worker could expect to make about \$15 an hour, while supervisors would bring home about \$25 and helpers about \$9.

Though Occupational Safety and Health Administration (OSHA) officials parachute in after a serious injury or death, there's little safety oversight otherwise. In 2002 the state legislature eliminated the Department of Labor and Employment Security, along with its compliance arm, to the cheers of industry lobbyists. Employees of that division were transferred to agencies such as the state's financial services department, where they spend their days collecting data. "There's no regulatory agency operating here other than OSHA," says Marsha Nims, manager of the department's occupational health and safety statistical program.

Daniel's employer, West Palm Beach-based Southland Forming, has been cited for six safety violations — including one death — in the past ten years by OSHA. A Southland representative who declined to give her name said she was barred from commenting. Phone calls to Boran Craig Barber Engel Construction (BCBE) of Naples — the primary contractor at One Bal Harbour — and to WCI Communities were not returned.

On a recent weekday at the One Bal Harbour site, an electrician's radio crackled with warnings about feds

onsite. Inspectors had cited contractors for a large hole left exposed in a concrete floor deck and unsafe wiring, the electrician said. He complained the mistakes would cost him a bonus for the day. A BCBE foreman told day laborers to stop sweeping balconies enclosed with nailed-together wooden barriers. "Come inside for now," he said. "OSHA's down there."

In Florida a construction worker dies almost every other day of the work week on average, according to federal statistics from 2004, the most recent year for which they are available. That year the state's 115 on-the-job deaths accounted for nine percent of all construction fatalities nationwide. Though Florida's injury and illness rate among construction workers was about six percent lower than the national average in 2004, it had increased by six percent over the previous year, while the national rate had decreased by the same percentage.

Minimizing danger is a relatively simple proposition: training, says Scott Schneider of the Laborers' Health and Safety Fund of North America, a branch of the Laborers' International Union of North America. Schneider's group has petitioned states nationwide, so far with little success, to mandate a ten-hour federal safety training course for all construction workers.

### **7:30 a.m.**

As he waits for the gates to open, Daniel looks around at the dreadlocked Jamaican ironworkers, mustached good-old-boy electricians, and brown-skinned masons slumped against the promotional posters that cover the site's chainlink fence. Behind day laborers in red hardhats, a white-gloved hand serves up a silver platter of sushi and caviar. On one poster, a white couple almost as tall as the men who stand nearby stroll hand-in-hand on the beach. In another, a champagne bottle stands ready at the foot of a turned-down bed, the ocean visible beyond a wide window.

Soon the school buses have disgorged the last load of men. Some of them smoke cigarettes in silence while others drink coffee from lunch trucks and make small talk in the bridge's shade. There are the Hondurans who always sit on the rocks by the bend in the access road, and the Haitians who dangle their feet over the water, tossing bread to the sergeant major fish that attack in a blur of black and yellow. Painters from the Mexican desert, plumbers from Overtown, and others gather in their ethnic pods.

The food trucks begin closing up, and it's time to go to work. Daniel joins the stream of men through the gate and past the small mountains of fill dirt, towering stacks of cinder blocks, and bundles of steel I-beams and PVC pipes that clutter the site. He makes his way under the reinforcement rods that splay out from lower floors like stalactites gone haywire and toward one of the temporary work elevators, or buck hoists as they're called.

He's headed for the 25th floor, high above the swirling dust. There's some patch work that needs Daniel's attention, a matter of smoothing some imperfections, his foreman tells him. As he rides up, the buck hoist lurching occasionally, Daniel can make out multicolor beach umbrellas on the coastline far below. The Atlantic's turquoise waters are tantalizingly out of reach.

Inside the building, the air is still and the light is a murky blue-gray on the levels where newly installed windows remain covered in protective plastic. Hallways vibrate with power saws and drills. Specifications sketched on sheetrock walls share space with pencil doodlings. Across the wooden door leading from one floor to the buck hoist opening, someone has scrawled, "What floor are you really on?"

The morning is young when Daniel, usually agreeable and easygoing on the job, gets into a spat with his foreman.

Born in Port-de-Paix, Haiti, Daniel grew up by the water in Port-au-Prince, dreaming of life as a fisherman. In 1981, with daily existence in Haiti as brutal as ever under Jean-Claude "Baby Doc" Duvalier, Daniel, then 23, decided to make a break. In the years that followed, he would return home occasionally, fathering a daughter, Bedline, now 24; and a son, Bedlin, now 17, with his common-law wife St. Rose Guerrier. With various restaurant, sales, and construction jobs in Miami, Daniel supported his family as well his sister Solange's children. He also held onto his childhood dream. For years he kept a worn-out old boat in the yard at Solange's house, working on it occasionally and fantasizing about becoming a deep-sea fisherman. Before Daniel gave up the dream and sold the unseaworthy craft, Solange's children would take cover in it during their games of hide and seek.

Daniel took occasional charter fishing trips to Bimini. He loved Key West and planned to trade his car in for a van better suited for carrying his fishing gear. Stoic and calm, he hated having his photograph taken and generally made an art of blending into the background, says niece Fafane Nestan. "He's like a cat. You won't know he's there."

Over the years, when time allowed, Daniel would show his nephews and nieces how to climb tall trees and how to plant yams, avocados, and mangoes in the back yard. Ton Ton — "uncle" in Kreyol — as they called him, played peacemaker between the kids and Solange, whose husband had died in a car accident. "He's like a second father for us," says niece Wilnite Daniel-Delince, who remembers Daniel mowing the lawn, painting the house, smiling as he went.

Daniel would go to church with almost anyone who invited him, and collected Bibles, Solange recalls. He also kept girlfriends, Nestan says. "I used to call them Auntie so they'd give me berets," the 24-year-old remembers.

**8:15 a.m.**

Daniel's foreman wants him to stop his concrete patchwork on the 25th floor, walk down to the 21st floor, and then take the buck hoist to the ground. Get some water for the crew, the foreman says. Daniel refuses, so the foreman tells him to take the trip without coming back. Go home, he says.

As Daniel approaches the administrative trailer to sign out for the day, another Southland foreman spots him and asks him to help out with a job on the 26th floor. They need extra hands with one of the last concrete pours on the roof. So Daniel goes up.

Hearing of his employee's new assignment, the foreman on the 25th floor is livid, complaining his authority has been undercut. Daniel isn't supposed to be on the 26th floor, he yells. He isn't supposed to be on the site, period. In protest, the foreman walks off the job. As he approaches the gate, he hears a thudding crash from up high, and swivels around to face the building's west side.

"When you work construction, anything can happen," Daniel's foreman, who withheld his name, would say later. "Nothing you can do. We don't got a choice, man. You got to make a living."

In 2003 Florida's legislature further emasculated the state's weak workers' compensation law. The new law restricted attorneys to \$150 per hour in fees or \$1500 per accident, and raised considerably the burden-of-proof bar. To sue successfully for workers' comp, an attorney must prove not only negligence but also intent to harm the employee or a foreknowledge of likely injury or death.

"You have even less incentive for a contractor to be concerned about safety, because they know they can't be sued," says Ramon Malca, a Miami labor attorney and chairman of the state bar association's workers' comp section. "People are falling off buildings like crazy."

While on-the-job injuries have decreased only slightly in recent years, workers' compensation payouts have decreased dramatically in Florida, according to the state's Department of Financial Services. In 2002 workers in Florida collected more than \$1.7 billion in workers' compensation. By 2004 the amount had dropped by more than half, to about \$500 million.

From a purely economic perspective, avoiding lawsuits and saving on workers' comp payouts aren't reason enough to overlook safety, says John Siegle, executive director of the Construction Association of South Florida. "Nothing gets built without people. You can't afford to have someone go home at night and not come back the next day," Siegle says. "It is different than the hospitality industry, where if someone has an accident, they cut their finger. People die."

In a seemingly inexhaustible labor pool of undocumented workers, the system encourages corner-cutting contractors to pay illegal immigrants under-the-table, Malca says. That way they can claim a smaller payroll and pay less in workers' comp premiums. If an undocumented worker gets hurt, some contractors instruct them to tell doctors they were injured at home or somewhere other than the work site, Malca says, saving fines and medical costs for the employer. "It is a calculated risk."

Further complicating the case for Florida's legions of undocumented immigrant laborers, a social security number is required to collect workers' comp, and many lawyers would rather avoid the logistical headaches — reticent witnesses, language barriers, deportation fears — involved in such cases. "We've been told point-blank by defense attorneys that the value of undocumented workers' lives is less than citizens'," says attorney and Florida ACLU board member John De Leon.

### **9:30 a.m.**

This is it, the 26th-floor penthouse, a sprawling pad with 270-degree water views. Someone had agreed to pay more than \$11 million for it. For now it belongs to Daniel and the other workers on the job — Edny Guirand, Toribio Acevedo, and Cornelio Ruiz. Because the buck hoist goes only to the 21st floor, they had walked up the last five floors in a stuffy, dark stairwell. Out here on the deck, wispy clouds float above the unfinished roof, and a stiff, salty breeze pours in through the massive window openings.

As workers above spread concrete using a hydraulic pump-driven hose, Guirand, Acevedo, Ruiz, and Daniel monitor the pour. Using a laser balance, they keep an eye on the wood and steel form as it fills with concrete, making sure the liquid stone is evenly spread.

"That is a no-no," John Siegle of the Construction Association of South Florida says of standing directly under a concrete pour. "That is just suicidal."

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Toribio Acevedo, quiet and diligent, arrived from Queretaro, Mexico, almost ten years earlier. The 36-year-old had worked landscaping and construction jobs in Alabama, Georgia, and now Florida. He lived with friends in Pompano Beach but told anyone who asked that he'd return home as soon as he had the money to build a house for his girlfriend Virginia and their daughter Mariangeles, a wide-eyed nine-month-old he had yet to meet. Some weekends he called his older brother, Eduardo, back home. They talked about Toribio's dream house in the mountains or reminisced about the childhood they shared.

There were plenty of good memories, but plenty of pain to recall too, Eduardo says when reached by phone recently. When their mother died, the two brothers, five and six years old, and their little sister had gone to live with their aunt. Struggling to support nine of her own children, the aunt could offer little, and Toribio's three-year-old sister soon died from illness. "He cried all the time, for two, three months," Eduardo recalls. Then Eduardo begins to cry, remembering how hard his little brother had worked farming avocados, rice, and mangoes until a dam reservoir wiped out the river valley they lived in and relocated their town to barren high desert.

Like most men of the now-fallow town, Toribio left to find work elsewhere. He sent money to help with bills and visited once every few years. When Eduardo last spoke with his brother, this past April, Toribio hinted he might return in July for the baptism of Eduardo's daughter.

Edny Guirand, a 34-year-old practical joker, lived in the Pinewood area of unincorporated Northwest Miami-Dade with his nephew Louis Pamphile, one of his four sisters, and a stepbrother. He left his home in the seaside town of Aquin, Haiti, for Miami in 2004. Like Daniel, Guirand left behind family — his five-year-old son Jonathan and 35-year-old wife Nerlande — to make a better life for them.

Jacqueline Betts, a day laborer who made a habit of chatting with Guirand at the work site, remembers riding up the buck hoist with him the morning of May 6. The two exchanged jokes and smoked Middleton's Black & Mild cigars. "We just talked and teased like always," Betts says.

Ruiz, the graybeard of the crew, is 64. He left behind a wife and three children in Ecuador to work construction in Miami.

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**9:50 a.m.**

Something is wrong. The concrete-forming frame buckles.

"There was a strong noise and everything went down," recalls Donald Garay, a welder watching the pour from up on the roof.

Their tool belts slapping their legs, Garay and the other workers on the roof rush down. Amid the debris and a nearly three-foot-deep pile of concrete, Garay can make out a hardhat and what looks like a leg. Frantically he and the others pull wood and steel beams off the pile. The concrete will harden in about fifteen minutes. Garay finds Acevedo first and wipes the concrete from his face. The force of the falling debris had knocked Acevedo to his knees and then doubled him over backward. He's dead.

Grasping part of the steel frame, Ruiz somehow pulls himself from the pile. He goes into shock and has a

heart attack, but he will survive. For the next week or so, he will recover on the eighth floor of Mount Sinai hospital as Daniel's niece Wilnite, a nurse, works her twelve-hour shifts one floor below.

Anwarul Huq, a 59-year-old day laborer from Bangladesh, is sweeping sawdust four floors below the penthouse when he hears the collapse. He looks at the other laborers for an answer. Work stops. Within minutes, the order comes to evacuate the building.

Bal Harbour Police are on the scene within minutes. Helpless to do anything else, the first officer to arrive joins the effort to dig out the men. Fire department crews and technical rescue teams arrive soon with heavy extraction equipment and three search dogs. While most workers are told to leave, Garay stays behind to operate a gas-powered circular saw, cutting into the now-hardened concrete. Nightmares from this day will pollute his dreams in the weeks to come.

By 10:20 a.m., rescue workers have found Daniel's body in much the same position as Acevedo's. Daniel had died from the initial impact, his skull and spine fractured by the falling debris. A few minutes later, one of the dogs finds Guirand's body, the only one completely encased in concrete.

Like crude archaeologists, firefighters tethered to building columns bang away at the solidified but not yet rock-hard concrete. They use claw hammers and welding torches to cut metal rebar, taking turns shoveling concrete and debris out of the way.

After almost four hours, they remove all three of the bodies. Daniel, Acevedo, and Guirand are laid out in a cordoned-off temporary morgue on the penthouse's south side. By 7:15 p.m., the bodies of the three workers have been removed from the scene.

Watching the news later that evening, Daniel's niece Andreu Marie Daniel-Joseph sees a story about a construction accident in Bal Harbour. Is that the site where Menes is working? Neither her sisters nor her mother knows. It is not unheard of for Daniel to stay out late after work, especially on a Saturday night. Daniel doesn't answer his cell phone when Solange calls, but that is not unheard of either. "Where are you? Where are you?" Solange asks after the beep.

On Sunday, soon after Solange, Dahifna, Wilnite, Fafane, and Andreu return from church, two police officers knock on the door — is this the home of Menes Daniel?

Work on One Bal Harbour resumes the next morning.